



THE UNIVERSITY OF TEXAS SYSTEM
OFFICE OF GENERAL COUNSEL
OFFICE OF GOVERNMENTAL RELATIONS

Summaries of Legislation Impacting Higher Education

81st Legislature

August 2009

FOREWORD

This publication, prepared by The University of Texas System Office of General Counsel (OGC) and Office of Governmental Relations (OGR), summarizes actions of the 81st Legislature affecting higher education and is offered for the convenience of System officers and employees who may need to implement or otherwise be aware of those legislative actions. In a departure from the past practice of the two offices offering separate publications, this publication includes both an overview of the 81st Legislature prepared by OGR and summaries of individual bills prepared by OGC attorneys.

The overview of the 81st Legislature includes a summary of the budget for the next fiscal biennium and highlights selected significant legislation that became law. It also briefly describes selected significant legislation that did not become law. More detailed summaries of SB 1, the General Appropriations Act, and HB 4586, the Supplemental Appropriations Act, are also included later in the publication.

The summaries of individual bills follow the overview and are arranged by subject matter. Within each subject, bills are listed in numerical order, not in order of significance. Some individual bills appear under more than one subject heading. For each bill, the summary describes the main points of the bill that affect higher education and provides a general assessment of the impact of the bill. Many summaries offer brief guidance about implementation and directions or suggestions as to which officers or employees should be aware of the bill. The summary includes the name of the OGC attorney who prepared the analysis and who may be contacted for further information.

Each summary is merely that—a summary. It is intended to direct the reader’s attention to a bill and to provide enough information for the reader to determine whether detailed analysis and possible development of an implementation plan is necessary. **The summary is not a substitute for a holistic analysis of a bill in light of the particular circumstances of an office or institution.**

The full text of each bill is available through a hyperlink in the electronic version of this document. The text, as well as the legislative history and a wealth of other information for each bill, is also available free online at www.capitol.state.tx.us. That website is maintained by the Texas Legislative Council, a state agency serving both houses of the Texas Legislature, and contains many other resources regarding legislation.

This project was under the direction of Karen Lundquist, Senior Attorney and Deputy Ethics Advisor. We welcome your suggestions on ways to improve this publication in the future so that we may continue to serve you in the process of implementing legislation that affects your mission.

Barry Burgdorf, Vice Chancellor and General Counsel
Barry McBee, Vice Chancellor for Governmental Relations

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OVERVIEW OF THE 81ST LEGISLATURE

Introduction

With the exception of a few key issues, higher education was not center stage for the 81st Legislature. From the Systemwide perspective, the singular legislative accomplishment in higher education may be the creation and funding of a mechanism to increase the opportunities for Texas to develop additional national research universities.

The Legislature went into the 81st legislative session facing several major state issues. First and foremost was balancing the budget in a declining economy, but the legislature also faced major issues of property tax relief and reform; public school finance; the business margins tax; toll roads and transportation; criminal justice; conditions of state retirement systems; and immigration and border security. Although many of these issues, and others, were addressed, it was a legislative session that historians will identify with few major accomplishments. The primary accomplishment was to adopt a balanced budget with a modest increase in overall funding at a time when many states were facing dramatic shortfalls.

Which is not to say the legislators were not busy. Lawmakers filed a record 7,419 bills and joint resolutions (B/JRs) – an almost 20 percent increase over the previous regular session – and almost 20 percent of those filed became law (1,459). Governor Perry vetoed 35 bills. The Office of Governmental Relations (OGR) tracked, and the office of General Counsel (OGC) analyzed, 2,597 (35 percent) of filed bills and joint resolutions. In addition, the System’s Institute for Public School Initiatives (IPSI) independently tracked and analyzed legislative measures of unique interest to the institute, and policy analysts on every campus and in every System office analyzed the measures that OGR tracked, contributing to a broad Systemwide effort to monitor legislation.

The session began and ended with political drama surrounding legislation that related to voters showing proof of identity when voting, and an end-of-session slowdown over that issue in the House of Representatives resulted in a large number of pending measures missing the deadline for consideration. Victims of this politically charged standstill were the “sunset” bills for the Texas Departments of Transportation and Insurance and for the Texas Racing Commission, as well as bonds for highway construction. Those measures were addressed in a two-day special session July 1 and 2. No higher education measures were considered at the special session.

This overview summarizes the new state budget as it pertains to higher education and the UT System; discusses selected significant bills of interest that became law; identifies significant bills that failed to become law; describes the proposed constitutional amendments directly affecting higher education; and describes studies commissioned by the legislature.

Budget Summary

This section summarizes higher education appropriations for the next biennium as included in the general and supplemental appropriations bills.

In General

The General Appropriations Act (GAA), Senate Bill 1 (SB 1) by Ogden and Pitts, authorizes \$182.3 billion in state government spending for the fiscal biennium that begins September 1, 2009 (fiscal years 2010 and 2011). The total is \$12.6 billion more than the budget for FY 08-09, a 7.4 percent increase overall. Almost half the budget – \$82.3 billion – is general revenue (GR). The Legislature chose not to appropriate about \$6.7 billion in available revenue in the Economic Stabilization or “Rainy Day” fund, preferring to save that balance to address a large anticipated deficit next biennium. The availability of federal economic stimulus funds made possible saving the Rainy Day fund for a rainier day.

Additionally, the Supplemental Appropriations bill, House Bill 4586 (HB 4586), appropriates \$431.5 million for institutions of higher education. Through HB 4586, UT System institutions received supplemental appropriations that total \$175.2 million. While there is no across-the-board pay raise for state employees, HB 4586 also appropriates funds for a single compensation payment to state employees. That one-time payment is not applicable to institutions of higher education with the exception of Texas A&M service agency employees.

Higher Education and the UT System

The FY 10-11 budget incorporates most of the priorities identified by the higher education community and the System. The 81st Legislature appropriated \$12.6 billion in General Revenue (GR) to support all of higher education, including amounts estimated for employee benefits, for 2010-11. This represents an increase of \$1.2 billion in General Revenue or 10.2 percent over 2008-09. This total includes an additional \$210.9 million for student financial aid and \$50 million for matching funds for the Texas Research Incentive Program (TRIP), which was created by HB 51 (HB 51, 81st Legislature, Regular Session, 2009) as a method to provide funding to support the emerging research institutions in developing and maintaining programs of the highest tier.

For the University of Texas General Academic Institutions (GAIs), Health-related Institutions (HRIs), and System Administration, SB 1 includes \$3.5 billion in General Revenue appropriations for 2010-11, an increase of \$257.1 million or 7.9 percent compared to 2008-09. General Revenue appropriations total \$1.6 billion for the nine UT GAIs; \$1.9 billion for the six UT HRIs; and \$17.1 million for the UT System Administration. Another \$348.7 million is appropriated for the cost of employee group health insurance for the System and all institutions, a \$44 million increase (or 14.4 percent) over FY 08-09. The operating fund increases of \$257.1 million include GAI increases totaling \$95.6 million, or 6.4 percent, HRI increases totaling \$196.7 million, or 12.2 percent, and UT System Administration increases totaling \$2.4 million, or 16.6 percent.

Included in the overall increase of \$257.1 million for the UT institutions are the following amounts:

- \$152.1 million in additional formula funding for the UT General Academic and Health-related Institutions
- \$13.9 million in formula hold harmless for the General Academic Institutions
- \$97 million for hospital operations at UT Medical Branch at Galveston
- An increase of \$3.3 million for the Research Development Fund that benefits the UT System General Academic Institutions (with the exception of UT Austin)
- \$15.7 million increase for the new Research University Development Fund (previously known as the Texas Competitive Knowledge Fund) for UT Austin
- \$20.5 million increase in mission specific formula funding to support UT M.D. Anderson and UT HSC Tyler
- An increase of \$10.1 million for Graduate Medical Education (GME) that benefits the UT System Health-related Institutions

Formula Funding

The Legislature increased higher education formula funding overall by \$383 million (formulas total \$4.6 billion for 2010-11), including \$258.1 million for the GAIs and \$141.2 million for the HRIs. Included in the \$258.1 million for the GAIs is an increase of \$178.6 million for Instruction and Operations to fund weighted student enrollment growth of 5.0 percent and \$15.8 million for Infrastructure Support. Additionally, \$63.6 million was moved from the Excellence Strategy and Institutional Enhancement Strategy at institutions to the Instruction and Operations Formula. This reallocation of General Revenue funding does not negatively affect an institution's appropriation in 2010-11.

Formula funding increases of almost \$124.9 million for UT's HRIs include: \$100.3 million for Instruction and Operations to fund weighted student enrollment growth of 9.1 percent; an increase of \$4.7 million for Research Enhancement; an increase of \$19.9 million for Infrastructure Support; and an increase of \$16.3 million for GME.

Overall, the System's formula funding increased by \$152.1 million. Nine UT GAIs receive formula increases that total \$72.9 million in General Revenue, or 6.9 percent, not including formula hold harmless funding or funds moved from an institution's Excellence or Institutional Enhancement strategies. The six UT HRIs receive formula increases that total \$79.2 million in General Revenue, or 3.4 percent, not including mission specific formula funding.

Several formula funding requests considered during the session were adopted by the Legislature, including an additional \$60.8 million for weighted enrollment growth recommended by the Legislative Budget Board (LBB) for HRIs. An increase of \$2.5 million was added to the Instruction and Operations Formula to fund the small campus supplement for UT HSC Houston's Public Health Austin Campus and Texas Tech HSC's School of Pharmacy Abilene Campus. The Legislature also approved an increase of \$15.5 million to fund the Cancer Center

Operations Formula for UT M.D. Anderson Cancer Center and \$5 million to fund the Chest Disease Center Operations Formula for UT HSC at Tyler. The Small Institution Supplement for GAIs was modified to incorporate a phase-out approach—an institution exceeding a headcount of 5,000 will have the annual appropriation of \$750,000 gradually reduced until it is completely eliminated once an institution’s headcount reaches 10,000.

SB 1 provides \$81 million in federal stimulus funds through the American Recovery and Reinvestment Act (ARRA) for formula funding to GAIs, which is offset by an equal reduction to General Revenue appropriations. In addition, SB 1 provides \$51 million in federal stimulus funds through the ARRA for formula funding to HRIs, which is also offset by an equal reduction to General Revenue appropriations.

Formula Hold Harmless

Institutions that were negatively impacted by formula funding changes due to declining enrollment, changes in the formula funding matrix, or changes in infrastructure support needs are appropriated formula hold harmless to ensure that each institution receives a 4.0 percent increase over its 2008-09 formula funding levels (including the \$33.7 million in hold harmless funding provided to institutions in 2008-09). Total formula hold harmless amounts to \$45.9 million and is provided for all GAIs, except for Texas Women’s University, the two-year Lamar State Colleges, and Texas State Technical Colleges. The hold harmless funding is calculated *without* the \$63.7 million of Excellence and Institutional Enhancement strategy funding that was reallocated into the Instruction and Operations formula.

Two UT institutions receive formula hold harmless appropriations for 2010-11: \$2.8 million for UT Arlington and \$11.1 million for UT Austin.

Tuition Revenue Bonds

The 81st Legislature authorized Tuition Revenue Bonds for a single institution: UT Medical Branch at Galveston (UTMB) was authorized by HB 51 to issue \$150 million in TRBs to aid the institution in its recovery from the damage resulting from Hurricane Ike. However, the Legislature did *not* provide a General Revenue appropriation for the debt service for those bonds.

Student Financial Aid

SB 1 appropriates an additional \$210.9 million in General Revenue for the Student Financial Aid Strategy at the Texas Higher Education Coordinating Board (THECB), for a total appropriation of \$1 billion in All Funds for the biennium. The following five financial aid programs are combined into one Student Financial Aid Strategy, and the amounts appropriated for each program are outlined in THECB Rider 29, Student Financial Aid Programs:

- An increase of \$185.9 million for TEXAS Grants (total appropriation of \$614.3 million)
- An increase of \$35 million for the B-on-Time Student Loan Program (total appropriation of \$112 million)

- Funding for College Work Study is maintained at the 2008-09 level of \$15 million
- An increase of \$10 million for Texas Educational Opportunity Grants (total appropriation of \$24 million)
- Funding for Tuition Equalization Grants (TEG) is maintained at the 2008-09 level of \$211.7 million

Research and National Research Universities

Overall research appropriations rose by \$53 million to almost \$707.1 million. The majority of these funds are distributed through the following programs:

- The Research University Development Fund (RUDF), which replaces the Texas Competitive Knowledge Fund, is appropriated \$126 million, and UT Austin will receive \$55.1 million (an increase of \$15.7 million) from the RUDF;
- The Research Development Fund (RDF) is to receive \$80.9 million. The eight System GAIs other than UT Austin will receive \$37.3 million from the RDF (an increase of \$3.3 million over 2008-09).

The Texas Research Incentive Program (TRIP) created by HB 51 provides funding to support the emerging research institutions in developing and maintaining research programs. The institutions that have been designated as emerging research institutions include UT Arlington, UT Dallas, UT El Paso, UT San Antonio, University of Houston, University of North Texas, and Texas Tech University. For 2010-11, \$50 million in additional General Revenue is appropriated to the THECB for the TRIP to provide matching funds to the emerging research institutions that receive gifts or endowments from private sources for the purpose of enhancing research activities at the institutions.

The Cancer Prevention and Research Institute of Texas is appropriated \$450 million in General Obligation bond proceeds are appropriated for the purpose of awarding cancer prevention and research grants.

Technology

The Texas Emerging Technology Fund (TEFT), which is used to acquire new or to enhance existing research superiority at public institutions of higher education and is administered by the Governor's office, aims to stimulate economic activity and development in Texas for emerging technologies, particularly university research and technological commercialization, or technology transfer. The fund will have \$203 million available in FY 10-11, a 73 percent increase – \$117.3 million over the previous biennium. The total includes an estimated \$109 million in unexpended FY 09 balances carried forward.

Medical Education

The state's Health-related Institutions will see an increase of \$16.3 million for Graduate Medical Education (GME). The System's HRIs will receive \$63.8 million of the overall total \$79.1 million appropriation for GME for the next biennium.

The THECB received \$10.6 million for the Joint Admission Medical Program (JAMP), a program providing mentoring and scholarships to assist highly qualified, economically disadvantaged students in pursuing medical degrees. This represents a 100 percent increase over the current funding levels. The THECB appropriation also includes: a \$5.7 million increase for formula funding for the Baylor College of Medicine, including an increase of \$2.4 million for GME (a total of \$98.6 million is appropriated to Baylor College of Medicine for the biennium); a \$3.8 million increase for the Family Practice Residency Program (a total of \$21.2 million for the biennium); \$24.1 million for the THECB Physician Education Loan Repayment Program, with a new \$22 million funding stream provided by the passage of HB 2154; a \$2.9 million increase for the Alzheimer's Disease Centers (a total of \$6.9 million for the biennium); and \$5 million in General Revenue for the biennium for the Hospital-Based Nursing Education Partnership Grant Program.

Nursing

The THECB received a \$35 million increase for the Professional Nursing Shortage Reduction Program, for a total of \$49.7 million for the biennium. Rider 35, Professional Nursing Shortage Reduction Program, requires that \$14.7 million be distributed to institutions based on increases in nursing students graduating and \$30 million be distributed to institutions to fund a new program to increase nursing faculty at all institutions. Additionally, \$5 million is allocated to UT Arlington for the Regional Nursing Education Center to establish a simulation learning facility.

Correctional Managed Health Care

SB 1 appropriates \$836.8 million to the Texas Department of Criminal Justice (TDCJ) for health care services to state prison inmates provided through UTMB and Texas Tech University Health Science Center, which represents an increase of \$92.6 million or 12 percent over 2008-09. UTMB will receive approximately \$670 million of this appropriation.

Selected Significant Legislation That Became Law

This section highlights selected significant measures in higher education. Each is discussed in more detail in the main volume.

Academic Issues

Admissions

SB 175 by Sen. Shapiro amends the automatic admissions ("Top 10 Percent") law as it applies at The University of Texas at Austin, placing a 75 percent cap on university admissions granted

under the top 10 percent law beginning in the fall of 2011 (the reform is not authorized to last longer than the 2015-2016 academic year). SB 175 also places a 10 percent cap on the number of out-of-state and international undergraduate students admitted to the university. Additionally, SB 175 provides criteria for automatic admission to any general academic institution by a resident student who graduated in the top 10 percent of their graduating class and completed the core curriculum at a community college with a grade point average of at least a 2.5.

Tuition, Scholarships, and Fees

- Exemptions

HB 101 by Rep. Fred Brown prohibits any credit hours earned prior to graduating high school being counted for purposes of the cap on hours to be funded. **HB 2013** by Rep. Keffer extends certain tuition and fee exemptions applicable to firefighters to certain members of organized volunteer fire departments in Texas. **HB 2347** by Reps. Thibaut and Guillen provides for a clarification of certain tuition and laboratory fee exemptions for firefighters or peace officers employed by the state or a political subdivision of the state. **SB 43** by Sen. Zaffirini extends to 25 years of age the maximum age limit for a student who has been in foster care or other residential care under Department of Family and Protective Services conservatorship to enroll in an institution of higher education and receive a tuition and fee exemption. **SB 45** by Sen. Zaffirini authorizes governing boards of institutions of higher education to exempt a student who is enrolled at another institution but who is taking a course, including an interdisciplinary course, at the institution under an inter-institutional academic program agreement. **SB 93** by Sen. Van de Putte provides for tuition and fee exemptions for certain military veterans, and certain qualified dependents, who entered the service at a location in Texas, declared Texas as a home of record, or would be determined to be a resident for tuition purposes at the time the person entered military service, removing the 12 month residency requirement and provides for certain refunds. **SB 297** by Sens. Van de Putte and Ogden provides a waiver of non-resident tuition and fees for veterans and their spouses and children without regard to Texas residency requirements and provides an exemption from payment of resident tuition for dependent children of active duty members of the armed forces during a term or semester when the member is engaged in combat operations outside the United States. **SB 1798** by Sen. Zaffirini requires the institution of higher education, instead of the THECB, at which an educational aide seeking an exemption is enrolled to certify the person's eligibility. It also requires the institution to make the determination of eligibility and give notice of its determination to the applicant and to the school district employing the applicant as an educational aide.

- Scholarships

HB 2440 by Rep. McCall transfers the scholarship trust fund for fifth year accounting students from the THECB to the Texas State Board of Public Accountancy. **HB 3452** by Rep. Gattis, et al., establishes the Texas Armed Services Scholarship Program to be administered by the THECB and provides that a qualified student may receive an annual conditional scholarship available for use at any Texas institution of higher education having a Reserve Officer Training Corps program. **HB 4244** by Rep. Hochberg provides that the currently required waiver of non-resident tuition for out-of-state students who receive a competitive scholarship of at least \$1,000 is optional rather than mandatory.

- Tuition Costs/Transparency

SB 1304 by Sen. Patrick requires institutions of higher education to notify students of the amount of any designated tuition set aside for financial aid in either a printed billing statement, receipt or any e-mail sent to the student relating to the payment of tuition. **SB 1764** by Sen. Watson requires the THECB to prescribe uniform standards to ensure that information regarding the cost of attendance at institutions of higher education is available to the public in a consumer friendly and readily understandable format, requires standards to address all the elements that constitute the total cost of attendance, and requires the information to be displayed on an institution's website.

- Fees

SB 2182 by Sen. Shapleigh and **HB 3353** by Rep. Naishtat are identical measures that authorize the governing board of an institution of higher education to impose an environmental service fee on each student enrolled at the institution, subject to approval by a majority vote of the students enrolled at the institution.

- Residency Status

SB 2244 by Sen. Zaffirini sets a limit of five years within which a business or organization must be established as part of the state's economic development program before an employee or the employee's dependent is entitled to pay resident tuition at an institution of higher education.

Curriculum

SB 2262 by Sen. Zaffirini reduces the longevity a teacher must have, from five to two years, before being eligible to participate in math, science and technology teacher preparation academies at institutions of higher education.

Community Colleges/Career Schools

HB 2480 by Rep. Hochberg authorizes public community colleges to enter into agreements with high schools that are outside the public community college's service area to offer courses that cannot be offered by a community college in the school district's area. **SB 1941** by Sen. Shapiro provides that career schools are among the educational entities participating in the prepaid tuition unit undergraduate education program. **SB 175** by Sen. Shapiro provides criteria for automatic admission to any general academic institution by a resident student who graduated in the top 10 percent of their graduating class and completed the core curriculum at a community college with a grade point average of at least a 2.5.

Ethics and Conflicts of Interest

SB 194 by Sen. Shapleigh prohibits a person employed in the financial aid office of an institution of higher education owning stock or other ownership interest in a student loan lender, other than through ownership of shares in a publicly traded mutual fund or a similar investment vehicle and prohibits such a person from soliciting or accepting any gift from a student loan lender.

Research; National Research Universities

- National Research Universities

HB 51 by Rep. Branch, et al., provides for a strategic plan creating additional national research universities in Texas and does several things, including: requires research and emerging research universities to submit a long-term strategic plan, in a format established by the THECB, documenting the strategy to be used to achieve or enhance the universities' research status; provides bonding authority for Texas A&M University at Galveston and UTMB to aid in the recovery from damage resulting from Hurricane Ike; provides the authority for the THECB to make recommendations in the following fiscal biennium to provide funding for excellence in specific programs and fields and for incentive grants; requires the THECB to review the institutional groupings within the accountability system at least once every ten years; reconstitutes the funding authority under the Higher Education Assistance Fund (and adds the University of North Dallas to the list of eligible institutions and makes a correction to the distribution of funds already allocated; creates the Research University Development Fund to support recruitment and retention of highly qualified faculty and to enhance research productivity at research and emerging research institutions; creates performance incentive funding for general academic institutions; creates the Texas Research Incentive Program (TRIP) to provide matching funds to emerging research institutions to leverage private gifts for faculty recruitment and enhancing research productivity; establishes the National Research University Fund for eligible universities to provide a dedicated, independent, and equitable source of funding to emerging research universities to achieve national prominence as a major research university; establishes a lower-division institution of higher education in Beaumont, Texas to be known as Lamar Institute of Technology; and establishes a select committee to study the feasibility of establishing and maintaining a searchable electronic database relating to specialized technology research projects that are developed by public universities or agencies of the state. **HB 58** by Rep. Branch authorizes the participation of private and independent institutions of higher education in the advanced research program administered by the THECB.

- General Research

SB 44 by Sen. Zaffirini amends the advanced research program of the THECB to require that, as a condition of award from this program, medical and dental units must use a portion of the funding to support the basic research of graduate and undergraduate students, and other institutions of higher education must use a portion of the funding to support the basic research of undergraduate students.

Public School Education and College Readiness

HB 3 by Rep. Eissler, et al., is the public school accountability bill and addresses major accountability, curriculum and promotion requirements in public education in Texas. **HB 3646** by Rep. Hochberg, et al., is the public school finance bill, which addresses major finance issues in public education and authorizes public school districts to contract with institutions of higher education located in the same county to provide district resources to pay the costs for design and construction for instructional and athletic facilities, including stadiums. **SB 2258** by Sen. Zaffirini requires the THECB to develop higher education bridge programs in the subject area of

social science, in addition to mathematics, science, or English language arts, and clarifies that such development is to increase student success by reducing the need for developmental education and establishes a pilot program to award grants to institutions for intensive programs that address the needs of students at risk of dropping out of college.

Recruitment

HB 2425 by Rep. Morrison authorizes private and independent colleges and universities to participate, along with general academic institutions, in a recruitment engineering program currently administered by the THECB.

Veterans

HB 269 by Rep. Lucio, et al., requires institutions of higher education to grant course credit to honorably discharged military veterans for any physical education course requirement and course credit for up to twelve non-major or minor elective hours and establishes fee and tuition limitations charged for courses taken as part of an ROTC program. **HB 3951** by Rep. Chris Turner, et al., requires each institution of higher education to ensure that at least one person employed by the institution is trained to assist military veterans or their families to understand state and federal financial aid programs. (See also SB 93 and SB 297 under “Tuition, Scholarships, and Fees,” above.)

Textbooks

HB 1096 by Rep. Vo requires institutions of higher education to provide written (hard-copy or electronic) notice to current or prospective students of the availability of required or recommended textbooks at university-affiliated and other non-university retailers, including online retail sellers. **HB 4149** by Reps. Rose and Branch requires the THECB to conduct a study and recommend policies regarding the use and availability of electronic textbooks.

Transparency and Accountability

HB 2504 by Rep. Kolkhorst, et al., establishes uniform standards for all institutions of higher education for the online publication of information relating to cost-of-attendance information (also provisions found in SB 1764), work-study employment opportunities (also found in SB 305), course evaluations, course syllabi, departmental budgets (if available), and professors’ curriculum vitae, and requires institutions to conduct end-of-course student evaluations of faculty and develop a plan to make these evaluations available on-line. **SB 174** by Sen. Shapiro directs the THECB to create and maintain an “online resume” in which institutions must provide information to legislators and prospective students, parents and the public generally on key measures including enrollment, cost, financial aid, funding, degrees awarded, course evaluation, student success, admissions, instruction, and licensure passage rates.

Texas Emerging Technology Fund

HB 2531 by Rep. Chavez, et al., requires the Governor to prepare and submit an annual report on the activities and various key measures of the Texas Emerging Technology Fund.

Texas Equalization Grant Program

HB 4476 by Reps. Cohen and Kent makes changes to the Texas Equalization Grant program to bring the eligibility requirements in line with the TEXAS Grant program.

Academic Facilities

HB 746 by Rep. Fred Brown, et al., authorizes institutions of higher education to make available underutilized space to public junior colleges requesting space to teach core curriculum or continuing education courses.

Vaccinations

HB 4189 by Rep. Rose requires first-time students, including transfers, who apply to and are approved for on-campus housing to certify to institutions of higher education that they have been vaccinated against bacterial meningitis. **SB 291** by Sen. Nelson provides that a rule requiring a hepatitis B vaccination for students may apply only to students enrolled at an institution of higher education in a course of study involving potential exposure to human or animal blood or bodily fluids.

Health Issues

Nursing

HB 4471 by Rep. Kolkhorst, et al., establishes a new grant program within the Professional Nursing Shortage Reduction program. Under HB 4471, nursing programs are eligible for funding for enrolling and graduating additional nursing students who will be prepared for initial licensure as registered nurses. **SB 476** by Sens. Nelson, et al., requires hospitals to establish a nurse staffing policy and plan, along with a nurse staffing committee that will address the needs of patient care and nurse staffing budgets, encourage input to the committee related to staffing concerns, and ensure compliance with rules adopted by the Health and Human Services Commission related to nurse staffing. Additionally, SB 476 provides directives for the composition of the committee and its duties and prohibits mandatory overtime for nurses, providing limited exceptions. **HB 3961** by Reps. McReynolds and Pena authorizes the Board of Nursing to implement new programs and pursue other innovations in nursing.

Medical Facilities

SB 98 by Sen. Lucio authorizes the UT Board of Regents to establish The University of Texas Health Science Center – South Texas, including a medical school with the main campus and administrative office located in Cameron County (the health science center will participate in funding from the Available University Fund, and may not receive an appropriation before the fiscal year ending on August 31, 2015). **SB 1526** by Sen. Shapleigh re-establishes the Border Health Institute and requires each member of the Institute to submit a long-term strategic plan to the governing board, each member of the legislative delegation of the Institute, and the THECB.

Joint Admissions Medical Program (JAMP)

SB 1728 by Sen. West extends the period for which students are eligible to participate in the JAMP and permits Texas Tech University Health Science Center at El Paso to be an eligible institution for the program. SB 1728 also updates the statutory provisions guiding the JAMP by amending the Texas Education Code to allow nontraditional students, including military veterans, to be eligible for JAMP, thus eliminating a requirement that a student be enrolled in higher education at some level during the fall semester following the student's graduation from high school.

Medical Residency/Loan Repayment

HB 2154 by Rep. Edwards would expand current physician loan repayment programs to increase the four year repayment schedule for participating doctors up to a maximum of \$160,000 when certain eligibility criteria are met.

Curriculum and Training

SB 45 by Sen. Zaffirini allows for the continuation of the [Gulf Coast Consortia](#) initiative that allows graduate students access to courses within the six member organization in order to take advantage of curricula and expertise at the different institutions.

Medical Workforce

HB 389 by Rep. Zerwas allows managed care plans to employ expedited credentialing. **SB 202** by Sens. Shapleigh and Uresti allows the Texas Medical Board to issue provisional licenses under certain limited circumstances. **SB 1225** by Sens. Huffman, et al., allows temporary faculty licenses for certain faculty working at institutions, including institutional sponsors of accredited graduate medical education programs and non-profit health corporations that are affiliated with sponsors of those accredited graduate medical education programs, in order to bring more skilled teaching physicians to Texas.

Management

HB 2585 by Rep. Hartnett allows a digital signature to be used to validate advance directives, including medical powers of attorney and do not resuscitate orders. **HB 3961** by Reps. McReynolds and Pena changes the licensure fees for all level of nursing graduates and updates the standards for programs recognized by the Board of Nursing. **SB 532** by Sen. Patrick expands a doctor's delegation authority to physician's assistants or advance practice nurses to write prescriptions for up to 90 days, allows the delegation to extend to as many as four assistants or nurses, expands the distance requirement for the delegation area to 75 miles within the practicing physician's residence or practice location, and lowers the supervision threshold between the doctor and assistant or nurse. **SB 1705** by Sen. West authorizes the Dallas County Hospital District to employ physicians, dentists, and other healthcare providers and establishes a physician management committee to implement the bill.

Public Information

SB 1182 by Sen. Wentworth protects from public disclosure the specific location of select agents within an entity, in addition to the personal identifying information of an individual whose name appears in a materials transfer agreement and the identity of individuals authorized to possess, use, or access select agents. **HB 2004** by Rep. McCall requires state and local government agencies to notify individuals when sensitive personal information has been accessed as the result of an unauthorized breach and amends current law to exclude protected health information from required public disclosure, including any information that reflects that an individual received health care.

Research; Clinical Trials

SB 39 by Sens. Zaffirini, et al., requires health benefit plans to cover the routine costs of care (including any medically necessary health care service for which benefits would be provided to a patient even if the patient were not enrolled in a clinical trial) for a patient enrolled in a clinical trial. **HB 1358** by Rep. Keffer, et al., updates personnel funding, rules for the grant making process, indirect cost and expenditure language, and the statutory authority of the Cancer Prevention and Research Institute of Texas (Institutions will now be represented on the University Advisory Council, and the Research and Prevention Programs committee will be appointed by the executive director).

Insurance Programs and Products

HB 4341 by Rep. Truitt establishes statutory standards and regulatory provisions for discount health care programs. **HB 2256** by Rep. Hancock, et al., establishes a dispute resolution process for out of network claims for certain health benefit plans, allows the Commissioner of Insurance to adopt network adequacy standards, and updates facility billing standards.

Electronic Health Records

HB 1218 by Rep. Donna Howard requires the Health and Human Services Commission (HHSC) to establish a pilot project in at least one urban area to determine the feasibility, costs, and benefits of exchanging secure electronic health information between HHSC and at least two local or regional health information exchanges. **HB 1342** by Reps. Menendez and Thompson requires certain insurers and providers to implement technology that will enable a plan enrollee to access real time information relating to proposed health services from the office or clinic where the services are to be provided, including any applicable deductibles, the usual and customary charges for out of network provision of the proposed services and the total expected cost of the services to the enrollee.

Nutrition and Wellness

HB 1363 by Reps. Gutierrez and Castro provides for updated testing and data gathering for the diabetes mellitus registry and allows participants to opt out in the event they desire not to participate. **HB 2196** by Rep. Truitt instructs the executive commissioner of the Health and Human Services Commission to establish a workgroup to recommend best practices in health and behavioral health services and establishes the Task Force on Children with Special Needs.

SB 282 by Sen. Nelson allows the Texas Department of Agriculture to award grants to public school districts for best practices in nutrition education and establishes other nutrition outreach efforts. **SB 343** by Sens. Nelson, et al., authorizes an advisory committee to study retail availability of health foods in certain underserved areas of this state. **SB 870** by Sen. Lucio expands the duties of the interagency obesity council to create an evidence based public health plan and obesity prevention pilot program. **SB 891** by Sens. Nelson, et al., establishes parameters for physical education in public schools and requires each school district to establish student/teacher ratios for physical education courses.

Provision of Care

HB 1888 by Rep. John Davis, et al., addresses the ability of carriers that offer certain health plans to rank physicians participating in the plan's provider network with regard to the quality of medical care and the efficiency with which the physicians provide care. **SB 381** by Sen. Van de Putte allows a physician to delegate to a pharmacist authority to implement or modify prescription drug therapy and sign prescription drug orders under certain circumstances and requires internet publication of the names of the pharmacist and the delegating physician. **SB 526** by Sens. Nelson, et al., allows grant funding for new or expanded services at a federally qualified health center. **SB 911** by Sens. Williams, et al., establishes criteria for the regulation of pain management clinics.

Public Health

HB 1362 by Rep. Gutierrez updates the reporting requirements for any health authority participating in a pilot program relating to reporting of MRSA infections and extends the pilot program until September 1, 2011. **HB 1795** by Rep. Pierson, et al., establishes the newborn screening advisory committee at the Department of State Health Services and updates physician testing requirements for mothers and newborns regarding HIV testing. **HB 2055** by Rep. Guillen updates the duties and extends the life of the Chronic Kidney Disease Task Force through January 1, 2011. **HB 1990** by Rep. McReynolds, et al., requires HHSC to establish a pilot program to provide diabetes self management training services to certain populations. **HB 1232** by Rep. Menendez requires the Department of State Health Services to establish a behavioral health intervention pilot project in Bexar County. **HB 2027** by Rep. Zerwas, et al., updates the Revised Uniform Anatomical Gift Act to conform to the new national model. **SB 1326** by Sen. Nelson updates the membership of the Statewide Health Coordinating Council and confirms the health care entities involved. **SB 1803** by Sen. Zaffirini updates the organ, tissue, and eye donation registry and requires training in regard to donation for employees of the Department of Transportation and the Department of Public Safety who provide donor information with vehicle registration and drivers' licenses. **HB 1831** by Rep. Corte, et al., establishes a public health extension pilot program in Health Service Region 11 to support local public health and medical infrastructure, and promote disease control and medical preparedness and biosecurity. In addition, an evaluation of the effectiveness of the program for other regions of the state vulnerable to biosecurity threats is mandated.

Business and Administration Issues

Administration

- Labor and Employment

HB 978 by Rep. Burnam, et al., changes state law to reflect a recent federal amendment blocking employers from considering corrective eyewear when determining if an applicant/employee may be defined as “disabled.” **HB 1043** by Rep. Orr, et al., provides that state agencies, including institutions of higher education, will be required to give employment preferences (including certain selection and retention preferences) over others to qualified foster children who were in permanent managing conservatorship on the day prior to their 18th birthday. **HB 1067** by Rep. Naishtat allows an authorized entity to enter into a memorandum of understanding with another authorized entity to share statistical suicide data, including the deceased individual’s age, race or national origin, gender, residence zip code, any school or college the deceased individual was attending at the time of death, and the suicide method used, that does not identify the deceased individual or any other individual. **HB 1452** by Rep. Eissler, et al., entitles veterans and spouses of military members who died on active duty to priority in obtaining services and resources from certain workforce development programs that are funded wholly or partly with state money. **HB 1462** by Rep. Pickett, et al., grants state employees up to five hours of leave each month to participate in mandatory training or perform volunteer services for Court Appointed Special Advocates without a deduction in salary or use of earned vacation, sick leave, overtime or state compensatory time. **HB 1637** by Rep. Chris Turner, et al., clarifies that only employees whose hours are reduced lower than 40 working hours per week are eligible for unemployment benefits awarded in conjunction with a Shared Work plan. **HB 2360** by Rep. Farias requires employers, including U. T. System institutions, to provide employees with information regarding the federal earned income tax credit at the time of W-2 distribution. **SB 305** by Sen. Shapleigh requires public institutions of higher education to establish and maintain an online list of work-study opportunities available to students on the institution’s campus. **SB 833** by Sen. Carona permits an employee who serves in a reserve component of the U.S. Armed Forces and who is called to active military duty during a national emergency to accrue vacation leave and sick leave while on an unpaid leave of absence. **SB 1474** by Sen. Nichols authorizes certain state emergency services personnel to use accrued compensatory time within 18 months and authorizes an agency head to pay employee overtime at the employee's regular salary rate. **SB 2298** by Sen. Watson **authorizes institutions of higher education to grant one-time merit payments to employees for their service during a natural disaster or other extraordinary circumstance and** permits an employee to receive compensatory time for hours worked at the employee’s personal residence if the employee obtains the advance approval of the administrative head of the agency or that person’s designee.

- Police

HB 618 by Rep. Corte exempts a person from paying parking meter fees if the person has “Legion of Valor” license plates. **HB 2020** by Rep. Weber, et al., provides that if a vehicle displays a license plate issued by another state that indicates the owner or operator is a disabled veteran of the U.S. armed forces then the vehicle may be parked for an unlimited period in a parking space designated for persons with physical disabilities. **HB 2068** by Rep. Elkins

clarifies the situations under which a law enforcement agency provides a retired peace officer who is still proficient in firearm use with an identification card that verifies that they are retired from the agency. **HB 2580** by Rep. Frost directs the Texas Workforce Commission to develop an internet website to promote public awareness of peace officer employment opportunities with state and local law enforcement agencies. **HB 2799** by Rep. Driver provides that a person who meets certain requirements but has not yet received a peace officer license bears the same regulatory reporting responsibilities as a license holder who already has been appointed as a peace officer and also allows the Texas Commission on Law Enforcement Officer Standards (TCLEOSE) to deem an otherwise-eligible person ineligible for a license based on events that occur after the person meets the requirements for licensure, but before a license is issued. **HB 3095** by Rep. Harless simplifies the disabled permit processing procedure by designating blue placards for all permanent disabilities and red ones for all temporary disabilities and increases fines for unpermitted parking in a space designated for persons with disabilities. **HB 3186** by Rep. McCall regulates the collection and destruction of biometric identifiers. **HB 3389** by Reps. Harper-Brown and Merritt is the TCLEOSE sunset bill and continues TCLEOSE until September 1, 2021. **SB 418** by Sen. Carona requires law enforcement agencies in a municipality with a population of 50,000 or more or in a county with a population of 100,000 or more to compile and maintain a local or regional intelligence database relating to criminal street gang information. **SB 2028** by Sen. Watson authorizes the Texas Transportation Commission to issue rules authorizing memorial markers that honor any peace officer killed in the line of duty.

- Employee Benefits

HB 806 by Rep. Gallego, et al., requires health benefit plans, including the U. T. System plan, to include coverage for prosthetic and orthotic devices. **HB 1138** by Rep. Shelton, et al., requires certain health benefit plans that also provide pharmacy coverage to provide pharmacy benefit cards with necessary information included, such as the identity number of the enrollee, bank information for electronic billing, and the effective date and anticipated expiration of the plan. **HB 1290** by Rep. Oliveira, et al., requires certain health benefit plans, including the health plan offered by U. T. System, to allow benefits for Cardiac Computed Tomography (CCT) for Calcium Scoring and Ultrasonographic Measurement of Carotid Intimal-Medial Thickness (IMT) as an assessment of subclinical atherosclerosis for certain male enrollees between the ages of 45 and 76 and female enrollees between the ages of 55 and 76 to screen for potential coronary heart disease. **HB 2000** by Rep. McCall requires certain health benefit plans, including the health plan offered by U. T. System, to allow benefits for amino acid-based elemental formulas for infants when deemed medically necessary in writing by the enrollee's treating physician. **HB 2656** by Rep. Doug Miller, et al., makes changes in the composition of the Teacher Retirement System (TRS) Board of Trustees. **HB 3347** by Rep. Truitt, et al., provides the statutory authority for the one-time supplemental payment for eligible TRS retirees provided for in the General Appropriations Act. **HB 4402 by Rep. Martinez-Fischer, et al.**, requires the Department of Insurance to conduct a study to evaluate the ways in which pharmacy benefit managers use prescription drug information to manage therapeutic drug interchange programs and other drug substitution recommendations made by pharmacy benefit managers. **SB 704** by Sen. Nelson contains provisions related to the administration of pharmacy benefit manager programs.

- Operations and Support Services

HB 605 by Rep. Farabee adds the qualification that state employee mileage reimbursement be based on a reasonably safe route as opposed to the shortest, most cost-effective route. **SB 745** by Sen. Duncan provides that reimbursement requests must include descriptions and information with a voucher and that these documents must be made available to the state comptroller during an audit process.

Business Affairs

- Finance

SB 638 by Sens. Nichols and Ellis authorizes the state comptroller to create a centralized pooled collateral program for the deposit of certain public funds with financial institutions to serve as an alternative to existing collateralization processes used by financial institutions. **SB 2064** by Sen. West amends the codifications dealing with the Bond Review Board (BRB) to change various due dates of reports the BRB must make to the legislature and authorizes the BRB to procure services enabling it to prepare the statistical report on local government indebtedness.

- Information Services

HB 1342 by Reps. Menendez and Thompson requires the companies that service the health benefits provided by a university to provide online, real time costs, including the potential total financial responsibility, at the time service is provided. **HB 1705** by Rep. Geren makes changes in the authority of the Department of Information Resources (DIR) by abolishing the Telecommunications Policy and Oversight Council (TPOC), updating terms used in DIR project guidelines to correspond to best practices in project management and updating statutes transferring certain functions to DIR and the comptroller. **HB 1822** by Rep. Solomons, et al., requires the Public Utility Commission (PUC) to define by rule the terms used by certificated telecommunications utilities, retail electric providers, and electric utilities in retail bills. **HB 1830** by Reps. Corte and Edwards includes a number of issues relating to information technology security. **HB 2003** by Rep. McCall, et al, modifies the Penal Code to create the offense of Online Harassment as a Class A misdemeanor or a third degree felony if the intent is to harm or defraud and defines online harassment. **HB 2004** by Rep. McCall affirmatively states that the requirements of the Business and Commerce Code to notify affected persons of computer security breaches apply to governmental entities, including state agencies and institutions of higher education. The bill also protects from disclosure personal health and insurance information held by public entities. **HB 4294** by Rep. Branch, et al., requires a school district and charter school to certify to the State Board of Education each year that it provides textbooks, electronic textbooks or instructional materials that cover the essential knowledge and skills for each subject and grade level and creates a pilot program where higher education provides its surplus or salvage data processing equipment to the Board of Education for distribution to disadvantaged students and their parents. **SB 28** by Sen. Zaffirini adds creation of botnets and zombies as specific instances of prohibited activities when done without the computer owner's knowledge.

- State Funds Management

HB 4583 by Rep. Pitts is the biennial omnibus funds clean-up bill. The bill creates the America Recovery and Reinvestment Act (ARRA) fund in the treasury outside general revenue and requires ARRA funds received by state agencies (not defined) to be deposited in the fund to the extent determined by the comptroller to be necessary.

- Real Estate

HB 2685 by Rep. Callegari, et al., requires that an entity with eminent domain authority send to a property owner a “Landowners Bill of Rights” letter at least seven days before the entity makes a “final offer” to acquire the property. **HB 3632** by Rep. Geren provides that “land” under the control of an institution of higher education will be entitled to the additional protections against landmark designation that previously applied only to “buildings.” **SB 2442** by Sen. Uresti states that real property owned by a charitable organization and leased to an institution of higher education is exempt from taxation to the same extent as the property would be exempt if the property were owned by the institution.

- University Lands

HB 469 by Rep. Phil King, et al., establishes sales tax exemptions on certain equipment for projects that capture at least half of their carbon dioxide emissions and gives local taxing authorities freedom to grant further tax breaks during the initial phase of development (amendments to the bill set environmental performance standards for potential projects higher than any other state or national incentive program). **HB 2063** by Reps. Callegari and Creighton provides that a local underground water conservation district may enforce its rules against any “person,” which by definition includes governmental entities such as an institution of higher education. **SB 1387** by Sen. Seliger addresses the regulatory oversight of CO₂ capture and storage between the Railroad Commission of Texas and the Texas Commission on Environmental Quality.

- Historically Underutilized Business

SB 2381 by Sen. West requires the state comptroller to charge a \$20 fee to all combined master bidders list (CMBL) registrants to assist in defraying the cost of maintaining the CMBL as well as soliciting bids or proposals (additional revenue will be used to defray the costs of enforcing compliance with state purchasing statutes and the prevention of fraud in the Historically Underutilized Business Program).

- Facilities, Planning, and Construction

HB 1055 by Rep. Parker relates to the procedure for submitting certain plans and specifications of buildings or facilities to the Texas Department of Licensing and Regulation (TDLR) for review to insure compliance with state accessibility standards. **HB 2667** by Reps. Ritter and Creighton requires manufacturers of water use devices to begin selling products that use less water (water efficiency standards in the bill would be phased in between 2010 and 2014). **SB 1796** by Sen. Zaffirini increases the threshold value for THECB review of a construction project

from \$1 million for new and \$2 million for renovation to \$4 million for both and allows THECB to increase the threshold review amount in the future to insure that it only approves “substantial” projects.

- Risk management

HB 1831 by Rep. Corte, et al., is an omnibus emergency management bill with provisions including: phased re-entry plan and credentialing system for entry into disaster areas; agencies may request funding from the disaster contingency fund for insurance required for Federal Emergency Management Agency (FEMA) assistance; reasonable force may be used to enforce mandatory evacuations; the governor may suspend the waiting period requirement for unemployment compensation for individuals who are unemployed as a result of a disaster; and higher education institutions must complete multihazard emergency plans and develop protocols for audits that will be submitted every three years. **HB 2547** by Rep. Giddings requires an employer, upon request from the injured employee's treating doctor, to provide to the treating doctor a specific description of the scope, tasks, and duties of the injured employee's job prior to the injury. **HB 4409** by Rep. Taylor, et al., is an omnibus emergency preparation and management bill that provides immunity from liability for an officer or employee of a state or local agency or a volunteer when performing an activity related to sheltering or housing individuals in connection with the evacuation of an area stricken or threatened by disaster. **HB 4409** incorporated language from SB 1007 relating to the continuation and operation of the Texas Windstorm Insurance Association (TWIA). **HB 4545** by Rep. Raymond relates to the time for filing a petition for judicial review in certain workers' compensation cases. **SB 1328** by Sen. Nelson directs the Department of State Health Services to prepare a feasibility report on the provision of vaccines to disaster first responders including an agencies' current capabilities to provide vaccines and insurance coverage. **SB 1814** by Sen. Van de Putte requires an insurance carrier to provide return-to-work coordination services on an ongoing basis as necessary to facilitate an employee's return to work, including upon receipt of a notice that an injured employee is eligible to receive temporary income benefits.

- Disaster Recovery

HB 51 by Rep. Branch, et al., provides \$150 million in tuition revenue bond authority for UTMB. **HB 1998** by Rep. McCall authorizes state assistance to cities and counties providing emergency shelters for those evacuated during a state-declared disaster using any available resources, including an advance or reimbursement of all expenses (including any lost revenue) associated with providing the emergency shelter and for salaries and benefits of any permanent, straight-time, or regular-time employees who assisted in the evacuation efforts. **HB 4102** by Reps. Eiland and Guillen updates the mechanics of the state disaster fund, allowing state and local government entities to pursue funding relief for any disaster recovery, and expands the purposes for monies in the fund. **HB 4586** by Rep. Pitts provides supplemental appropriations for several state agencies and community colleges and provides disaster relief funding to several University of Texas System institutions, including UTMB, UTHSC Houston, UT M.D. Anderson, UT Brownsville, UT Pan American, and UTHSC Tyler.

Selected Significant Legislation That Did Not Become Law

Many higher education measures that merited significant analysis and monitoring ultimately failed to become law. This section identifies some of those measures.

Academic Issues

- Measures that would have affected tuition flexibility, including SB 1443 and HCR 288 (HCR 288 was adopted by House but not the Senate)
- Bills that would have permitted concealed handguns on campuses, including HB 1893 and SB 1164
- Bills that would have affected student health insurance and student health centers, including SB 42, HB 353, HB 103 (HB 103 was vetoed by the governor)

Health Issues

- Bills that would have affected research and reporting, including HB 543, HB 1190, HB 1700, HB 1764, HB 2379, SB 73, SB 208, SB 641, SB 1524, SB 1600, SB 1603, SB 1695, SB 2030, SB 2556, and SB 2573
- Bills that would have affected nursing, including HB 1738 and SB 790
- Bills that would have affected allied health issues, including HB 1876, SB 290, and SB 706
- Bills that would have affected medical residency and loan repayment, including HB 2687, SB 2077, SB 2243, and SB 814
- Bills that would have affected curriculum and training, including HB 130, SB 201, SB 382, and SB 775
- Bills that would have affected the medical workforce, including HB 3122, SB 42, SB 525, and SB 1331
- Bills that would have affected hospital management, including HB 1489, HB 3709, HB 3325, HB 4298, SB 146, and SB 747
- Bills that would have affected insurance programs, including HB 1066, HB 2692, HB 4217, SB 841, and SB 972
- Bills that would have affected financial responsibility, including HB 490, HB 535, HB 1744, HB 2710, HB 3408, HB 3473, HB 3474, HB 3852, HB 4503, SB 1, SB 1451, and SB 2278

Administration Issues

- Bills that would have affected employee benefits, including HB 2656
- Bills that would have affected contracts with governmental entities, including HB 2820

Business Issues

- Bills that would have affected pensions and investments, including SB 1548, SB 2348, and HB 801
- Bills relating to environmental issues, including HB 821

PROPOSED CONSTITUTIONAL AMENDMENTS

The November 3, 2009, constitutional amendments election will provide for voting on 11 proposed constitutional amendments. Two propositions directly affect higher education.

HJR 14 by Corte proposes two unrelated constitutional amendments under separate propositions, each of which affects higher education.

One proposition would establish the National Research University Fund for the purpose of providing a dedicated, independent, and equitable source of funding to enable emerging research universities in Texas to achieve national prominence as major research universities. It also authorizes the transfer to the National Research University Fund of the balance of the constitutional higher education fund, which was originally designed to eliminate the annual appropriations known as the Higher Education Assistance Fund for capital funding of non-Permanent University Fund institutions. This will be Proposition 4 on the ballot.

The other proposition proposes to prohibit the taking of a person's private property for public use unless the taking, damage, or destruction is necessary for the ownership, use, and enjoyment of the property by the State, a political subdivision of the State, or the public at large, by an entity granted the power of eminent domain, or for the elimination of urban blight on a particular parcel of property. The term "public use" excludes the taking of property for transfer to a private entity for economic development purposes. In addition, the amendment proposes to require a two-thirds vote of all the members elected to each house for new statutory grants of the power of eminent domain to an entity. This will be Proposition 11 on the ballot.

COMISSIONS AND STUDIES

The legislature commissioned several studies that affect higher education. Sometime in the fall of 2009, the speaker and lieutenant governor will assign additional studies to special and standing legislative committees.

HB 51 by Rep. Branch, et al., **creates** a select interim committee to study the feasibility of collecting data and maintaining a searchable electronic database, search engine, or other collection of data relating to specialized technology research projects and details what the parameters of the study should be. The study calls for the collection of certain types of data from general academic institutions, research facilities of general academic institutions or other facilities operated by a state agency. The committee is charged to report its findings and recommendations to the Governor and the Legislature by December 1, 2010, and is dissolved on January 16, 2011.

HB 4149 by Rep. Rose requires the THECB to conduct a study and recommend policies regarding the use and availability of electronic textbooks in higher education in Texas and other states. The study is to include a review of the pilot program at The University of Texas at Austin.

HB 4402 by Rep. Martinez-Fischer, et al., requires the Department of Insurance to conduct a study to evaluate the ways in which pharmacy benefit managers use prescription drug information to manage therapeutic drug interchange programs and other drug substitution recommendations made by pharmacy benefit managers.

SB 1 riders include two of significant interest to the mangers of employee benefits. In Article IX of the bill, Rider 10.08 directs ERS, TRS, U. T. System, and Texas A&M System to jointly study (1) the feasibility and cost effectiveness of including a provision to deny payment for the 28 National Quality Forum events and additional conditions identified by the Centers for Medicare and Medicaid Services in their next request for proposal for a third party administrator and (2) the potential impact of "balance billing" of clients and to identify recommendations to address the impact, and provide a report on their recommendations to the Legislative Budget Board and the Governor no later than December 31, 2009. In Article IX of the bill, Rider 10.09 directs the U. T. System to study directly contracting with Medicare for retiree prescription drug coverage to determine whether such contracting is cost-effective. It also states that U. T. System shall comply with all applicable state and federal laws governing the confidentiality and privacy of the data used in the study. If U. T. System determines the direct contracting to be the most cost-effective means of retiree prescription drug coverage, U. T. System may begin applications and negotiations with Medicare to become an Employer Group Waiver Plan sponsor.

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Institutional Information

[HB 2504](#) by Kolkhorst, et al. and Shapiro

Relating to requiring a public institution of higher education to establish uniform standards for publishing cost of attendance information, to conduct student course evaluations of faculty, and to make certain information available.

Internet access to course information: HB 2504 requires public institutions of higher education, other than medical and dental units, to make certain course information available to the public on the institution's Internet website. For each undergraduate classroom course offered for credit, the institution must make available a syllabus that meets the criteria specified by the bill, a curriculum vitae of each regular instructor (excluding personal information such as home address or telephone number), and if available, a departmental budget report of the department under which the course is offered from the most recent semester or other term during which the institution offered the course.

The information must be accessible, searchable, and available by the seventh day after the first day of classes for the semester or term during which the course is offered. The institution must continue to make the information available on the institution's Internet website for at least two years after the date the information is initially posted. The institution must also update the information as soon as practicable after the information changes.

The governing body of the institution must designate an administrator to be responsible for ensuring implementation of the above provisions, who may assign those duties to one or more administrative employees.

By January 1 of each odd-numbered year, each institution of higher education shall submit a written report regarding the institution's compliance with this law to the governor, lieutenant, governor, speaker, and presiding officer of each legislative standing committee with primary jurisdiction over higher education. Institutions of higher education, other than medical and dental units, must also conduct end-of-course student evaluations of faculty and develop a plan to make evaluations available on the institution's website.

The Coordinating Board is authorized to adopt rules to administer the above provisions. Additionally, the above provisions apply beginning with the 2010 fall semester.

Online list of work-study employment opportunities: Each institution of higher education is required to establish and maintain an online list of work-study employment opportunities, sorted by department as appropriate, available to students on the institution's campus. Institutions must ensure that the list is easily accessible to the public through a clearly identifiable link that appears in a prominent place on the financial aid page of the institution's Internet website. Each institution must establish the online list as soon as practicable. These provisions are identical to SB 305, effective June 19, 2009.

Uniform standards for publication of costs of attendance information: HB 2504 also requires the Coordinating Board to prescribe uniform standards intended to ensure that information regarding the cost of attendance at public institutions of higher education is available to the public in a manner that is consumer-friendly and readily understandable to prospective students and their families. The standards must address all of the elements that constitute the total cost of attendance and must prescribe model language to be used to describe each element of the cost.

Each institution that offers an undergraduate degree or certificate program must prominently display on its website information regarding the cost of attendance by a full-time entering first-year student, and any electronic or printed materials regarding cost must conform to the uniform standards. Institutions must consider the uniform standards when providing information regarding the cost of attendance by nonresident students, graduate students, or students enrolled in professional programs.

HB 2504 also requires the Coordinating Board to prescribe requirements for an institution to provide on its website consumer-friendly and readily understandable information regarding student financial aid opportunities. The information must be provided in connection with the information on cost of attendance and must include a link to the primary federal student financial aid website.

HB 2504 also requires the Coordinating Board to provide on its website a program that will compute the estimated net cost of attendance for a full-time entering first-year student, and each institution is required to provide the board with the information the board requires to administer this provision.

The Coordinating Board must prescribe the initial standards and requirements by January 1, 2010, and institutions of higher education must comply with the standards and requirements by April 1, 2010.

The Coordinating Board is required to encourage private or independent institutions of higher education approved to participate in the tuition equalization grant program to prominently display cost information on their Internet websites in accordance with the established standards, and is also required to make the program or tool for computing costs available to private or independent institutions of higher education.

The above provisions relating to costs are identical to SB 1764, effective June 19, 2009.

Impact: Beginning with the 2010 fall semester, UT System institutions must post course information on their websites and maintain that information for at least two years. They must also conduct end-of-course student evaluations of faculty and develop a plan to make the evaluations available on their websites. Institutions must report to state leaders concerning their compliance with these provisions. Institutions must also establish an online list of work-study employment opportunities as soon as practicable.

Effective: June 19, 2009

Karen Lundquist

SB 174 by Shapiro/Shapleigh and Branch

Relating to accountability of institutions of higher education, including educator preparation programs, and online institution resumes for public institutions of higher education.

SB 174 contains two major provisions, one relating to educator preparation programs and one relating to online institution resumes.

Educator preparation programs: SB 174 make numerous changes to the law governing educator preparation programs, including authorizing the board to propose a rule adopting a fee for the approval or renewal of approval of an educator preparation program or for an addition to the scope of a program's approval. It revises the accountability system for educator preparation programs by requiring information on achievement of students taught by beginning teachers for the first three years following certification and on compliance with board requirements concerning structural guidance and ongoing support provided by field supervisors to beginning teachers during their first year in the classroom. The board is authorized to establish minimum standards for approval or renewal of approval of educator preparation programs or certification fields.

Additionally, SB 174 provides sanctions under the accountability system by authorizing the board to propose rules providing for the assignment of specified accreditation statuses, allowing TEA to take necessary action such as requiring the program to obtain technical assistance, and providing for revocation of a program's approval.

Finally, SB 174 requires the board to make detailed information available to consumers regarding educator preparation programs, including the results of exit surveys given to program participants and surveys given to school principals.

Online institution resumes: SB 174 requires online resumes for public institutions of higher education. It requires two resumes, one for the legislature and policy makers, and one for prospective students and the public.

Coordinating Board: The Coordinating Board, in consultation with institutions of higher education, is required to develop and maintain online resumes for each of those institutions. The online resumes must be created and provided on the Coordinating Board's Internet website not later than February 1, 2010.

The Coordinating Board must:

- request from each institution any information the Coordinating Board considers necessary for the Coordinating Board to include information or calculate data required to be included in the institution's resume;
- establish a list of representative in-state and out-of-state peer institutions and maintain that list on the Coordinating Board's Internet website;
- ensure that each of an institution's online resumes is available to the public by a prominent link on the Coordinating Board's Internet website in a one-page format

if possible, uses user-friendly search capabilities, and includes a clearly identifiable link to information on the Coordinating Board's website regarding the accountability system; and

- ensure the information in each resume is accurate and up to date and includes the most recent data available for out-of-state peer institutions.

Institutions of higher education must submit to the Coordinating Board any information it requests and ensure that the institution's Internet website includes an accessible link to the institution's online resume maintained on the Coordinating Board's Internet website.

General academic teaching institutions: For general academic teaching institutions, the Coordinating Board must maintain for each institution an online resume that is designed for use by legislators and other interested policymakers. The resume must identify the institutional grouping to which the institution is assigned under the accountability system and the institution's in-state and out-of-state peer institutions. The legislative report card must include information in four categories: enrollment, costs, student success, and funding.

Specifically, the legislative report card must include the following information relating to the institution for the most recent state fiscal year and compare that information to information available in preceding fiscal years:

- enrollment information, including the total number of students enrolled during the fall semester that ended in the fiscal year covered by the resume;
- cost information, including the average annual total academic costs for a resident undergraduate student enrolled in 30 semester credit hours at the institution and at the institution's in-state and out-of-state peer institutions;
- student success information, including retention rates, the percentage of undergraduate students requiring developmental education who, after six years from entering the institution, graduated from or are still enrolled in the institution and the institution's in-state peer institutions, four-year and six-year graduation rates, and the average number of fall and spring semesters of enrollment attempted by a student to obtain a bachelor's degree; and
- funding information, including the total amount of money appropriated by the legislature to the institution, including money appropriated for faculty and staff health coverage and retirement benefits, and the total amount of money from any source available to the institution in that state fiscal year.

The Coordinating Board is also required to maintain an online resume for each institution for use by prospective students, their parents, and the public. The resume must identify the institutional grouping to which the institution is assigned under the accountability system and the institution's in-state peer institutions. The prospective student resume must include information in eight categories: enrollment, degrees awarded, costs,

financial aid, admissions, instruction, baccalaureate success, and first time licensure/certification examination pass rates.

Specifically, the prospective student resume must include the following information relating to the most recent state fiscal year:

- enrollment information, including the total number of students enrolled during the fall semester and a link to the information disaggregated by student ethnicity;
- degrees awarded, including the number of different levels of degrees awarded by the institution and a link to that information disaggregated by student ethnicity;
- cost information, including the average annual total academic costs for a resident undergraduate student enrolled in 30 semester credit hours, links to information regarding rates of tuition, mandatory fees, and the amount and percentage by which tuition has increased during the state fiscal year, the average cost of on-campus room and board per student, and the average cost for total academic costs and on-campus room and board, excluding the cost of books, supplies, transportation, or other expenses;
- financial aid information, including the percentage of undergraduate students who receive need-based grants, scholarships, loans, or work-study funds, and the average amount of a need-based grant, scholarship, loan, and work-study package;
- admission, including the middle 50 percent test score range of undergraduate students whose SAT or ACT scores placed the students in the 25th to 75th percentile of scores nationally, and the percentage of students who applied for first-time undergraduate admission to the institution who were offered admission to the institution;
- instruction information, including the student/faculty ratio, the percentage of undergraduate classes in which fewer than 20 students are enrolled, the percentage in which more than 50 students are enrolled, and the percentage of teaching faculty members who are tenured or tenure-track;
- baccalaureate success information, including graduation rates and links to that information disaggregated by student ethnicity, and the average number of fall and spring semesters of enrollment attempted by a student to obtain a bachelor's degree; and
- first-time licensure or certification examination pass rates, including pass rates in specific fields.

Community colleges: SB 174 imposes similar requirements for the two resumes on community colleges, public state colleges (Lamar), and public technical institutes.

Medical and dental units: SB 174 imposes similar requirements for a legislative resume and a prospective student resume for medical and dental units (which include UT System health institutions).

The legislative resume must include information in four categories:

- enrollment (including the total number of physicians training in residency programs);
- costs;
- student success (including the percentage of students passing medical licensure exams, the percentage of medical school students practicing primary care in Texas after graduation, the number of nursing degrees and allied health degrees awarded, and the estimated amount of research expenditures); and
- funding.

The prospective student resume must include information in five categories:

- enrollment (including the total number of students enrolled in the institution's medical school during the fall semester and the total number of physicians training in residency programs);
- costs;
- financial aid;
- student success (including the percentage passing medical licensure exams, the percentage of medical school graduates practicing primary care in Texas, the number of nursing degrees or allied health degrees awarded, and the estimated amount of research expenditures); and
- first time licensure or certification exam pass rates.

Impact: UT System institutions with educator preparation programs should be aware of the provisions of SB 174 relating to their programs.

SB 174 requires UT System institutions to make specific information available to the Coordinating Board to be used to prepare the two online resumes, and also requires each institution to maintain a prominent link to those resumes on the institution's Internet website.

Effective: June 19, 2009

Karen Lundquist

SB 305 by Shapleigh/Zaffirini and Castro

Relating to an online list of work-study employment opportunities available to students at a public institution of higher education.

SB 305 requires each institution of higher education to:

- establish and maintain an online list of work-study employment opportunities, sorted by department as appropriate, available to students on the institution's campus; and
- ensure that the list is easily accessible to the public through a clearly identifiable link that appears in a prominent place on the financial aid page of the institution's Internet website.

SB 305 is identical to Section 2 of HB 2504, effective June 19, 2009.

Impact: UT System institutions should inform appropriate personnel regarding the need to implement this online employment resource as soon as practicable.

Effective: June 19, 2009

Esther L. Hajdar

SB 1764 by Watson and Cohen

Relating to the dissemination of information regarding the cost of attending public and private institutions of higher education and regarding the availability of financial aid to assist in paying that cost.

SB 1764 requires the Coordinating Board to prescribe uniform standards intended to ensure that information regarding the cost of attendance at public institutions of higher education is available to the public in a manner that is consumer-friendly and readily understandable to prospective students and their families. The standards must address all of the elements that constitute the total cost of attendance and must prescribe model language to be used to describe each element of the cost.

Each institution that offers an undergraduate degree or certificate program must prominently display on its website information regarding the cost of attendance by a full-time entering first-year student, and any electronic or printed materials regarding cost must conform to the uniform standards. Institutions must consider the uniform standards when providing information regarding the cost of attendance by nonresident students, graduate students, or students enrolled in professional programs.

SB 1764 also requires the Coordinating Board to prescribe requirements for an institution to provide on its website consumer-friendly and readily understandable information regarding student financial aid opportunities. The information must be provided in

connection with the information on cost of attendance and must include a link to the primary federal student financial aid website.

SB 1764 also requires the Coordinating Board to provide on its website a program that will compute the estimated net cost of attendance for a full-time entering first-year student, and each institution is required to provide the board with the information the board requires to administer this provision.

The Coordinating Board must prescribe the initial standards and requirements by January 1, 2010, and institutions of higher education must comply with the standards and requirements by April 1, 2010.

The Coordinating Board is required to encourage private or independent institutions of higher education approved to participate in the tuition equalization grant program to prominently display cost information on their Internet websites in accordance with the established standards, and is also required to make the program or tool for computing costs available to private or independent institutions of higher education.

SB 1764 is identical to Section 3 of HB 2504, effective June 19, 2009.

Impact: By April 1, 2010, UT System institutions will be required to display cost information on their websites and to conform to the uniform standards in any electronic or printed materials intended to provide to prospective undergraduate students information regarding cost of attendance. Institutions will also be required to provide information regarding student financial aid opportunities on their websites. Institutions should monitor the Coordinating Board's activities under this new law and should be prepared to provide information to the Coordinating Board to assist in the development of the program that computes the estimated net cost of attendance.

Effective: June 19, 2009

Karen Lundquist

Admissions

SB 175 by Shapiro, et al. and Branch

Relating to the automatic admission of undergraduate students to certain general academic teaching institutions and to scholarships and other programs to facilitate enrollment at institutions of higher education.

SB 175 provides that beginning with admissions for the 2011-2012 academic year, UT Austin may limit its automatic top 10 percent admissions to 75 percent of its first-time resident undergraduate class. Admission must be offered beginning with the top percentile rank until 75 percent of the class is filled. All remaining top ten percent applicants will be considered under the normal admission process. Non-resident

enrollment for first-time undergraduate students is limited to 10 percent. UT Austin, in accordance with Texas Education Agency rules, must notify districts what percentile rank it anticipates will be offered admission for the following year. The 75 percent cap expires after the 2015-2016 academic year. The students admitted under this provision must take at least six semester credit hours during low- demand class hours.

UT Austin must provide an annual report to the governor, lieutenant governor, and legislative leaders regarding its student outreach and recruitment efforts. UT Austin may not use the 75 percent cap for an academic year if a final court order or the Board of Regents prohibits the institution from considering race as a factor in admissions.

The Coordinating Board is also charged with developing and implementing outreach efforts to students who are likely to be eligible for admission under the top 10 percent statute. Institutions must adopt and implement best practices guidelines and standards that are to be issued by the Coordinating Board. The Coordinating Board must also publish an annual report regarding the impact of the 75 percent cap on the state's "Closing the Gap" goals. Institutions are required to provide the Coordinating Board with requested information.

SB 175 specifically permits institutions to admit top 10 percent students for the summer or fall session.

In letters to students denying admission, institutions are prohibited from referencing the top 10 percent law unless the number of top 10 percent applicants exceeds 100 percent of the institution's enrollment capacity for that year.

Beginning with admissions for the 2010 spring semester, SB 175 requires institutions to admit applicant as a transfer undergraduate student if the applicant:

- graduated from high school within four school years from the academic year for which the applicant seeks admission to the institution as a transfer student;
- qualified for and was offered automatic admission under the top 10 percent statute by the institution;
- first enrolled in a public junior college or other lower-division institution not earlier than the third academic year before the academic year for which the applicant seeks admission;
- completed the core curriculum at a public junior college or other public or private lower-division institution of higher education with a GPA of at least 2.5; and
- submits a timely, completed application for admission as a transfer student.

School district school counselors are required to notify certain high school students about the top 10 percent automatic admission statute using forms and procedures established by the Commissioner of Education.

SB 175 also establishes a scholarship program to provide financial assistance to top 10 percent students who enroll at an institution. The Coordinating Board is charged with administering and awarding the scholarships. Institutions must provide to a student who receives a scholarship:

- a credit in the amount of the scholarship, to be applied toward the payment of any amount of educational costs charged by the institution for that semester or term; and
- a check, electronic transfer, or other disbursement of any remaining scholarship amount.

Upon request in accordance with Coordinating Board rules, the institution is entitled to be reimbursed by the Coordinating Board. The amount of the scholarship may not exceed the amount of tuition or the amount of the student's unmet financial need for that semester after any other gift aid has been awarded.

SB 175 sets forth various eligibility requirements for the scholarship, including maintaining satisfactory academic progress. An institution must adopt a policy to allow a student who fails to make satisfactory academic progress to continue receiving a scholarship on a showing of hardship or other good cause. The institution must maintain documentation of each exception granted and timely notify the Coordinating Board of those exceptions.

The Coordinating Board is required to develop a plan to identify public high schools that have substantially lower numbers of graduates attending universities than the state average and to provide these students with information about enrollment in universities and to assist them in applying.

Impact: The Admissions Office at UT Austin must be notified of the changes that will limit the number of top 10 percent students that are admitted to its institution. Its admission policies must also be updated to reflect the new statutory changes. Admission offices at all UT System institutions must review and modify their denial of admission letters and transfer admission policies to ensure they are in compliance with the new statute. Additionally, offices responsible for recruitment should be made aware of the Coordinating Board's outreach responsibility, monitor Coordinating Board activities, and be prepared to implement any best practices guidelines and standards that are to be issued by the Coordinating Board.

Financial aid and registrar offices at all UT System institutions should be notified of the new top 10 percent scholarship program. Institutions must develop and adopt policies that allow a student who fails to make satisfactory academic progress to continue receiving a scholarship on a showing of hardship or other good cause and must establish appropriate record keeping systems.

Effective: June 19, 2009

Esther L. Hajdar

SB 1728 by West and Chavez/Branch

Relating to the administration of and eligibility for the Joint Admissions Medical Program.

SB 1728 adds the medical school at Texas Tech University Health Sciences Center at El Paso as a participant in the Joint Admissions Medical Program. Additionally, the medical school must provide internships and mentoring under the Joint Admissions Medical Program as appropriate beginning with the 2011-2012 academic year, but is not required before the 2012-2013 academic year to admit participating students to the medical school under the program. SB 1728 also removes:

- the requirement that a student enroll at an institution of higher education not later than the first fall semester following the student's graduation from high school in order to participate in JAMP;
- the six year limitation on council service; and
- the scholarship and other academic support that was to be provided to program alternates.

Impact: SB 1728 does not directly impact UT System institutions.

Effective: June 19, 2009

Esther L. Hajdar

Tuition and Fees

HB 1568 by Gonzales/Guillen and Zaffirini/Hinojosa

Relating to authorizing an exemption from tuition and fees charged by a junior college district for employees of the district.

HB 1568 authorizes the governing board of a junior college district to exempt a district employee who enrolls in courses offered by the district from the payment of all or part of the tuition charged by the district.

Impact: HB 1568 may impact Texas Southmost College, which partners with UT Brownsville.

Effective: June 19, 2009

Karen Lundquist

[HB 1736](#) by Anchia, et al. and Duncan/West

Relating to compensation of and services to persons wrongfully imprisoned.

HB 1736, the Tim Cole Act, relates to the compensation of and services to persons wrongfully imprisoned. Among other things, it provides for the payment of certain tuition and fees for a person who served a prison sentence and who received a full pardon or was granted relief based on actual innocence. If requested by the claimant before the seventh anniversary of the date the claimant received the pardon or was granted relief, tuition for up to 120 credit hours, including designated tuition or tuition charged under any other law granting an educational institution discretion to set the tuition rate, as well as mandatory fees associated with attendance at the institution, that are charged by a career center or public institution of higher education are required to be paid on behalf of the claimant by the comptroller's judiciary section. This provision applies only to an application for compensation for wrongful imprisonment that is filed on or after September 1, 2009.

Impact: HB 1736 authorizes the comptroller to pay tuition for up to 120 credit hours and mandatory fees on behalf of a person who was wrongfully imprisoned. Apparently this will be paid directly to the institution of higher education, including UT System institutions.

Effective: September 1, 2009

Karen Lundquist

[HB 2013](#) by Keffer, et al. and Hegar

Relating to tuition and laboratory fee exemptions at public institutions of higher education for certain volunteer firefighters enrolled in fire science courses.

HB 2013 requires the governing board of an institution of higher education to exempt from the payment of tuition and laboratory fees any student enrolled in one or more courses offered as part of a fire science curriculum who:

- is employed as a firefighter by a political subdivision (current law); or
- is currently, and has been for at least one year, an active member of an organized volunteer fire department, as defined by the fire fighters' pension commissioner, who holds an accredited advanced level of certification or a Phase V (Firefighter II) certification, or their equivalent.

HB 2013 provides a number of exceptions to that requirement. First, it provides that a student may continue to receive the exemption for a subsequent semester or term at any institution only if the student makes satisfactory academic progress toward a degree or certificate at that institution as determined by the institution for purposes of financial aid.

Second, it provides that the exemption does not apply to any amount of additional tuition the institution elects to charge a resident undergraduate student for excessive or repeated undergraduate hours.

Third, the exemption does not apply to any amount of tuition the institution charges a graduate student in excess of the amount of tuition charged to similarly situated graduate students because the student has a number of semester credit hours of doctoral work in excess of the applicable number provided by Section 61.059(1), Education Code (100 or 130).

The Coordinating Board is required to adopt rules governing the granting or denial of an exemption, including rules relating to the determination of eligibility, and a uniform listing of degree programs covered by the exemption. (This language is identical to the language in HB 2347 relating to exemptions for peace officers.)

The change in law applies beginning with tuition and laboratory fees charged for the 2009 fall semester. A student who received an exemption before the 2009 fall semester may continue to receive the exemption under the law as it existed immediately before June 19, 2009, as long as the student remains enrolled in the same degree or certificate program and is otherwise eligible to continue to receive the exemption.

Impact: HB 2013 requires UT System institutions to provide a tuition and laboratory fee exemption for certain volunteer firefighters. Under the Regents' *Rules and Regulations*, Rule 40401, the Board of Regents has delegated its authority to grant tuition and fee exemptions to the presidents of the institutions. UT System institutions should make any necessary changes to catalogs, publications, and websites to reflect the new exemption.

Effective: June 19, 2009

Karen Lundquist

[HB 2347](#) by Thibaut/Guillen and Whitmire

Relating to tuition and fee exemptions at public institutions of higher education for certain peace officers enrolled in criminal justice or law enforcement course work and for certain educational aides.

HB 2347 requires the governing board of an institution of higher education to exempt from the payment of tuition and laboratory fees charged for a criminal justice or law enforcement course or courses an undergraduate student who is employed as a peace officer by this state or by a political subdivision, who enrolls in a criminal justice or law enforcement-related degree program, is making satisfactory academic progress toward the student's degree as determined by the institution, and applies for the exemption at least one week before the last date of the institution's regular registration period for the applicable semester or other term.

However, a student may not receive a peace officer exemption for any course if the student has previously attempted a number of semester credit hours for courses taken at any institution of higher education while classified as a resident student in excess of the maximum number of those hours specified by Section 61.0595(a), Education Code, as eligible for formula funding.

Additionally, the governing board may not provide peace officer exemptions to students enrolled in a specific class in a number that exceeds 20 percent of the maximum student enrollment designated by the institution for that class.

The Coordinating Board is required to adopt rules governing the granting or denial of an exemption, including rules relating to the determination of eligibility, and a uniform listing of degree programs covered by the exemption. (This language is identical to the language in HB 2013 relating to exemptions for firefighters.)

If the legislature does not specifically appropriate funds to an institution of higher education in a amount sufficient to pay the institution's costs under this law for a semester, the governing board shall report to the Senate Finance Committee and the House Appropriations Committee the cost to the institution of complying with this law for that semester. This applies to the firefighters exemption as well as the peace officers exemption.

The above provisions take effect January 1, 2011, and apply beginning with tuition and laboratory fees charged for the 2011 fall semester.

HB 2347 also amends the law that authorizes tuition and fee exemptions for educational aides. It requires the institution of higher education at which a person seeking an exemption is enrolled, as opposed to the Coordinating Board, to certify the person's eligibility to receive the exemption. As soon as practicable after receiving an application for certification, the institution must make the eligibility determination and give notice to the applicant and to the school district employing the applicant as an educational aide. This applies to an exemption from tuition and fees granted beginning with the 2009 fall semester, and is identical to SB 1798, which takes effect June 19, 2009.

Impact: HB 2347 requires UT System institutions to provide a tuition and laboratory fee exemption for peace officers of certain political subdivisions who enroll in certain courses. Under the Regents' *Rules and Regulations*, Rule 40401, the Board of Regents has delegated its authority to grant tuition and fee exemptions to the presidents of the institutions. UT System institutions should make any necessary changes to catalogs, publications, and websites to reflect the new exemption.

HB 2347 also requires UT System institutions to determine an educational aide's eligibility to receive a tuition and fee exemption and to notify the aide as well as the school district employing the aide.

Effective: The provisions relating to exemptions for educational aides take effect June 19, 2009. The provisions relating to exemptions for peace officers and firefighters take effect January 1, 2011.

Karen Lundquist

[HB 3353](#) by Naishtat/Fred Brown and Shapleigh

Relating to an environmental service fee at public institutions of higher education.

HB 3353 authorizes the governing board of an institution of higher education to charge an environmental service fee if the fee has been approved by a majority vote of the students who participate in a general student election called for that purpose. Unless increased, the fee may not exceed \$5 for each regular semester or summer term of more than six weeks, or \$2.50 for each summer session of six weeks or less.

The fee may be used only to provide environmental improvements at the institution through services related to recycling, energy efficiency and renewable energy, transportation, employment, product purchasing, planning and maintenance, or irrigation, or to provide matching funds for grants to obtain environmental improvements.

HB 3353 prohibits an increase in the fee unless the increase has been approved by a majority vote of students who participate in a general student election called for that purpose, and further provides that any increase may not result in a fee of more than \$10 for each regular semester or summer term of more than six weeks, or \$5 for each summer session of six weeks or less.

The fee may not be used to reduce or replace other money allocated by the institution for environmental projects, and may not be considered in determining the maximum amount of student services fees that an institution may charge.

Any fee revenue that exceeds the amount necessary to cover current operating expenses for environmental services and any interest generated from that revenue may be used only for environmental improvements or to provide matching funds as provided above.

The environmental service fee may not be charged after the fifth academic year in which the fee is first charged unless, before the end of that academic year, the institution has issued bonds payable from the fee, in which event the fee may not be charged after the academic year in which all those bonds, including refunding bonds for those bonds, have been fully paid.

HB 3353 provides that the change in law applies only to fees imposed for a semester or term that begins on or after June 19, 2009 (the effective date of HB 3353). However, SB 2182, an identical bill, authorizes an environmental service fee to be imposed for a semester or term that begins on or after September 1, 2009. As a practical matter, these differences will have negligible impact on the fee because it must be approved at a student election and then set by the Board of Regents before it may be imposed by an institution.

Impact: The Board of Regents is authorized to charge an environmental service fee if approved by a majority vote of the students at a UT System institution. The fee may not be charged after the fifth academic year in which it is first charged unless the institution has issued bonds payable from the fee. If the fee is approved, it will result in a funding source for specified environmental improvements.

Effective: June 19, 2009

Karen Lundquist

[SB 43](#) by Zaffirini, et al. and Gonzalez Toureilles

Relating to tuition and fee exemptions at public institutions of higher education for students who have been under the conservatorship of the Department of Family and Protective Services.

SB 43 amends the law providing tuition exemptions for students who have been under the conservatorship of the Department of Family and Protective Services. Under SB 43, a student is exempt from the payment of tuition and fees, including tuition and fees charged by an institution of higher education for a dual credit course or other course for which a high school student may earn joint high school and college credit, if the student was under the conservatorship on the day preceding the student's 18th birthday, on or after the day of the student's 14th birthday if the student was also eligible for adoption on or after that day, on the day the student graduated from high school or received a diploma equivalent, or during an academic term in which the student was enrolled in a dual credit course or other course for joint credit. In addition, the person must enroll in an institution of higher education as an undergraduate student or enroll in a dual or joint credit course not later than the person's 25th birthday.

SB 43 applies beginning with tuition and other fees charged for the 2010 spring semester.

Impact: SB 43 extends the period in which a student under the conservatorship of the Department of Family and Protective Services may enroll in an institution of higher education and receive a tuition exemption. It also expands the exemption to include students enrolled in a dual credit course or other course for which a high school student may earn joint high school and college credit. The registrar's offices at UT System institutions should be aware of SB 43 and make any necessary changes to catalogs, publications, and websites.

Effective: May 19, 2009

Karen Lundquist

[SB 45](#) by Zaffirini/West and Hochberg

Relating to tuition exemptions at public institutions of higher education for students enrolled in certain interinstitutional academic programs.

SB 45 relates to tuition exemptions for students enrolled in certain interinstitutional academic programs. It authorizes the governing board of an institution of higher education to provide a tuition and fee exemption for a student who is taking a course at the institution under an interinstitutional academic program agreement but who is enrolled primarily at another public institution of higher education or at a private or independent institution of higher education that is a party to the agreement and to which the student is responsible for the payment of tuition and fees.

“Interinstitutional academic program” means a program under which a student may, in accordance with a written agreement between a public institution of higher education and one or more public, private, or independent institutions of higher education, take courses at each institution as necessary to fulfill the program’s degree or certificate requirements.

Impact: SB 45 authorizes the Board of Regents to provide tuition and fee exemptions for students who are enrolled primarily at other institutions of higher education but who are taking courses at UT System institutions under interinstitutional academic program agreements. Under the Regents’ *Rules and Regulations*, Rule 40401, the Board of Regents has delegated its authority to grant tuition and fee exemptions to the presidents of the institutions. Any UT System institution that grants the exemption should make any necessary changes to catalogs, publications, and websites.

Effective: May 20, 2009

Karen Lundquist

[SB 93](#) by Van de Putte/Uresti and Castro

Relating to tuition and fee exemptions for certain military personnel and their dependents or spouse and permitting those personnel to assign the exemption to a child.

SB 93 amends the residency requirements under the Hazelwood Act (Section 54.203, Education Code). The bill exempts certain veterans from the payment of tuition and fees as long as the person seeking the exemption entered the service at a location in Texas, declared Texas to be the person’s home of record in the manner provided by the applicable military or other service, or would have been determined to be a resident of Texas for tuition purposes at the time the person entered the service. (Prior law required the person to have been a citizen of Texas at the time the person entered the service and to have resided in Texas for at least 12 months before the date of registration at the institution.)

A person who received a Hazelwood exemption before the 2009-2010 academic year continues to be eligible for the exemption under the law as it existed on January 1, 2009, subject to other provisions of this law other than the requirement that the person must

have entered the service at a location in Texas, declared Texas as the person's home of record, or would have been determined to be a Texas resident for purposes of tuition at the time the person entered the service.

SB 93 also requires the governing board of an institution of higher education to provide a tuition and fee exemption for the spouse of:

- a member of the US armed forces who was killed in action, who died while in service, who is missing in action, whose death was directly connected with service in the US armed forces, or who became totally disabled as a result of a service-related injury; or
- a member of the Texas National Guard or the Texas Air National Guard who was killed on active duty or is totally disabled as a result of a service-related injury.

To qualify for the exemption, the spouse must be classified as a Texas resident for tuition purposes.

SB 93 also amends the provisions providing tuition and fee exemptions for children of certain veterans who die or become disabled by deleting the requirements that the child be a citizen of Texas and reside in Texas for at least 12 months before the date of registration at the institution. Instead, to qualify for the exemption, the child must be classified as a Texas resident for tuition purposes.

The bill also requires the Coordinating Board by rule to prescribe procedures to allow a veteran who becomes eligible for an exemption to waive the person's right to any unused portion of the maximum number of cumulative credit hours for which the person could receive the exemption and assign the exemption for the unused portion of those credit hours to a child of the person. To be eligible, the child must:

- be classified as a resident when the child enrolls in an institution of higher education;
- make satisfactory academic progress in a degree, certificate, or continuing education program as determined by the institution; and
- be 25 years of age or younger on the first day of the semester or other academic term for which the exemption is claimed except as otherwise provided by Coordinating Board rule for illness or a debilitating condition.

For purposes of this law, a person is the child of another person if the person is the stepchild or the biological or adopted child of the other person, or the other person claimed the person as a dependent.

Before the enactment of SB 93, the law provided that the above exemptions do not apply to a person who at the time of registration is entitled to receive educational benefits under federal legislation if the value of the benefits is equal to or exceeds the value of the exemption. SB 93 modifies this by providing that the federal benefits are those that may

only be used for the payment of tuition and fees. SB 93 applies beginning with the 2009 fall semester.

If a person who becomes eligible for an exemption under SB 93 has paid the tuition and fees for that semester, the institution of higher education shall refund those charges in the amount of the exemption.

Impact: This bill deletes the requirement that a person must have been a citizen of Texas when the person entered military service, which addresses several years of debate over the meaning of the term “citizen of Texas.” The Texas Attorney General had interpreted that term as referring to a person who is both a United States citizen and a resident of Texas, which would have excluded legal permanent residents from the exemption. (GA-347 (2005), GA-445 (2006).) The Texas Attorney General withdrew those opinions in 2008 in light of a US Supreme Court case that would compel the conclusion that such a provision would be unconstitutional. The Coordinating Board immediately amended its rules to delete the US citizen requirement. The amendment to this bill is the last step in removing a potentially unconstitutional provision.

SB 93 makes significant changes to the law governing tuition exemptions for veterans. Registrars offices at UT System institutions should be aware of these changes and should make modifications to catalogs, publications, and websites as necessary. Institutions may be required to refund tuition and fees to a person who becomes eligible for an exemption and should adopt procedures to do so. Additionally the Coordinating Board’s rulemaking under this new law should be monitored.

Effective: June 19, 2009

Karen Lundquist

[SB 297](#) by Van de Putte, et al. and Corte, et al.

Relating to resident tuition rates at public institutions of higher education for certain veterans and servicemembers and their spouses and children.

SB 297 provides that a person is entitled to pay tuition and fees at an institution of higher education at the resident rate without regard to the length of time the person has resided in Texas if the person files with the institution a letter of intent to establish residence in Texas and resides in Texas while enrolled in the institution. Additionally, the person must:

- be eligible for benefits under the federal Post-9/11 veterans Educational Assistance Act of 2008 or any other federal law authorizing educational benefits for veterans;
- be the spouse of a person described above; or

- be the child of a person described above who is 25 years of age or younger on the first day of the semester or other academic term for which the person is registering.

The Coordinating Board by rule is required to prescribe procedures by which a child who suffered from a severe illness or other debilitating condition may be granted additional time to use the benefit. The initial rules may be adopted in the manner provided by law for emergency rules.

For purposes of all the numerous provisions of Section 54.058 that allow resident tuition rates for veterans and their spouses and children, the word “child” includes a stepchild.

SB 297 also amends the law providing tuition exemptions for certain veterans and their dependents by requiring the governing board of an institution of higher education to exempt from the payment of resident tuition a dependent child, including a stepchild, of a member of the US Armed Forces who is a resident of Texas or is entitled to pay resident tuition, for any semester or other academic term during which the member is deployed on active duty for the purpose of engaging in a combative military operation outside the US. SB 297 also provides that in its appropriations to institutions of higher education, the legislature shall provide sufficient funds to cover the full costs of these exemptions.

All of the above provisions apply beginning with tuition and other fees charged for the 2009 fall semester.

Impact: SB 297 deletes the requirement that a person must have been a citizen of Texas when the person entered military service, which addresses several years of debate over the meaning of the term “citizen of Texas.” The Texas Attorney General had interpreted that term as referring to a person who is both a United States citizen and a resident of Texas, which would have excluded legal permanent residents from the exemption. (GA-347 (2005), GA-445 (2006).) The Texas Attorney General withdrew those opinions in 2008 in light of a US Supreme Court case that would compel the conclusion that such a provision would be unconstitutional. The Coordinating Board immediately amended its rules to delete the US citizen requirement. The amendment to this bill is the last step in removing a potentially unconstitutional provision.

Registrars at UT System institutions should be aware of the new provision authorizing resident tuition rates. Additionally, concerning the new tuition exemption, under the Regents’ *Rules and Regulations*, Rule 40401, the Board of Regents has delegated its authority to grant tuition and fee exemptions to the presidents of the institutions. UT System institutions should make any necessary changes to catalogs, publications, and websites concerning the tuition rates and exemptions.

Effective: June 19, 2009

Karen Lundquist

SB 939 by Watson and Hughes

Relating to benefits and services for children in the conservatorship of the Department of Family and Protective Services, including the exchange of information by the department regarding students in foster care.

SB 939 amends the law providing tuition exemptions for students who have been under the conservatorship of the Department of Family and Protective Services. Under SB 939, a student is exempt from the payment of tuition and fees if the student was under the conservatorship on the day preceding the student's 18th birthday, on or after the day of the student's 14th birthday if the student was also eligible for adoption on or after that day, on the day the student graduated from high school or received a diploma equivalent, or on the day preceding the date the student is adopted (if on or after September 1, 2009) or the date permanent managing conservatorship of the student is awarded to a person other than the student's parent (if on or after September 1, 2009). In addition, the person must enroll in an institution of higher education as an undergraduate student or enroll in a dual or joint credit course not later than the person's 25th birthday.

SB 939 applies beginning with tuition and fees imposed for the 2009 fall semester.

Note that SB 43 contains similar provisions.

Impact: SB 939 extends the period in which a student under the conservatorship of the Department of Family and Protective Services may enroll in an institution of higher education and receive a tuition exemption. It also changes the dates used for calculating eligibility for the exemption. The registrar's offices at UT System institutions should be aware of SB 939 and make any necessary changes to catalogs, publications, and websites.

Effective: June 19, 2009

Karen Lundquist

SB 1798 by Zaffirini and Cohen

Relating to certifying the eligibility of certain educational aides to receive an exemption from tuition and fees charged by public institutions of higher education.

SB 1798 amends the law that exempts an educational aide from the payment of tuition and fees. Under SB 1798, the institution of higher education at which the person seeking an exemption is enrolled, rather than the Coordinating Board, must certify the person's eligibility to receive the exemption according to criteria established by Section 54.214(c), Education Code. The institution is required to make the determination as soon as practicable after receiving an application and to give notice of its determination to the applicant and to the school district employing the applicant as an educational aide.

SB 1798 applies to an exemption from tuition and fees beginning with the 2009 fall semester.

Impact: SB 1798 requires UT System institutions to determine an educational aide's eligibility to receive a tuition and fee exemption and to notify the aide as well as the school district employing the aide.

Effective: June 19, 2009

Karen Lundquist

[SB 2182](#) by Shapleigh and Naishtat

Relating to an environmental service fee at public institutions of higher education.

SB 2182 authorizes the governing board of an institution of higher education to charge an environmental service fee if the fee has been approved by a majority vote of the students who participate in a general student election called for that purpose. Unless increased, the fee may not exceed \$5 for each regular semester or summer term of more than six weeks, or \$2.50 for each summer session of six weeks or less.

The fee may be used only to provide environmental improvements at the institution through services related to recycling, energy efficiency and renewable energy, transportation, employment, product purchasing, planning and maintenance, or irrigation, or to provide matching funds for grants to obtain environmental improvements.

SB 2182 prohibits an increase in the fee unless the increase has been approved by a majority vote of students who participate in a general student election called for that purpose, and further provides that any increase may not result in a fee of more than \$10 for each regular semester or summer term of more than six weeks, or \$5 for each summer session of six weeks or less.

The fee may not be used to reduce or replace other money allocated by the institution for environmental projects, and may not be considered in determining the maximum amount of student services fees that an institution may charge.

Any fee revenue that exceeds the amount necessary to cover current operating expenses for environmental services and any interest generated from that revenue may be used only for environmental improvements or to provide matching funds as provided above.

The environmental service fee may not be charged after the fifth academic year in which the fee is first charged unless, before the end of that academic year, the institution has issued bonds payable from the fee, in which event the fee may not be charged after the academic year in which all those bonds, including refunding bonds for those bonds, have been fully paid.

SB 2182 provides that the change in law applies only to fees imposed for a semester or term that begins on or after September 1, 2009 (the effective date of SB 2182). However, HB 3353, an identical bill, authorizes an environmental service fee to be imposed for a semester or term that begins on or after June 19, 2009. As a practical matter, these differences will have negligible impact on the fee because it must be approved at a

student election and then set by the Board of Regents before it may be imposed by an institution.

Impact: The Board of Regents is authorized to charge an environmental service fee if approved by a majority vote of the students at a UT System institution. The fee may not be charged after the fifth academic year in which it is first charged unless the institution has issued bonds payable from the fee. If the fee is approved, it will result in a funding source for specified environmental improvements.

Effective: September 1, 2009

Karen Lundquist

SB 2244 by Zaffirini and Branch

Relating to the eligibility of employees of certain businesses or organizations established as part of the state's economic development program and of dependents of those employees to pay resident tuition at public institutions of higher education.

Current law allows a person to pay resident tuition at an institution of higher education if the person or the person's parent (adult family member/primary caretaker) establishes a residence in Texas as a result of employment by a business or organization that became established in Texas as part of the program of state economic development and diversification. SB 2244 places a time limit by requiring the business or organization to have been established as part of the program not earlier than five years before the person's enrollment date.

The Coordinating Board, in consultation with the Texas Economic Development and Tourism Office, is required to establish procedures to determine whether a business or organization meets the requirements of this provision and to determine their start dates.

This change applies beginning with tuition and required fees for the fall 2010 semester.

Impact: Current law provides an incentive for relocation to Texas by authorizing resident tuition rates. SB 2244 provides additional restrictions relating to the length of time the business or organization must be established as part of the program. UT System institutions should make changes in their procedures accordingly.

Effective: January 1, 2010

Karen Lundquist

Financial Aid and Savings Program

[HB 2154](#) by Edwards and Hinojosa, et al.

Relating to the physician education loan repayment program.

HB 2154 provides increased funding for the physician education loan repayment program through a modification of the state's smokeless tobacco taxation method (from an ad valorem system to a weight based system, which is used for other tobacco products). The increased funding will allow the physician education loan repayment program to increase awards to physicians with student loans who agree to provide health care services in a health professional shortage area to recipients under the medical assistance program or enrollees under the child health plan program.

Impact: HB 2154 could ease the pressure on UT System and its physicians (as well as other hospital and physician groups) by spreading out treatment of the uninsured. Increasing physicians in underserved areas could thus help to reduce overcrowding in emergency rooms at UT System health care facilities and could help to reduce the amount of uncompensated care provided.

HB 2154 is consistent with the recommendations of the Task Force on Access to Health Care in Texas, Code Red: The Critical Condition of Health in Texas, which issued reports in 2006 and 2008. All 10 of the Texas academic health institutions sponsored this Task Force, including the six University of Texas health care facilities. Part of Recommendation Seven in the 2008 Report was to expand medical school loan repayment programs.

Effective: September 1, 2009

Lannis Temple

[HB 2440](#) by McCall and Williams

Relating to scholarships for fifth-year accounting students.

HB 2440 relates to scholarships for fifth-year accounting students. It transfers the administration of those scholarships from the Coordinating Board to the Texas State Board of Public Accountancy, and establishes the scholarship trust fund outside the state treasury. The portion of the license fee that funds the scholarship trust fund account is decreased from \$20 to \$10. The State Board of Public Accountancy is authorized to use money from the trust fund without appropriation. On September 1, 2009, the Coordinating Board is required to transfer to the State Board of Public Accountancy any money in the general revenue scholarship fund for fifth year accounting students as well as funds appropriated to the Coordinating Board for those scholarships that have not been allocated to institutions of higher education for making awards to students during the 2009-2010 academic year.

Impact: Money awarded under the scholarship program may benefit fifth-year accounting students attending a UT System academic institution. Financial aid offices at UT System academic institutions should be aware of HB 2440.

Effective: September 1, 2009

Karen Lundquist

[HB 2504](#) by Kolkhorst, et al. and Shapiro

Relating to requiring a public institution of higher education to establish uniform standards for publishing cost of attendance information, to conduct student course evaluations of faculty, and to make certain information available.

Internet access to course information: HB 2504 requires public institutions of higher education, other than medical and dental units, to make certain course information available to the public on the institution's Internet website. For each undergraduate classroom course offered for credit, the institution must make available a syllabus that meets the criteria specified by the bill, a curriculum vitae of each regular instructor (excluding personal information such as home address or telephone number), and if available, a departmental budget report of the department under which the course is offered from the most recent semester or other term during which the institution offered the course.

The information must be accessible, searchable, and available by the seventh day after the first day of classes for the semester or term during which the course is offered. The institution must continue to make the information available on the institution's Internet website for at least two years after the date the information is initially posted. The institution must also update the information as soon as practicable after the information changes.

The governing body of the institution must designate an administrator to be responsible for ensuring implementation of the above provisions, who may assign those duties to one or more administrative employees.

By January 1 of each odd-numbered year, each institution of higher education shall submit a written report regarding the institution's compliance with this law to the governor, lieutenant, governor, speaker, and presiding officer of each legislative standing committee with primary jurisdiction over higher education. Institutions of higher education, other than medical and dental units, must also conduct end-of-course student evaluations of faculty and develop a plan to make evaluations available on the institution's website.

The Coordinating Board is authorized to adopt rules to administer the above provisions. Additionally, the above provisions apply beginning with the 2010 fall semester.

Online list of work-study employment opportunities: Each institution of higher education is required to establish and maintain an online list of work-study employment

opportunities, sorted by department as appropriate, available to students on the institution's campus. Institutions must ensure that the list is easily accessible to the public through a clearly identifiable link that appears in a prominent place on the financial aid page of the institution's Internet website. Each institution must establish the online list as soon as practicable. These provisions are identical to SB 305, effective June 19, 2009.

Uniform standards for publication of costs of attendance information: HB 2504 also requires the Coordinating Board to prescribe uniform standards intended to ensure that information regarding the cost of attendance at public institutions of higher education is available to the public in a manner that is consumer-friendly and readily understandable to prospective students and their families. The standards must address all of the elements that constitute the total cost of attendance and must prescribe model language to be used to describe each element of the cost.

Each institution that offers an undergraduate degree or certificate program must prominently display on its website information regarding the cost of attendance by a full-time entering first-year student, and any electronic or printed materials regarding cost must conform to the uniform standards. Institutions must consider the uniform standards when providing information regarding the cost of attendance by nonresident students, graduate students, or students enrolled in professional programs.

HB 2504 also requires the Coordinating Board to prescribe requirements for an institution to provide on its website consumer-friendly and readily understandable information regarding student financial aid opportunities. The information must be provided in connection with the information on cost of attendance and must include a link to the primary federal student financial aid website.

HB 2504 also requires the Coordinating Board to provide on its website a program that will compute the estimated net cost of attendance for a full-time entering first-year student, and each institution is required to provide the board with the information the board requires to administer this provision.

The Coordinating Board must prescribe the initial standards and requirements by January 1, 2010, and institutions of higher education must comply with the standards and requirements by April 1, 2010.

The Coordinating Board is required to encourage private or independent institutions of higher education approved to participate in the tuition equalization grant program to prominently display cost information on their Internet websites in accordance with the established standards, and is also required to make the program or tool for computing costs available to private or independent institutions of higher education.

The above provisions relating to costs are identical to SB 1764, effective June 19, 2009.

Impact: Beginning with the 2010 fall semester, UT System institutions must post course information on their websites and maintain that information for at least two years. They must also conduct end-of-course student evaluations of faculty and develop a plan

to make the evaluations available on their websites. Institutions must report to state leaders concerning their compliance with these provisions.

Effective: June 19, 2009

Karen Lundquist

[HB 3452](#) by Gattis, et al. and Ogden/Dan Patrick

Relating to the establishment of the Texas Armed Services Scholarship.

HB 3452 authorizes the Coordinating Board to establish and administer the Texas Armed Services Scholarship Program. These scholarships are annual conditional scholarships equal to the lesser of \$15,000 or the amount available for each scholarship from appropriations that may be used for these scholarships for that academic year.

Each year, the governor and lieutenant governor may each appoint two students to receive an initial scholarship, and each state senator and each state representative may appoint one student. To continue to receive a scholarship, the student must maintain satisfactory academic progress as determined by the institution in which the student is enrolled.

To receive a scholarship, a student must agree to complete four years of ROTC training and graduate within five years, and upon graduation, enter into either a four-year commitment to be a member of the Texas Army or Air Force National Guard, or contract to serve as a commissioned officer with any branch of the US armed services. The student must also agree to meet physical examination and other pre-screening requirements, and to repay the scholarship if the student fails to maintain satisfactory academic progress, withdraws from the scholarship program, or fails to fulfill a commitment or contract described above. A person may not receive a scholarship after earning a cumulative total of 150 credit hours or after being awarded a baccalaureate degree, whichever occurs first.

The Coordinating Board is required to adopt rules to exempt a student from repayment due to physical inability, rules regarding eligibility criteria and the selection of scholarship recipients, and rules providing that any amount paid to a student by a branch of the US armed services during an academic year for which the student receives a scholarship must be deducted from the amount of the scholarship awarded for that academic year.

The Coordinating Board is required to award scholarships beginning with the 2010-2011 academic year.

HB 3452 provides that it does not make an appropriation, and further states that a provision that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory during a fiscal period for which the legislature has not made a specific appropriation to implement the provision. However, the General Appropriations Act does appropriate \$1,000,000 in fiscal year

2010 and \$1,000,000 in fiscal year 2011 to the Coordinating Board to implement HB 3452, and thus armed services scholarships may be awarded.

Impact: Certain students of UT System institutions with ROTC programs may be eligible for the armed services scholarships. Financial aid offices should be aware of HB 3452.

Effective: September 1, 2009

Karen Lundquist

[HB 3951](#) by Chris Turner, et al. and Wendy Davis/Van de Putte

Relating to requiring a public institution of higher education to designate or employ a person trained in student financial assistance programs for military veterans and their families.

HB 3951 requires each institution of higher education to ensure that one or more persons employed by the institution are trained:

- in understanding state and federal student financial assistance programs available to military veterans or their family members, especially programs specifically applicable to military veterans or their family members; and
- in assisting military veterans and eligible family members in understanding and obtaining the benefits available under those programs.

The person must be available to assist military veterans and eligible family members during regular business hours at the financial aid or other office to which the person is assigned.

Institutions of higher education are required to comply by January 1, 2010.

Impact: By January 1, 2010, UT System institutions must ensure that one or more employees is trained in student financial assistance programs for military veterans and their families and that the person is available during regular business hours for that purpose.

Effective: June 19, 2009

Karen Lundquist

[HB 4244](#) by Hochberg and Zaffirini

Relating to certain competitive scholarship recipients at public institutions of higher education.

HB 4244 amends the law that restricts a person related to a member of the governing board of an institution of higher education from receiving certain scholarships. Current law requires the person applying for a scholarship originating from and administered by

the institution to file a statement with the application indicating whether the person is related to a member of the governing board. HB 4244 amends that provision to require the person to file the statement before receiving the scholarship as opposed to filing the statement with the application.

Current law also provides that a student who holds a competitive scholarship of at least \$1,000 for the academic year or summer and who is either a nonresident or a citizen of a country other than the US is entitled to pay resident tuition rates. HB 4244 changes the entitlement to make it discretionary with the institution of higher education.

A student who would be entitled to pay resident tuition in the 2009-2010 academic year because the student was awarded a competitive scholarship before the beginning of the 2009 fall semester is entitled to continue to pay resident tuition in each semester or other term in which the student is awarded the competitive scholarship as long as the student remains enrolled in the same certificate or degree program. The difference between resident tuition charged to a student receiving a competitive scholarship and the tuition the student would otherwise be charged may not be accounted for in such a way as to reduce the general revenue appropriation to an institution of higher education that charges a nonresident student resident tuition and fees as authorized by HB 4244.

Impact: HB 4244 allows UT System institutions to decide whether or not to allow competitive scholarship recipients from out-of-state to pay resident tuition rates. UT System institutions should also revise their procedures to allow scholarship recipients to file the relationship statement before receiving a scholarship as opposed to filing it with the application.

Effective: June 19, 2009

Karen Lundquist

[HB 4476](#) by Cohen/Kent and Zaffirini

Relating to eligibility requirements for the tuition equalization grant program.

HB 4476 changes the eligibility requirements for the first academic year in which a person receives a tuition equalization grant as follows:

- the person must be enrolled in at least 3/4 of a full course load as opposed to the full course load required by current law; and
- the person must make satisfactory academic progress toward a degree or certificate as determined by the institution at which the person is enrolled.

The Coordinating Board is required to adopt rules to allow a person who fails to make satisfactory academic progress to receive a tuition equalization grant in the event of hardship or for other good cause shown.

Among the eligibility requirements for tuition equalization grants received in a subsequent academic year, the person must complete a specified number of semester credit hours in the person's most recent full academic year. Prior law did not specify a full academic year.

The above changes apply beginning with tuition equalization grants awarded for the 2009-2010 academic year.

Impact: HB 4476 changes the eligibility requirements for tuition equalization grants to bring them more in line with the TEXAS grant program. Students at public institutions of higher education, including UT System institutions, are not eligible for tuition equalization grants.

Effective: May 27, 2009

Karen Lundquist

SB 175 by Shapiro, et al. and Branch

Relating to the automatic admission of undergraduate students to certain general academic teaching institutions and to scholarships and other programs to facilitate enrollment at institutions of higher education.

SB 175 provides that beginning with admissions for the 2011-2012 academic year, UT Austin may limit its automatic top 10 percent admissions to 75 percent of its first-time resident undergraduate class. Admission must be offered beginning with the top percentile rank until 75 percent of the class is filled. All remaining top ten percent applicants will be considered under the normal admission process. Non-resident enrollment for first-time undergraduate students is limited to 10 percent. UT Austin, in accordance with Texas Education Agency rules, must notify districts what percentile rank it anticipates will be offered admission for the following year. The 75 percent cap expires after the 2015-2016 academic year. The students admitted under this provision must take at least six semester credit hours during low-demand class hours.

UT Austin must provide an annual report to the governor, lieutenant governor, and legislative leaders regarding its student outreach and recruitment efforts. UT Austin may not use the 75 percent cap for an academic year if a final court order or the Board of Regents prohibits the institution from considering race as a factor in admissions.

The Coordinating Board is also charged with developing and implementing outreach efforts to students who are likely to be eligible for admission under the top 10 percent statute. Institutions must adopt and implement best practices guidelines and standards that are to be issued by the Coordinating Board. The Coordinating Board must also publish an annual report regarding the impact of the 75 percent cap on the state's "Closing the Gap" goals. Institutions are required to provide the Coordinating Board with requested information.

SB 175 specifically permits institutions to admit top 10 percent students for the summer or fall session.

In letters to students denying admission, institutions are prohibited from referencing the top 10 percent law unless the number of top 10 percent applicants exceeds 100 percent of the institution's enrollment capacity for that year.

Beginning with admissions for the 2010 spring semester, SB 175 requires institutions to admit applicant as a transfer undergraduate student if the applicant:

- graduated from high school within four school years from the academic year for which the applicant seeks admission to the institution as a transfer student;
- qualified for and was offered automatic admission under the top 10 percent statute by the institution;
- first enrolled in a public junior college or other lower-division institution not earlier than the third academic year before the academic year for which the applicant seeks admission;
- completed the core curriculum at a public junior college or other public or private lower-division institution of higher education with a GPA of at least 2.5; and
- submits a timely, completed application for admission as a transfer student.

School district school counselors are required to notify certain high school students about the top 10 percent automatic admission statute using forms and procedures established by the Commissioner of Education.

SB 175 also establishes a scholarship program to provide financial assistance to top 10 percent students who enroll at an institution. The Coordinating Board is charged with administering and awarding the scholarships. Institutions must provide to a student who receives a scholarship:

- a credit in the amount of the scholarship, to be applied toward the payment of any amount of educational costs charged by the institution for that semester or term; and
- a check, electronic transfer, or other disbursement of any remaining scholarship amount.

Upon request in accordance with Coordinating Board rules, the institution is entitled to be reimbursed by the Coordinating Board. The amount of the scholarship may not exceed the amount of tuition or the amount of the student's unmet financial need for that semester after any other gift aid has been awarded.

SB 175 sets forth various eligibility requirements for the scholarship, including maintaining satisfactory academic progress. An institution must adopt a policy to allow a

student who fails to make satisfactory academic progress to continue receiving a scholarship on a showing of hardship or other good cause. The institution must maintain documentation of each exception granted and timely notify the Coordinating Board of those exceptions.

The Coordinating Board is required to develop a plan to identify public high schools that have substantially lower numbers of graduates attending universities than the state average and to provide these students with information about enrollment in universities and to assist them in applying.

Impact: The Admissions Office at UT Austin must be notified of the changes that will limit the number of top 10 percent students that are admitted to its institution. Its admission policies must also be updated to reflect the new statutory changes. Admission offices at all UT System institutions must review and modify their denial of admission letters and transfer admission policies to ensure they are in compliance with the new statute. Additionally, offices responsible for recruitment should be made aware of the Coordinating Board's outreach responsibility, monitor Coordinating Board activities, and be prepared to implement any best practices guidelines and standards that are to be issued by the Coordinating Board.

Financial aid and registrar offices at all UT System institutions should be notified of the new top 10 percent scholarship program. Institutions must develop and adopt policies that allow a student who fails to make satisfactory academic progress to continue receiving a scholarship on a showing of hardship or other good cause and must establish appropriate record keeping systems.

Effective: June 19, 2009

Esther L. Hajdar

SB 194 by Shapleigh and Donna Howard

Relating to a prohibition against certain activities by a person in the financial aid office of a public institution of higher education or of a career school or college.

SB 194 prohibits a person employed in the financial aid office of an institution of higher education from:

- owning stock or holding another ownership interest in a student loan lender, other than through ownership of shares in a mutual fund or similar investment vehicle in which the person does not exercise discretion regarding the investment of its assets; or
- soliciting or accepting any gift from a student loan lender.

“Student loan” means a loan for which the loan agreement requires that all or part of the loan proceeds be used to assist a person in attending an institution of higher education or other postsecondary institution. “Student loan lender” means a person whose primary

business is making, brokering, arranging, or accepting applications for student loans, or a combination of those activities.

A person who violates one of the restrictions is subject to dismissal or other disciplinary action.

The same restrictions apply to a career school or college, except that the career school or college may not knowingly employ a person who violates one of the restrictions.

Impact: UT System institutions are no longer required to comply with their agreements with the Texas Attorney General, which prohibited stock ownership as well as gifts.

The newly enacted federal Higher Education Opportunity Act requires institutions of higher education to adopt a code of conduct prohibiting officers or employees who are employed in the financial aid office or who otherwise have responsibilities with respect to education loans from soliciting or accepting any gift from a student loan lender, and defines the term “gift.” It also prohibits an officer or employee employed in the financial aid office from accepting the opportunity to purchase stock from a student loan lender as compensation for any type of consulting arrangement or other contract to provide services to a lender. Institutions are also required to comply with federal law.

Financial and offices at UT System institutions should ensure that their employees, and other persons who have responsibility with respect to student loans, are aware of these restrictions.

Effective: June 19, 2009

Karen Lundquist

SB 1304 by Dan Patrick/Hinojosa and Branch

Relating to notice to students of a public institution of higher education of the required use of a portion of a student’s tuition payments to provide student financial aid.

SB 1304 requires an institution of higher education to provide a notice to each student who pays tuition from which a portion is required to be set aside for financial assistance. The notice must provide the specific amount of the tuition that is required to be set aside.

The notice must be provided in a prominently printed statement that appears on or is included with the student’s tuition bill or billing statement if the institution provides a printed bill or billing statement, or with the student’s tuition receipt if the institution provides a tuition receipt. If for any semester or other academic term the institution does not provide a bill, billing statement, or tuition receipt, the institution must include the notice in a statement prominently displayed in an e-mail sent to the student. The notice may be included in any other e-mail sent to the student in connection with the student’s tuition charges for that semester or other term.

The Coordinating Board by rule is required to prescribe minimum standards for the manner, form, and content of the notice. SB 1304 applies beginning with tuition charged for the 2010 spring semester.

Impact: Beginning with the 2010 spring semester, UT System institutions will be required to provide notice to students regarding the tuition set aside for financial assistance.

Effective: June 19, 2009

Karen Lundquist

SB 1764 by Watson and Cohen

Relating to the dissemination of information regarding the cost of attending public and private institutions of higher education and regarding the availability of financial aid to assist in paying that cost.

SB 1764 requires the Coordinating Board to prescribe uniform standards intended to ensure that information regarding the cost of attendance at public institutions of higher education is available to the public in a manner that is consumer-friendly and readily understandable to prospective students and their families. The standards must address all of the elements that constitute the total cost of attendance and must prescribe model language to be used to describe each element of the cost.

Each institution that offers an undergraduate degree or certificate program must prominently display on its website information regarding the cost of attendance by a full-time entering first-year student, and any electronic or printed materials regarding cost must conform to the uniform standards. Institutions must consider the uniform standards when providing information regarding the cost of attendance by nonresident students, graduate students, or students enrolled in professional programs.

SB 1764 also requires the Coordinating Board to prescribe requirements for an institution to provide on its website consumer-friendly and readily understandable information regarding student financial aid opportunities. The information must be provided in connection with the information on cost of attendance and must include a link to the primary federal student financial aid website.

SB 1764 also requires the Coordinating Board to provide on its website a program that will compute the estimated net cost of attendance for a full-time entering first-year student, and each institution is required to provide the board with the information the board requires to administer this provision.

The Coordinating Board must prescribe the initial standards and requirements by January 1, 2010, and institutions of higher education must comply with the standards and requirements by April 1, 2010.

The Coordinating Board is required to encourage private or independent institutions of higher education approved to participate in the tuition equalization grant program to prominently display cost information on their Internet websites in accordance with the established standards, and is also required to make the program or tool for computing costs available to private or independent institutions of higher education.

SB 1764 is identical to Section 3 of HB 2504, effective June 19, 2009.

Impact: By April 1, 2010, UT System institutions will be required to display cost information on their websites and to conform to the uniform standards in any electronic or printed materials intended to provide to prospective undergraduate students information regarding cost of attendance. Institutions will also be required to provide information regarding student financial aid opportunities on their websites. Institutions should monitor the Coordinating Board's activities under this new law and should be prepared to provide information to the Coordinating Board to assist in the development of the program that computes the estimated net cost of attendance.

Effective: June 19, 2009

Karen Lundquist

SB 1941 by Shapiro and Morrison

Relating to the administration and operation of the state's programs for repaying or saving toward the costs of attending an institution of higher education.

SB 1941 relates to the administration and operation of the state's programs for repaying or saving toward the costs of attending an institution of higher education and to the participation of state employees in those programs.

SB 1941 provides a sunset date of September 1, 2019, for the Texas tomorrow fund II plan, which is in line with the sunset date for the Prepaid Higher Education Tuition Board.

SB 1941 also amends the law providing for the Texas Save and Match program, which is a program under which money paid under a prepaid tuition contract may be matched with contributions and appropriations. SB 1941 provides that the Texas Save and Match program is considered an eligible charitable organization entitled to participate in a state employee charitable campaign, and state employees are entitled to authorize payroll deductions for contributions to the Texas Save and Match program as a charitable contribution. It provides that the program is entitled to participate in the state employee charitable campaign conducted during the autumn of 2009 without regard to any limitation on the time during which an organization must apply to participate in the campaign.

SB 1941 further amends the law providing for the Texas tomorrow fund II plan by adding career schools (a career school or college that offers a two-year associate degree) as

institutions for which a purchaser may prepay the costs of a beneficiary's tuition and required fees, and by making conforming amendments to reflect this addition.

It authorizes the comptroller to designate the plan manager as the comptroller's authorized representative to pay expenditures or transfer funds to an institution or a career school, requires the annual report to the board to include the amount of the fund's assets in the comptroller's or plan manager's custody, requires the plan manager to provide a quarterly report to the comptroller of all funds distributed during the previous quarter, and authorizes the comptroller to require more frequent reports or additional information to ensure that the fund's assets are adequately protected.

Impact: The only provision in SB 1941 that directly impacts UT System is the provision allowing payroll deductions in the state employee charitable campaign for purposes of making contributions to the Save and Match program. Human resources offices and payroll offices should be aware of this provision and should make changes in their procedures accordingly. The other provisions affect the administration of the higher education savings plan and the Texas tomorrow fund II plan.

Effective: June 19, 2009

Karen Lundquist

Programs, Courses, and Credits

[HB 269](#) by Lucio III, et al. and Van de Putte

Relating to course credit for certain students at a public institution of higher education.

HB 269 requires institutions of higher education to award course credit to certain undergraduate students for all physical education courses required for an undergraduate degree, and for up to 12 additional semester credit hours that may be applied to satisfy any elective course requirements for the student's degree program for courses outside the student's major or minor. To be eligible, the student must have graduated from an accredited public or private high school or from a high school operated by the US Department of Defense, and must be an honorably discharged former member of the US armed forces who completed at least two years of service or who was discharged because of a disability. An institution of higher education is not prohibited from awarding additional course credit for a student's military service as the institution considers appropriate. Additionally, institutions of higher education may adopt rules requiring reasonable proof from a student of the fact and duration of military service and discharge status. These provisions apply to a student without regard to whether the student was admitted to the institution before June 19, 2009.

HB 269 also requires the Coordinating Board, in consultation with institutions of higher education, to determine a standard fee for a course offered through a Reserve Officers' Training Corp (ROTC) program that takes into account the average statewide cost per

student to an institution in providing the program, not including any reimbursement or other amounts that the institution receives from the applicable military service or other source for offering the course. Institutions of higher education may not charge a higher fee to a student enrolled in an ROTC course, except that if the institution offers course credit toward a student's degree for a course in which a student enrolls for purposes of an ROTC program, the institution may charge the student tuition for that course after subtracting any reimbursement or other amount the institution receives from the applicable military service or other source for offering the course. Finally, HB 269 provides that to the extent it will not adversely affect the accreditation status, an institution shall count courses in which a student enrolls for the purposes of an ROTC program, including courses for which the student does not receive course credit toward the student's degree, in determining whether the student is enrolled as a full-time student.

Impact: UT System academic institutions should revise their procedures for granting course credit to certain honorably discharged members of the US armed forces. In addition, the Board of Regents may charge the standard fee for a course offered through an ROTC program or may decide to charge tuition for that course. Finally, UT System institutions must count courses in which a student enrolls for purposes of an ROTC program in determining whether a student is enrolled full-time unless it adversely affects the institution's accreditation status.

Effective: June 19, 2009

Karen Lundquist

[HB 461](#) by Eissler, et al. and Huffman/Deuell

Relating to the regulation of dyslexia practitioners and therapists; providing penalties.

HB 461 regulates dyslexia practitioners and therapists by requiring them to obtain a license from the Department of State Health Services (DSHS) before using the title "licensed dyslexia practitioner" or "licensed dyslexia therapist."

To be eligible for a licensed dyslexia practitioner license, an applicant must have earned a bachelor's degree, completed 45 hours of course work in multisensory structured language education from a training program, completed at least 60 hours of supervised clinical experience in multisensory structured language education, completed at least five demonstration lessons of the practice of multisensory structured language education, each observed by an instructor from a training program, and successfully completed a national multisensory structured language education competency examination approved by DSHS and administered by a national certifying professional organization.

To be eligible for a licensed dyslexia therapist license, an applicant must have earned at least a master's degree, successfully completed at least 200 hours of course work in multisensory structured language education from a training program, completed at least 700 hours of supervised clinical experience in multisensory structured language education, completed at least 10 demonstration lessons of the practice of multisensory structured language education, and successfully completed a national multisensory

structured language education competency examination approved by DSHS and administered by a national certifying professional organization.

HB 461 provides 11 requirements for the multisensory structured language education training program that is required to be completed by an applicant for a license. The DSHS is required to determine whether a training program meets those requirements. It also provides numerous provisions relating to instructor qualifications, practice by a license holder, complaints and disciplinary actions, and penalties.

HB 461 also creates an interim committee to study and recommend legislation to increase awareness of early detection and treatment of dyslexia and related disorders. One member of the committee, who is appointed by the governor, must represent an institution of higher education that offers courses in dyslexia and related disorders. The committee must report its findings and recommendations to the lieutenant governor, the speaker, and the governor by December 1, 2010.

Impact: HB 461 does not directly impact UT System, but academic institutions may want to structure certain programs with these licensing requirements in mind.

Effective: September 1, 2009, except that the license requirements and provisions relating to disciplinary procedures and penalties take effect September 1, 2010.

Karen Lundquist

[HB 2425](#) by Morrison and Averitt

Relating to engineering recruitment programs at public or private institutions of higher education and to certain degree programs at public junior colleges.

HB 2425 amends the engineering recruitment program by requiring the Coordinating Board to establish and administer a one-week summer program to take place on the campus of each private or independent institution of higher education that offers an engineering degree program, in addition to the current law requirement for general academic teaching institutions. It also allows eligible students from private or independent institutions of higher education to qualify for the engineering scholarship.

HB 2425 also requires the Coordinating Board to conduct a study relating to the success of baccalaureate degree programs offered by junior colleges and to the feasibility of expanding the offering of baccalaureate degrees by public junior colleges. The board must report the results of its study to the legislature by November 15, 2010.

Impact: Since the engineering scholarship program is funded by appropriations made to the Coordinating Board for that purpose, allowing students from private or independent institutions to participate will likely reduce the pool of money available to students from general academic teaching institutions, including UT System academic institutions. Additionally, the results of the study concerning baccalaureate degree programs offered by junior colleges may be of interest to Texas Southmost College, which partners with UT Brownsville.

Effective: June 19, 2009

Karen Lundquist

SB 174 by Shapiro/Shapleigh and Branch

Relating to accountability of institutions of higher education, including educator preparation programs, and online institution resumes for public institutions of higher education.

SB 174 contains two major provisions, one relating to educator preparation programs and one relating to online institution resumes.

Educator preparation programs: SB 174 make numerous changes to the law governing educator preparation programs, including authorizing the board to propose a rule adopting a fee for the approval or renewal of approval of an educator preparation program or for an addition to the scope of a program's approval. It revises the accountability system for educator preparation programs by requiring information on achievement of students taught by beginning teachers for the first three years following certification and on compliance with board requirements concerning structural guidance and ongoing support provided by field supervisors to beginning teachers during their first year in the classroom. The board is authorized to establish minimum standards for approval or renewal of approval of educator preparation programs or certification fields.

Additionally, SB 174 provides sanctions under the accountability system by authorizing the board to propose rules providing for the assignment of specified accreditation statuses, allowing TEA to take necessary action such as requiring the program to obtain technical assistance, and providing for revocation of a program's approval.

Finally, SB 174 requires the board to make detailed information available to consumers regarding educator preparation programs, including the results of exit surveys given to program participants and surveys given to school principals.

Online institution resumes: SB 174 requires online resumes for public institutions of higher education. It requires two resumes, one for the legislature and policy makers, and one for prospective students and the public.

Coordinating Board: The Coordinating Board, in consultation with institutions of higher education, is required to develop and maintain online resumes for each of those institutions. The online resumes must be created and provided on the Coordinating Board's Internet website not later than February 1, 2010.

The Coordinating Board must:

- request from each institution any information the Coordinating Board considers necessary for the Coordinating Board to include information or calculate data required to be included in the institution's resume;

- establish a list of representative in-state and out-of-state peer institutions and maintain that list on the Coordinating Board's Internet website;
- ensure that each of an institution's online resumes is available to the public by a prominent link on the Coordinating Board's Internet website in a one-page format if possible, uses user-friendly search capabilities, and includes a clearly identifiable link to information on the Coordinating Board's website regarding the accountability system; and
- ensure the information in each resume is accurate and up to date and includes the most recent data available for out-of-state peer institutions.

Institutions of higher education must submit to the Coordinating Board any information it requests and ensure that the institution's Internet website includes an accessible link to the institution's online resume maintained on the Coordinating Board's Internet website.

General academic teaching institutions: For general academic teaching institutions, the Coordinating Board must maintain for each institution an online resume that is designed for use by legislators and other interested policymakers. The resume must identify the institutional grouping to which the institution is assigned under the accountability system and the institution's in-state and out-of-state peer institutions. The legislative report card must include information in four categories: enrollment, costs, student success, and funding.

Specifically, the legislative report card must include the following information relating to the institution for the most recent state fiscal year and compare that information to information available in preceding fiscal years:

- enrollment information, including the total number of students enrolled during the fall semester that ended in the fiscal year covered by the resume;
- cost information, including the average annual total academic costs for a resident undergraduate student enrolled in 30 semester credit hours at the institution and at the institution's in-state and out-of-state peer institutions;
- student success information, including retention rates, the percentage of undergraduate students requiring developmental education who, after six years from entering the institution, graduated from or are still enrolled in the institution and the institution's in-state peer institutions, four-year and six-year graduation rates, and the average number of fall and spring semesters of enrollment attempted by a student to obtain a bachelor's degree; and
- funding information, including the total amount of money appropriated by the legislature to the institution, including money appropriated for faculty and staff health coverage and retirement benefits, and the total amount of money from any source available to the institution in that state fiscal year.

The Coordinating Board is also required to maintain an online resume for each institution for use by prospective students, their parents, and the public. The resume must identify the institutional grouping to which the institution is assigned under the accountability system and the institution's in-state peer institutions. The prospective student resume must include information in eight categories: enrollment, degrees awarded, costs, financial aid, admissions, instruction, baccalaureate success, and first time licensure/certification examination pass rates.

Specifically, the prospective student resume must include the following information relating to the most recent state fiscal year:

- enrollment information, including the total number of students enrolled during the fall semester and a link to the information disaggregated by student ethnicity;
- degrees awarded, including the number of different levels of degrees awarded by the institution and a link to that information disaggregated by student ethnicity;
- cost information, including the average annual total academic costs for a resident undergraduate student enrolled in 30 semester credit hours, links to information regarding rates of tuition, mandatory fees, and the amount and percentage by which tuition has increased during the state fiscal year, the average cost of on-campus room and board per student, and the average cost for total academic costs and on-campus room and board, excluding the cost of books, supplies, transportation, or other expenses;
- financial aid information, including the percentage of undergraduate students who receive need-based grants, scholarships, loans, or work-study funds, and the average amount of a need-based grant, scholarship, loan, and work-study package;
- admission, including the middle 50 percent test score range of undergraduate students whose SAT or ACT scores placed the students in the 25th to 75th percentile of scores nationally, and the percentage of students who applied for first-time undergraduate admission to the institution who were offered admission to the institution;
- instruction information, including the student/faculty ratio, the percentage of undergraduate classes in which fewer than 20 students are enrolled, the percentage in which more than 50 students are enrolled, and the percentage of teaching faculty members who are tenured or tenure-track;
- baccalaureate success information, including graduation rates and links to that information disaggregated by student ethnicity, and the average number of fall and spring semesters of enrollment attempted by a student to obtain a bachelor's degree; and

- first-time licensure or certification examination pass rates, including pass rates in specific fields.

Community colleges: SB 174 imposes similar requirements for the two resumes on community colleges, public state colleges (Lamar), and public technical institutes.

Medical and dental units: SB 174 imposes similar requirements for a legislative resume and a prospective student resume for medical and dental units (which include UT System health institutions).

The legislative resume must include information in four categories:

- enrollment (including the total number of physicians training in residency programs);
- costs;
- student success (including the percentage of students passing medical licensure exams, the percentage of medical school students practicing primary care in Texas after graduation, the number of nursing degrees and allied health degrees awarded, and the estimated amount of research expenditures); and
- funding.

The prospective student resume must include information in five categories:

- enrollment (including the total number of students enrolled in the institution's medical school during the fall semester and the total number of physicians training in residency programs);
- costs;
- financial aid;
- student success (including the percentage passing medical licensure exams, the percentage of medical school graduates practicing primary care in Texas, the number of nursing degrees or allied health degrees awarded, and the estimated amount of research expenditures); and
- first time licensure or certification exam pass rates.

Impact: UT System institutions with educator preparation programs should be aware of the provisions of SB 174 relating to their programs.

SB 174 requires UT System institutions to make specific information available to the Coordinating Board to be used to prepare the two online resumes, and also requires each institution to maintain a prominent link to those resumes on the institution's Internet website.

Effective: June 19, 2009

Karen Lundquist

[SB 482](#) by Ellis, et al. and Chisum/Cohen

Relating to the Texas Holocaust and Genocide Commission.

SB 482 establishes the Texas Holocaust and Genocide Commission, which is administratively attached to the Texas Historical Commission and which is advisory. Among its many duties, the commission is required to provide advice and assistance to public and private primary and secondary schools and institutions of higher education regarding implementation of Holocaust and genocide courses of study and awareness programs. The commission is required to determine which existing Holocaust or other genocide memorials, exhibits, or other resources could be included in or used to support Holocaust and genocide courses of study and awareness programs, and for that purpose is authorized to contact and cooperate with state agencies that carry out the educational functions of the state delegated under the Education Code, including the Texas Education Agency and the Coordinating Board.

Impact: SB 482 has minimal impact on UT System institutions, except that the Texas Holocaust and Genocide Commission is required to provide advice and assistance to institutions of higher education regarding implementation of Holocaust and genocide courses of study and awareness programs.

Effective: September 1, 2009

Karen Lundquist

[SB 2258](#) by Zaffirini and Hochberg

Relating to intensive summer programs for public school students and to college readiness programs at public institutions of higher education.

SB 2258 amends the law regarding grants to institutions of higher education for intensive academic programs for students identified as being at risk of dropping out of school or college. Under SB 2258, the Coordinating Board's charge includes enhancing college readiness by the development of bridge programs in specific subject areas to increase student success by reducing the need for developmental education, and by the development of a pilot program to award grants to institutions of higher education for intensive programs designed to address the needs of students at risk of dropping out of college. (Before the passage of SB 2258, the commissioner of education along with the commissioner of higher education were jointly responsible for the development of a pilot program to award grants for intensive academic instruction during the summer.) SB 2258 continues to specify that 50 percent of the students served must meet certain criteria in order for an institution of higher education to be eligible for a grant. The bill also gives the Coordinating Board rulemaking authority to establish additional criteria regarding the students served in the program. The grant funds will be available from \$8.75 million per

year appropriated to the Coordinating Board for the purposes of these college readiness grants as well as for technology teacher preparation academies and intensive summer programs administered by the Texas Education Agency.

Impact: SB 2258 impacts UT System institutions that develop programs for students identified as being at risk of dropping out of college in which the student participants meet certain criteria, including low entrance scores, because it provides grant funds for this purpose. UT System institution officials responsible for student college readiness and retention should be made aware of this bill and the opportunity to apply to the Coordinating Board for grant funding. SB 2258 also impacts UT System institution charter schools because it continues to provide grant funds for intensive summer programs for at risk students. University charter school officials should be made aware of this bill.

Effective: June 19, 2009

Priscilla A. Lozano

SB 2262 by Zaffirini and Branch

Relating to the administration of mathematics, science, and technology teacher preparation academies at institutions of higher education.

SB 2262 transfers the authorizing statute of the teacher preparation academies from Section 21.462, Education Code, to Chapter 61, Education Code, and redesignates it as Section 61.0766. The only substantive change it makes is to lower the number of years of experience (from five to two) a teacher must have in order to participate in the academies offered by institutions of higher education to improve the instructional skills of teachers and train students enrolled in a teacher preparation program in the area of mathematics, science, and technology.

Impact: UT System institutions offering this program should inform appropriate employees regarding the change in the eligibility requirements.

Effective: June 19, 2009

Esther L. Hajdar

SB 2465 by Seliger and Lewis

Relating to the payment of certain costs associated with educational programs of the John Ben Shepperd Public Leadership Institute of The University of Texas of the Permian Basin.

SB 2465 authorizes the use of funds appropriated for the John Ben Shepperd Public Leadership Institute of The University of Texas of the Permian Basin to be used to pay for costs associated with the institute's educational programs for public secondary and university-level students, including registration fees, ground or air transportation, lodging, meals, training costs, and related expenses.

Impact: UTPB should inform appropriate employees about the newly authorized expenditures of these funds.

Effective: September 1, 2009

Esther L. Hajdar

Research

[HB 51](#) by Branch, et al. and Zaffirini/Mike Jackson

Relating to measures to enhance and maintain the quality of state universities, including funding and incentives to support emerging public research universities, to replace the higher education fund, to the institutional groupings under the Texas Higher Education Coordinating Board's accountability system, to research conducted by public universities and other state entities, and to the authorization of revenue bonds for certain institutions of higher education.

HB 51 abolishes the higher education fund and provides several new funding measures to support emerging public research universities to enhance programs and improve ranking among other research universities:

- The Research University Development Fund -- HB 51 creates a new funding opportunity based on the average amount of total research funds expended by an "eligible institution" (research or emerging research university) during the three most recent fiscal years, and will provide at least \$500,000 for every \$10 million expended (under \$50 million average research funds) or \$1 million for every \$10 million expended (\$50 million or more average research funds). Money may not be appropriated or distributed before the state fiscal biennium beginning September 1, 2011.
- Performance Incentive Funding -- HB 51 provides for performance incentive funds to eligible institutions based on a point system that considers the number of degrees awarded annually in "critical" and "non-critical" fields to "at-risk" and "not at-risk" students. An "at-risk" student is an undergraduate student: a) whose score on the SAT or ACT was less than the national mean, b) who has been awarded a Pell Grant, c) who was 20 years or older when initially enrolled, d) who is enrolled part-time, or e) who did not receive a high school diploma but received a high school equivalency certificate in the last 6 years. "Critical field" means: a) engineering, computer science, mathematics, physical science, allied health, nursing, or teacher certification in a field of science or mathematics, and b) any other field the Coordinating Board identifies as "critical."
- Texas Research Incentive Program -- HB 51 provides for matching grants for emerging research universities to help leverage private gifts to enhance research productivity and faculty recruitment. Eligible institutions are entitled to receive matching grants equal to: a) 50 percent if total gifts and endowments are between

\$100,000 and \$999,999), b) 75 percent if total gifts and endowments are between \$1 million and \$1,999,999, and c) 100 percent if total gifts and endowments are \$2 million or more. Matching funds are not available for gifts that have been pledged but not received, gifts for undergraduate scholarships or grants, or any gift from a single source in excess of \$10 million.

- National Research University Fund -- HB 51 establishes the national research university fund to provide a dedicated, independent, and equitable source of funding to enable emerging research universities to achieve national prominence as major research universities. A general academic teaching institution is entitled to receive funds if: a) the Coordinating Board designates it as an emerging research university, b) it has expended at least \$45 million in restricted research funds in the two preceding fiscal years, and c) it satisfies at least four of six criteria (e.g. endowment funds exceed \$400 million, at least 200 Ph.D. degrees awarded, entering freshman class demonstrated high achievement, member of ARL or has a Phi Beta Kappa chapter, faculty is of high quality with demonstrated commitment to high-quality education). Funds may be used to provide faculty support and pay faculty salaries, purchase equipment or library materials, pay graduate stipends, and support research performed at the institution (including undergraduate research). UT Austin and Texas A&M are not eligible to receive monies from this fund. Funding is contingent on approval by the voters of a constitutional amendment establishing the national research university fund. Money may not be appropriated or distributed until the state fiscal biennium beginning September 1, 2011.

HB 51 also increases the amount of Article VII constitutional funding appropriated to specific institutes of higher education for the fiscal year ending August 31, 2008, to \$262.54 million. Thus, the funding appropriated for fiscal years ending August 31, 2009, and August 31, 2010, was adjusted to accommodate the increase. UT Pan Am and UT Brownsville have been appropriated funds under this section of HB 51.

HB 51 also authorizes revenue bonds to be issued for infrastructure and related needs to recover from damage caused by Hurricane Ike. UT System may also issue bonds up to \$150 million to benefit UT Medical Branch at Galveston.

HB 51 also approves incentive grants to be awarded to general academic teaching institutions -- other than public state colleges -- that are not research or emerging research universities, to develop and maintain specific programs or fields of study of the highest national rank. An institution may only designate one degree program at a time for funding. These incentive grants may be used for faculty recruitment or support related to the designated degree program. The Legislature will only appropriate funds for these incentive grants after the institution meets one of the benchmarks established by the Coordinating Board.

HB 51 also requires the governing board of each research or emerging research university to submit a detailed, long-term strategic plan that documents the strategy the institution intends to follow to achieve recognition or enhance its reputation as a research university.

HB 51 also approves a select interim committee be established to study the feasibility of collecting data and maintaining a searchable electronic database relating to specialized technology research projects developed or conducted at public universities and research facilities. The specialized research fields include energy research (creation, storage, distribution and conservation), biomedical science research (involving stem cells or human cloning), nanotechnology research (nanomedicine), and other specialized technology research. The committee shall report its findings by December 10, 2010 and will be abolished on January 16, 2011.

HB 51 also establishes and funds the creation of a new lower-division institution of the Texas State University System to be located in Beaumont, Texas, and called the Lamar Institute of Technology.

Impact: UT System research and emerging research universities may be eligible to receive increased funding from several funding sources established in HB 51 for faculty support and academic research programs. General academic institutions not designated as research or emerging research universities may also be eligible to receive incentive grants to develop and support one designated degree program of the highest national rank. UT System research and emerging research universities will be required to submit a strategic plan to achieve recognition and enhance its reputation as a research university. UT System Board of Regents is authorized to issue revenue bonds to assist UT Medical Branch at Galveston in recovering from damage sustained in Hurricane Ike.

Effective: September 1, 2009, except as otherwise noted in the summary above.

BethLynn Maxwell

HB 58 by Branch and Averitt/Zaffirini

Relating to the eligibility of private or independent institutions of higher education to participate in the Advanced Research Program administered by the Texas Higher Education Coordinating Board.

HB 58 expands the “eligible institutions” that qualify to receive Advanced Research Program (ARP) funding to include a private or independent institution of higher education. Under the ARP program, faculty members compete for research funds to conduct basic research in a variety of scientific and mathematical subjects.

Impact: HB 58 may impact UT System and its member institutions because a qualified private college or university will now be allowed to compete with UT System institutions for ARP research funding.

Effective: June 19, 2009

BethLynn Maxwell

[HB 394](#) by Rose, et al. and Van de Putte

Relating to use of money from the Texas Enterprise Fund to benefit certain small businesses and certain projects.

HB 394 provides that to encourage the development and location of small business in this state, the governor shall consider making grants from the fund:

- to recipients that are small businesses in this state that commit to using the grants to create additional jobs;
- to recipients that are small business from outside the state that commit to relocate to this state; or
- for individual projects that create 100 or fewer additional jobs.

For these purposes, “small business” means a legal entity, including a corporation, partnership, or sole proprietorship, that is formed for the purpose of making a profit, is independently owned and operated, and has fewer than 100 employees.

Impact: HB 394 may benefit UT System to the extent a small business or individual project in which UT System has an interest receives such funds. It may also reduce the amount of funds available to UT System from the Texas Enterprise Fund for other specified purposes.

Effective: June 19, 2009

Caren Burbach

[HB 1358](#) by Keffer, et al. and Nelson/Zaffirini

Relating to the Cancer Prevention and Research Institute of Texas.

HB 1358 makes numerous operational changes to the Cancer Prevention and Research Institute of Texas (Institute) that was created in the 80th Legislative Session and funded with the issuance of up to \$3 billion in general obligation bonds approved by the voters. Generally, HB 1358 strengthens the role of the executive director, provides for direct university input through the creation of a University Advisory Committee, requires disclosure of conflicts of interest, and mandates adoption of rules for grant award procedure.

A primary change is the addition of the University Advisory Committee to advise the Institute committees of the role of institutions of higher education in cancer research. Among other appointees, the committee will include two members appointed by the chancellor of the UT System. In addition, HB 1358 authorizes the oversight committee of the Institute to create an ad hoc committee of experts to address childhood cancers and authorizes other ad hoc committees as needed.

HB 1358 deletes the current membership of the Research and Prevention Programs Committee and gives the executive director authority to appoint the members of such a committee who are experts in cancer research and prevention. Responsibility for reviewing grant applications rests with a research and prevention programs committee, which is to make recommendations, including a prioritized list ranking the applications, to the executive director, who in turn must submit a list of grant applications to the oversight committee. The list submitted by the executive director must be substantially based on the committee's list. The oversight committee must follow these recommendations in the order made, except that it may override the executive director's recommendations with a two-thirds vote of the members of the oversight committee.

HB 1358 gives the executive director the authority to determine the grant review process. It further defines indirect costs while also explicitly permitting funds to be used for the purchase, remodel, or renovation of facilities for cancer prevention and research.

Impact: Two members to the University Advisory Committee will be appointed by the UT System Chancellor. Operational changes could have an impact on UT System institutions as potential grant recipients.

Effective: June 19, 2009

Melodie Krane

[HB 2531](#) by Chavez, et al. and Shapiro

Relating to a reporting requirement regarding the Texas emerging technology fund.

HB 2531 implements a recommendation in the Legislative Budget Board Government Effectiveness and Efficiency Report entitled "Improve Accountability for the Texas Emerging Technology Fund." It requires the governor to submit an annual report containing performance metrics such as the aggregate amount of private sector investment, federal government funding, and contributions from other sources obtained in connection with awards made under any of the Emerging Technology Fund's (ETF) programs, including commercialization, matching, and research superiority. It also requires the report to include the amount of ETF awards received by each award recipient for the past three fiscal years. The annual report would be distributed to the Legislature and posted on the governor's office website no later than January 1 of each year. The first report is due no later than January 1, 2011.

HB 2531 also requires ETF annual reports to identify the planned and actual outcomes associated with the commercialization program for the last two state fiscal years, including any financial impact on the state resulting from a company awardee being bought out or otherwise acquired by another company (a "liquidity event").

Finally, HB 2531 requires ETF annual reports to provide a brief description of the equity position the governor may take in companies that receive commercialization awards, as well as the names of those companies. HB 2531 prohibits the inclusion of "information that is made confidential by law."

Impact: Certain offices in UT System institutions (especially research and technology transfer offices) could be affected by tasks attendant to compiling and reporting data required under this bill. All research and technology transfer offices should review the provisions of this new law.

Effective: June 19, 2009

Steve Rosen

[HB 3186](#) by McCall and Duncan

Relating to the collection and use of biometric identifiers.

HB 3186 clarifies that Section 503.001(c), Business & Commerce Code, which limits the redisclosure of biometric identifiers such as an iris scan, fingerprints, etc., applies only to biometric identifiers that were obtained for commercial purposes. It adds provisions that limit the redisclosure of an individual's biometric identifier with consent only in the event of an individual's disappearance or death. It permits redisclosure of an identifier for law enforcement purposes only if the law enforcement agency requesting the identifier obtains a warrant. It further requires the destruction of an identifier within one year of the date after which the purpose for which the identifier was originally collected has ceased to exist, unless its retention is otherwise required by law. If the identifier was collected by an employer for security purposes, the purpose for collecting the identifier is presumed to cease upon termination of the employment.

Impact: UT System institutions that collect biometric identifiers from employees for security purposes must destroy them within one year after the termination of the employee's employment unless the institution can establish that applicable law requires retention for a longer period of time or there is some other legitimate purpose for retaining the identifier.

An individual or department involved in research at a UT System institution that involves the acquisition of a biometric identifier and subsequently wishes to disclose such identifiers to a third party should be aware of this law, particularly if the research could be construed as being for a "commercial purpose."

Effective: September 1, 2009

Barbara M. Holthaus

[HJR 14](#) by Frank Corte, et al. and Duncan

Relating to proposing constitutional amendments limiting the public taking of private property, establishing the national research university fund to fund emerging research universities, and eliminating the higher education fund.

HJR 14 proposes two constitutional amendments. The first would amend Article 1, Section 17, of the Texas Constitution to prohibit the taking of private property unless the taking, damage, or destruction is necessary for the possession, occupation, and enjoyment of the property by the public at large, by the state or a political subdivision of the state, by an entity granted the power of eminent domain under law, or for the elimination of urban blight on a particular parcel of property. Further, it would require that any new grant of eminent domain power by the legislature receive at least a 2/3 vote of all the members elected to each house.

The second proposed amendment relates to the establishment of the national research university fund to enable increased funding for emerging research universities in this state. This is the funding mechanism to assist more state universities to achieve “tier 1” status. The legislature may dedicate state revenue to the credit of the fund. Also, all funds now in the higher education fund established by Article VII, Section 17(i), of the Texas Constitution would be transferred to the fund. State universities other than UT Austin and Texas A&M University are authorized to receive distributions from the fund according to criteria to be established by the legislature. The eligible state universities could use distributions from the fund only for the support and maintenance of educational and general activities that promote increased research capacity.

Impact: The first proposed amendment would apply to UT System in exercising its powers of eminent domain.

The second proposed amendment might significantly benefit UT System institutions by assisting one or more institutions to achieve tier 1 status. Currently, only UT Austin is a tier one institution.

Effective: Upon approval by the voters at a general election to be held November 3, 2009

Mark E. Bentley

[SB 39](#) by Zaffirini, et al. and Zerwas

Relating to health benefit plan coverage for routine patient care costs for enrollees participating in certain clinical trials.

SB 39 requires health benefit plans regulated by the Texas Department of Insurance, including the UT System employee group insurance plan, and, as permitted by federal law, state Medicare programs, to cover the routine costs of all patient care costs for which benefits are ordinarily provided under the plan, regardless of whether the care is provided as part of an experimental clinical trial. The health plan is not required to cover any costs

that the research institute conducting the trial would normally cover. The institute must agree to accept the reimbursement rates in place under the enrollee's health plan for covered services. The plan may impose its existing requirements for deductibles, co-payments, co-insurance, out-of-network, and out-of-state coverage on any covered services. A plan may not drop an enrollee from the plan solely due to the enrollee's participation in a clinical trial.

Impact: SB 39 impacts UT System. It could make it easier for UT System institutions to recruit research participants and lower their research costs. UT System currently voluntarily provides such coverage.

Effective: September 1, 2009

Barbara M. Holthaus

[SB 44](#) by Zaffirini and Branch

Relating to the participation of students in funding awarded under the advanced research program.

SB 44 requires the Coordinating Board to set aside funds within the State's Advanced Research Program (ARP) to include research proposals submitted by graduate or undergraduate students (if the institution is a medical and dental unit) or by undergraduate students (if the institution is any other institution of higher education). The ARP was originally established to encourage and provide support for basic research conducted by faculty members in astronomy, atmospheric science, biological and behavioral sciences, chemistry, computer sciences, earth sciences, engineering, information science, mathematics, material sciences, oceanography, physics, environmental issues affecting the Texas-Mexico border region, the reduction of industrial, agricultural, and domestic water use, social sciences, and related disciplines. Now, under SB 44, institutions must use a portion of the award to support student research in connection with any project for which an award is made.

Impact: Faculty members at UT System institutions who are eligible to receive funding under the ARP program could receive diminished unrestricted awards in the future because SB 44 does not enlarge funding to provide for the assistance to graduate or undergraduate students, but instead requires institutions to carve out the funding from the institution's ARP award.

Effective: June 19, 2009

Steve Rosen

Textbooks

[HB 1096](#) by Vo/Quintanilla and Van de Putte

Relating to the provision of notice to students regarding the availability of higher education textbooks through multiple retailers.

HB 1096 requires the Texas Higher Education Coordinating Board adopt procedures by which institutions of higher education must provide to each student enrolled at the institution written notice regarding the availability of required or recommended textbooks through retailers other than university-affiliated bookstores. The institution has to provide the notice:

- to each student during the week preceding each fall and spring semester;
- to each enrolled student during the first three weeks of the semester or the first week of the summer term, as applicable; and
- to students or prospective students attending an orientation.

The notice must also state that a student is not under any obligation to purchase a textbook from a university-affiliated bookstore.

This notice must be provided beginning with the 2009 fall semester.

Impact: UT System institutions should monitor Coordinating Board rules in order to understand what notice institutions will be required to provide to comply with HB 1096.

Effective: June 19, 2009

Esther L. Hajdar

[HB 4149](#) by Rose/Branch and Zaffirini

Relating to certain studies and reports by the Texas Higher Education Coordinating Board regarding achievable cost-saving measures and the use and availability of electronic textbooks at institutions of higher education.

HB 4149 requires the Coordinating Board to conduct a study to identify achievable cost-saving measures in the management and operation of institutions of higher education. By January 31, 2011, the Coordinating Board must report the results of the study to the governor and the legislature and must include recommendations concerning cost-saving measures that are achievable at institutions of higher education and an estimate of the amount of money that would be saved during a five-year period through implementation of each recommendation.

HB 4149 also requires the Coordinating Board to conduct a study and recommend policies regarding the use and availability of electronic textbooks in higher education in Texas and in other states. The study and policy recommendations must include a specific focus on the results of the pilot program implemented by UT Austin with respect to the use of electronic textbooks and must address methods for encouraging the use of electronic textbooks at public or private institutions of higher education. Each student regent is required to assist the Coordinating Board in conducting the study and making recommendations according to procedures established by the board. The Coordinating Board is authorized to solicit and accept gifts and grants to conduct the study and develop recommendations, and the initial report and recommendations must be made by December 1, 2010.

Impact: UT System institutions may be required to provide information to the Coordinating Board for purposes of both studies and reports, and could later be impacted if any recommendations are enacted. UT Austin will specifically be contacted regarding the pilot program involving the use of electronic textbooks. The UT System student regent is required to assist the Coordinating Board in its study on electronic textbooks.

Effective: June 19, 2009

Karen Lundquist

Use of Facilities

[HB 746](#) by Fred Brown, et al. and Dan Patrick

Relating to expanding the availability of classrooms and other facilities for use by public junior colleges.

HB 746 authorizes a public institution of higher education to make the institution's classrooms that are not scheduled for use by the institution or by students, student organizations, or faculty between 5 p.m. and 10 p.m. on one or more weekdays or between 8 a.m. and 5 p.m. on one or more Saturdays available for that day to another public junior college on request for teaching courses in the core curriculum or for continuing education courses.

A public institution of higher education that makes a classroom available must continue to make that classroom, or a comparable classroom, available to the other institution for the duration of the semester or other academic term.

An institution of higher education may charge another institution for the use of a classroom at a rate not to exceed the rate permitted for this purpose as determined by the Coordinating Board. The Coordinating Board is required to establish those rates in an amount to reimburse the host institution for utility costs and other costs, such as maintenance and custodial services, based on the infrastructure formula funding that the host institution would receive if teaching a course in that space itself for that time.

Impact: UT System institutions are permitted, but not required, to make classroom space available for use by public junior colleges on request. Institutions that may desire to do so should monitor the Coordinating Board's determination of permissible charges for classroom usage. Additionally, the Regents' *Rules and Regulations*, Series 80000, should be amended to reflect this permissible use of facilities.

Effective: June 19, 2009

Karen Lundquist

[HCR 258](#) by Vo, et al. and Hinojosa

Relating to urging the University of Houston and other institutions of higher education to cease displaying the flag of the Socialist Republic of Vietnam and to replace it with the Freedom and Heritage Flag.

HCR 258 urges The University of Houston and other institutions of higher education to cease displaying the flag of the Socialist Republic of Vietnam, which features a yellow star on a red background, and to instead fly the Freedom and Heritage Flag, which bears three red stripes on a golden yellow background.

Impact: University of Texas System institutions are urged, when displaying the flag of Vietnam, to display the Freedom and Heritage Flag as opposed to the flag of the Socialist Republic of Vietnam. University of Texas System administrators, particularly student affairs administrators, should be aware of the sentiment of the House of Representatives and Senate regarding the flags of Vietnam.

Effective: Signed by the governor on June 19, 2009

Priscilla A. Lozano

Junior Colleges

[HB 746](#) by Fred Brown, et al. and Dan Patrick

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Impact: UT System institutions are permitted, but not required, to make classroom space available for use by public junior colleges on request. Institutions that may desire to do so should monitor the Coordinating Board's determination of permissible charges for classroom usage. Additionally, the Regents' *Rules and Regulations*, Series 80000, should be amended to reflect this permissible use of facilities.

Effective: June 19, 2009

Karen Lundquist

[**HB 962**](#) by Guillen and Zaffirini

Relating to the purchase of library goods and services by public junior colleges.

HB 962 provides that, notwithstanding any other law, a junior college district is authorized to purchase, license, or otherwise acquire library goods and services in any manner authorized by law for the purchase, license, or acquisition of library goods and services by a public senior college or university. The bill expands the definition of "library goods and services."

Impact: HB 962 may be of interest to Texas Southmost College, which partners with UT Brownsville.

Effective: June 19, 2009

Karen Lundquist

[**HB 1568**](#) by Gonzales/Guillen and Zaffirini/Hinojosa

Relating to authorizing an exemption from tuition and fees charged by a junior college district for employees of the district.

HB 1568 authorizes the governing board of a junior college district to exempt a district employee who enrolls in courses offered by the district from the payment of all or part of the tuition charged by the district.

Impact: HB 1568 may impact Texas Southmost College, which partners with UT Brownsville.

Effective: June 19, 2009

Karen Lundquist

[HB 1935](#) by Villarreal, et al. and Duncan/Hinojosa

Relating to the establishment of certain programs to support adult and postsecondary education and workforce development in high-demand occupations and green jobs.

HB 1935 requires the comptroller to establish and administer the Jobs and Education for Texans (JET) fund as a dedicated account in the general revenue fund. It also requires the comptroller to establish and administer the Jobs and Education for Texans (JET) grant program to provide grants to public junior colleges, public technical institutes, and eligible nonprofit organizations for programs of nonprofit organizations that prepare low-income students for careers in high-demand occupations, to defray the startup costs associated with the development of new career and technical education programs at public junior colleges and public technical institutes, and to provide scholarships for students in career and technical education programs. The comptroller is assisted by an advisory board of education and workforce stakeholders specified by HB 1935, which receives applications for grants and advises the comptroller on the award of those grants.

HB 1935 authorizes grant to eligible nonprofit organizations, and also authorizes grants for the development of new career and technical education courses or programs at public junior colleges and public technical institutes. It also authorizes the comptroller to award a scholarship to a public junior college student or public technical institute student who demonstrates financial need and is enrolled in a training program for a high-demand occupation. Grants awarded under this program may only benefit a permanent legal resident or citizen of the US.

The comptroller is required to adopt rules to administer the above provisions, and is also required to conduct a study.

HB 1935 also creates the Texas green job skills development fund as an account in the general revenue fund and requires the comptroller to establish a green job skills grant program through which the comptroller may award grants in cooperation with the Texas Workforce Commission through the State Energy Conservation Office for the operation of green job skills training programs. A training program must be hosted by a regional partnership that presents a plan to implement training programs that lead trainees to economic self-sufficiency and career pathways. One member of the regional partnership must be a university, college, technical school, or other nonprofit workforce training provider.

A green job skills training program that is awarded a grant must target a specified population of eligible individuals for training, may receive funding for not more than three years, and may use a percentage of the grant, to be determined by the comptroller,

for administrative costs, costs related to hiring instructors and purchasing equipment, and tuition assistance. HB 1935 includes provisions for grant applications, considerations in awarding grants, reports to the comptroller, and standards. The comptroller is required to adopt rules for the program not later than March 1, 2010.

HB 1935 does not make an appropriation, and takes effect only if a specific appropriation is provided in the General Appropriations Act. A specific appropriation of \$25 million is made in Section 17.47 of Article IX of the General Appropriations Act to be used to expand and develop programs that prepare students for careers in high-demand occupations, and to provide scholarships for students in career and technical programs. However, that appropriation is contingent upon the comptroller's certification of available general revenue of \$25 million for the biennium above the comptroller's January 2009 biennial revenue estimate. Note that this provision also appears in HB 3 in a substantially similar form. HB 3 does not provide that the JET grant program takes effect only if a specific appropriation is made.

The General Appropriations Act does not make a specific appropriation for the green job skills training program, and thus it appears that the green job skills training program does not take effect.

Impact: The Jobs and Education for Texans grant program does not directly impact UT System institutions because public junior colleges and public technical institutes are the focus of the program. Texas Southmost College, which partners with UT Brownsville, may benefit from the program.

Effective: September 1, 2009

Karen Lundquist

[HB 2169](#) by Chavez, et al. and Hinojosa

Relating to the establishment of additional job incentive programs by the Texas Workforce Commission using the skills development fund.

HB 2169 authorizes the Texas Workforce Commission by rule to establish and develop additional job incentive programs that use the skills development fund to create incentives for public community and technical colleges in partnership with one or more employers, including prospective employers who commit to establishing a place of business in Texas, to provide workforce training. It authorizes the commission to commit money to a prospective employer contingent on the employer's establishment of a place of business in Texas under such a program.

Impact: UT Brownsville--Texas Southmost College may wish to monitor development of the programs established by HB 2169, as well as the adoption of the Workforce Commission's rules to implement it.

Effective: June 19, 2009

Terence L. Thompson

[HB 2480](#) by Hochberg/Guillen and Seliger

Relating to agreements with public junior colleges for courses for joint high school and junior college credit.

HB 2480 amends the law that authorizes a school district and a public junior college to enter into an agreement under which a high school student may enroll in a course in a junior college and simultaneously receive both high school and junior college credit if the student is subsequently admitted to the junior college. The bill authorizes a public junior college to enter into the agreement with a school district, organization, or other person that operates a high school regardless of whether the high school is located within the service area of the junior college district. However, if the high school is located within the service area of another junior college district, the agreement is permissible only if the other junior college district is unable to provide the requested course to the satisfaction of the school district.

Impact: HB 2480 may impact Texas Southmost College, which partners with UT Brownsville.

Effective: June 19, 2009

Karen Lundquist

[HB 2805](#) by Maldonado, et al. and Ogden

Relating to the administration, powers, duties, operation, and financing of the East Williamson County Multi-Institution Teaching Center.

Currently, the law authorizes Temple Junior College District to establish the East Williamson County Multi-Institution Teaching Center in conjunction with an institution of higher education. HB 2805 authorizes an institution that participates in the Center to issue bonds in order to finance the acquisition, purchase, construction, improvement, renovation, enlargement, or equipping of physical facilities related to the Center. Any obligation issued or made under these provisions may be pledged as security for and used towards the payment of any bond, note, or other obligation issued for the benefit of the Center and is not subject to annual appropriation. HB 2805 also authorizes the institution to have an ownership interest in the facility if bonds are issued.

Impact: To the extent a UT System institution desires to collaborate with the Temple Junior College District in building and financing facilities for the East Williamson County Multi-Institution Teaching Center, it may now do so.

Effective: June 19, 2009

Esther L. Hajdar

Elementary and Secondary Education

HB 3 by Eissler, et al. and Shapiro

Relating to public school accountability, curriculum, and promotion requirements.

HB 3, Section 30, requires the State Board of Education (SBOE) to designate the specific courses in the foundation curriculum required for a student participating in the minimum, recommended, or advanced high school program. For the recommended program, the SBOE may not designate a specific course or a specific number of credits as requirements for the enrichment curriculum. A student is not authorized to graduate under the minimum high school program except under conditions that include specific written notice to the parents, written agreement by the student's parents and school officials, and the student's failure to be promoted to the tenth grade one or more times. The foundation curriculum requirements for social studies for the recommended and advanced high school programs are amended to require at least one-half credit in economics and one-half credit in government. The SBOE is required to approve a variety of math and science courses that may be taken after the completion of Algebra II and physics to satisfy the requirements of the recommended program, and these courses must be endorsed by an institution of higher education as courses for which the institution would award course credit or as prerequisites for courses in which the institution would award course credit. In the recommended and advanced high school program enrichment curriculum, two and three credits respectively in the same language other than English would be required. In the minimum, recommended, and advanced high school programs, one credit in fine arts and one credit in physical education is required. The SBOE in coordination with the Coordinating Board is required to adopt rules that allow a student to comply with the curriculum requirements under the minimum, recommended, or advanced high school program for the foundation curriculum subjects and for the requirement for languages other than English by completing courses in the core curriculum of an institution of higher education.

Section 32 establishes an early college education pilot program that authorizes a research university to partner with at least 10 school districts in the state by entering an agreement under which the district will assess student mastery of each subject area in which college readiness standards have been adopted and assess student mastery of a language other than English. A high school diploma will be awarded to those students mastering these subjects. A research university that wants to participate in the pilot program is required, among other things, to assist the school administrators in designing the requirements of the program, determining the acceptable assessment instruments, and including specific information on its website by September 1 of each year regarding the program. A student that receives a diploma under the program will be deemed to have completed the

recommended high school program, but is not guaranteed admission to any institution of higher education by having completed the program. A research university participating in the program is required to have an independent evaluation of the program by an education research center.

Section 50 eliminates the requirement of an assessment instrument in Spanish for grade six so that Spanish assessments instruments are only available for use in grades three through five.

Section 53 addresses college readiness standards, including the requirement that the Texas Education Agency in collaboration with the Coordinating Board gather data to ensure that the Algebra II and English III end-of-course exams are measuring college readiness by the 2011-2012 school year and establishing college readiness standards based on the results of studies. The studies must include an evaluation of any need for remediation courses to meet college readiness. College readiness standards may also be established for science and social studies if a correlation between a certain score level on end-of-course exams and college readiness is demonstrated. The Texas Education Agency and the Coordinating Board are required to offer recommended changes to the college readiness standards if it is determined that they are not sufficiently rigorous to prepare Texas students to compete academically with students nationally and internationally.

The Texas Education Agency is required to analyze, during the 2009-2010 and 2010-2012 school years, data collected regarding the assessments given in grades three through eight and end-of-course exams throughout the state for the purpose of setting performance standards. Before the 2011-2012 school year the agency is required to analyze data to substantiate correlations between satisfactory performance on assessment instruments and end-of-course exams from one year to the next. These studies must be conducted at least once every three years and the data and studies used to increase performance standards as determined necessary.

Section 54 requires a student to achieve in each subject of the foundation curriculum a cumulative score that is at least equal to the product of the number of end-of-course exams administered to the student in that subject and a scale score as determined by the commissioner of education that indicates satisfactory performance. A student is also required to obtain a minimum score that is within a reasonable range of the cut score for an end-of-course exam, as determined by the commissioner, in order for the end-of-course exam score to count toward the student's cumulative score. Students in the recommended and advanced programs must meet the passing standard on the Algebra II and English III end-of-course exams in addition to the cumulative score requirements to graduate. Districts are prohibited from administering assessments required for graduation that existed before September 1, 1999. A transition plan replacing subject area assessments with end-of-course exams is required to be developed by the commissioner. Districts may administer alternate assessments only as designated by the commissioner.

Section 56 authorizes an accommodated or alternative assessment instrument or an exemption or postponement of assessments to particular students.

Section 59 requires the commissioner of education to develop criteria to determine whether a district is accredited, accredited-warned, or accredited-probation. The accreditation status shall include performance on student achievement indicators. The indicators of student achievement, as adopted by the commissioner, must include the results of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area, including the results of assessment instruments required for graduation retaken by a student, the results of students meeting college readiness standards and demonstrating growth towards college readiness aggregated by grade level and subject area, dropout and completion rates, and high school graduation rates. The commissioner is required to define the state standard for the school year for each student achievement indicator as well as project the state standards for the following two years. The commissioner is also required to periodically raise the college readiness standards so that the state level student performance disaggregated by race, ethnicity, and socioeconomic status ranks nationally in the top ten states in terms of college readiness by 2019-2020. In defining the state standards for the drop-out rate indicator and calculating drop-out rates, the commissioner is required to exclude certain categories of students.

The commissioner is required to evaluate district and campus performance and assign a rating by August 8 of each year. The commissioner is given the alternative to define acceptable performance for student achievement as meeting the state standard on assessment and dropout/completion rate data for the current school year based on performance in the current year or using a student performance as averaged over the current school year and the preceding two school years. The commissioner is authorized to assign an acceptable performance rating if the campus or district performs satisfactorily on 85 percent of the measures and does not perform unsatisfactorily on the same measure for two consecutive school years.

The commissioner remains authorized to direct the Texas Education Agency to conduct on-site investigations of a school district at any time and is authorized to change the accreditation status of a district, change the accountability rating of a district or campus, or withdraw a distinction designation.

In addition to the circumstances that currently lead to a special accreditation investigation, a special accreditation investigation will be required when a significant pattern of decreased academic performance has developed as a result of promoting a student who did not perform satisfactorily on the state assessment, when excessive numbers of students graduate under the minimum program, when an excessive number of students eligible to enroll fail to complete an Algebra II course or any other course that the commissioner has determined distinguishes between students in the recommended program and students in the minimum program, and when resource allocation practices indicate a potential for significant improvement.

The commissioner is required to consult with the comptroller to develop and implement separate financial accountability rating systems for school districts and open-enrollment charter schools. The comptroller is required to identify districts and campuses that use resource allocation practices that contribute to high academic achievement and cost-

effective operations. In doing this, the comptroller is required to rank the results of evaluation to identify the relative performance of districts and campuses. The comptroller's review is required to include the operating cost for each student, the operating cost for each program, and the staffing cost for each student.

The Texas Education Agency is required to develop a review process that anticipates the future financial solvency of each school district. The agency is required to consult with school district financial officers and public finance experts in the development of the review process. If a review indicates a projected deficit, the district is required to provide supplemental data and reports as needed to evaluate the budget status. Financial plans are required if a projected deficit is substantiated. Certain triggers regarding compliance with a plan will lead to an accredited-warned status. The final budget of the district must be posted on the district's Internet website for three years after the date the budget was adopted.

In addition to the authority to order a hearing for a campus performing below any standard, the commissioner may alternatively establish a school community partnership team. The interventions and sanction that apply to a campus or district also apply to open-enrollment charter schools.

If a campus is satisfying performance standards for the current school year, but would not satisfy performance standards if the standards to be used for the next year were applied to the current school year, the commissioner may request a campus improvement plan in electronic format relevant to those areas for which the campus would not satisfy performance standards. An open-enrollment charter school is required to establish a campus-level planning and decision-making committee and develop a campus improvement plan if requested by the commissioner under this provision.

The commissioner is required to assign a campus intervention team if a campus is below any standard, but instead of a comprehensive review, a targeted review is required. The campus intervention team is required to assist in the development of a targeted improvement plan, which includes conducting a targeted on-site needs assessment with the involvement and advice of a school community partnership team, and the team has other duties with respect to approval, implementation, and update of the plan.

If the campus intervention team recommendations or the improvement plan is not fully implemented, the commissioner is authorized to reconstitute the campus. The commissioner is required to reconstitute the campus if the campus is below any standard for two years in a row. The campus intervention team is required to assist the reconstituted campus in this process, including updating the targeted improvement plan. The commissioner is required, with limited exception, to order repurposing, alternative management, or closure of a campus if the students enrolled on the campus fail to demonstrate substantial improvement in the areas targeted by the updated plan at the end of three consecutive school years. If repurposing is ordered, the district must develop a comprehensive plan for repurposing and submit the plan to the board of trustees and commissioner for approval, but repurposing may not be approved unless certain

conditions regarding employee retention and student notice and opportunity to transfer are met.

The commissioner is allowed to suspend the assignment of accreditation statuses and performance ratings for the 2011-2012 school year. The college readiness standards in the assignment of ratings will not be considered in rating assignment until the 2013-2014 school year.

The Texas Education Agency is required to report to each district the student growth required to meet standards for annual improvement by performing satisfactorily on the state required assessments. The district is required to report the results in writing to parents and guardians. Districts are required to include written notice to parents of students who did not meet the passing standard or college readiness standards on a state assessment, with information relating to online educational resources pertaining to the assessment area in which the student did not perform satisfactorily. Reports for teachers that show the growth towards the required standards are required. The campus report card requires student achievement indicator information and information indicating the district's accreditation status. Also, the first written notice of a student performance given by a district during the school year must contain a statement of whether the campus has been awarded a distinction designation or has been identified as an unacceptable campus.

Section 61 authorizes the commissioner of higher education to adopt rules to require an institution of higher education to adopt uniform standards for the placement of a student in courses. Students who complete the recommended or advanced program and who demonstrate college readiness on the Algebra II and English III end-of-course exams are exempt from Success Initiative remedial courses in these content areas.

Section 63 authorizes the commissioner of higher education and the commissioner of education to award a grant of no more than \$1 million dollars to an institution of higher education to develop advanced math and science courses to prepare high school students for employment in a high-demand occupation. The institution of higher education is required to work in partnership with at least one school district and a business entity in developing courses.

Section 64 creates a Jobs and Education for Texans Grant Program to provide grants to public junior colleges, public technical institutes and non-profits to support the preparation of low-income students for careers in high-demand occupations. HB 1935, effective September 1, 2009, contains similar provisions.

Impact: UT System institutions with university charter schools are subject to the high school graduation requirements and the public school accountability requirements under Subchapters B, C, D, E, and J, Chapter 39, Education Code, as amended and added by HB 3. UT System institution charter school administrators should be made aware of HB 3 and monitor SBOE and Texas Education Agency rules proposed to implement these statutes. UT System institution charter school administrators should review processes relating to student graduation programs so that a student is not authorized to graduate

under the minimum high school program unless the conditions of HB 3 are met, which include appropriate written notices to parents. Further, university charter school administrators and teachers should be aware of the changes in required scores for end-of-course exam performance.

A UT System research university may choose to participate in the early college education pilot program that is authorized by HB 3, Section 32.

UT System institutions may be required to provide data to the Coordinating Board regarding the college readiness of students for college math and English courses so that college readiness standards can be adjusted accordingly. Also, UT System institutions that are subject to the Success Initiative would be impacted by the rules adopted by the Coordinating Board to require an institution of higher education to adopt uniform standards for the placement of a student in courses. UT System institution officials involved in implementing the Success Initiative should monitor proposed rules by the Coordinating Board.

UT System institutions of higher education may be eligible to apply for grants to develop advanced math and science courses to prepare high school students for employment in a high-demand occupation as authorized by Section 63.

Effective: June 19, 2009

Priscilla A. Lozano

[HB 1935](#) by Villarreal, et al. and Duncan/Hinojosa

Relating to the establishment of certain programs to support adult and postsecondary education and workforce development in high-demand occupations and green jobs.

HB 1935 requires the comptroller to establish and administer the Jobs and Education for Texans (JET) fund as a dedicated account in the general revenue fund. It also requires the comptroller to establish and administer the Jobs and Education for Texans (JET) grant program to provide grants to public junior colleges, public technical institutes, and eligible nonprofit organizations for programs of nonprofit organizations that prepare low-income students for careers in high-demand occupations, to defray the startup costs associated with the development of new career and technical education programs at public junior colleges and public technical institutes, and to provide scholarships for students in career and technical education programs. The comptroller is assisted by an advisory board of education and workforce stakeholders specified by HB 1935, which receives applications for grants and advises the comptroller on the award of those grants.

HB 1935 authorizes grant to eligible nonprofit organizations, and also authorizes grants for the development of new career and technical education courses or programs at public junior colleges and public technical institutes. It also authorizes the comptroller to award a scholarship to a public junior college student or public technical institute student who demonstrates financial need and is enrolled in a training program for a high-demand

occupation. Grants awarded under this program may only benefit a permanent legal resident or citizen of the US.

The comptroller is required to adopt rules to administer the above provisions, and is also required to conduct a study.

HB 1935 also creates the Texas green job skills development fund as an account in the general revenue fund and requires the comptroller to establish a green job skills grant program through which the comptroller may award grants in cooperation with the Texas Workforce Commission through the State Energy Conservation Office for the operation of green job skills training programs. A training program must be hosted by a regional partnership that presents a plan to implement training programs that lead trainees to economic self-sufficiency and career pathways. One member of the regional partnership must be a university, college, technical school, or other nonprofit workforce training provider.

A green job skills training program that is awarded a grant must target a specified population of eligible individuals for training, may receive funding for not more than three years, and may use a percentage of the grant, to be determined by the comptroller, for administrative costs, costs related to hiring instructors and purchasing equipment, and tuition assistance. HB 1935 includes provisions for grant applications, considerations in awarding grants, reports to the comptroller, and standards. The comptroller is required to adopt rules for the program not later than March 1, 2010.

HB 1935 does not make an appropriation, and takes effect only if a specific appropriation is provided in the General Appropriations Act. A specific appropriation of \$25 million is made in Section 17.47 of Article IX of the General Appropriations Act to be used to expand and develop programs that prepare students for careers in high-demand occupations, and to provide scholarships for students in career and technical programs. However, that appropriation is contingent upon the comptroller's certification of available general revenue of \$25 million for the biennium above the comptroller's January 2009 biennial revenue estimate. Note that this provision also appears in HB 3 in a substantially similar form. HB 3 does not provide that the JET grant program takes effect only if a specific appropriation is made.

The General Appropriations Act does not make a specific appropriation for the green job skills training program, and thus it appears that the green job skills training program does not take effect.

Impact: The Jobs and Education for Texans grant program does not directly impact UT System institutions because public junior colleges and public technical institutes are the focus of the program. Texas Southmost College, which partners with UT Brownsville, may benefit from the program.

Effective: September 1, 2009

Karen Lundquist

[HB 2893](#) by Hochberg and Shapleigh

Relating to the technology demonstration sites project and to a computer lending pilot program.

Chapter 2175 of the Government Code establishes the statutory requirements that state agencies must follow regarding surplus or salvage property.

Section 2175.304 provides that university systems and institutions of higher education are to establish written procedures for the disposition of their surplus or salvage property, with a preference for transferring that property directly to a public school, a school district, or an assistance organization designated by a school district. Section 2175.304 further provides that Chapter 2175 does not apply to university systems and institutions or agencies of higher education except as stated in Section 2175.304.

However, a separate statute, Section 2175.128, identifies additional surplus/salvage requirements with which institutions of higher education must comply if the institutions do not dispose of surplus or salvage data processing equipment under other law. In those circumstances, Section 2175.128 requires the equipment to be transferred to a school district or open-enrollment charter school, an assistance organization specified by a school district, or the Texas Department of Criminal Justice.

Sections 5 and 6 of HB 2893 establish a computer lending pilot program under which computers are to be lent to students at educationally disadvantaged schools (as well as to the students' parents). Additionally, those sections require an institution of higher education to make any surplus or salvage data processing equipment that the institution does not dispose of under other law available to the computer pilot lending program, in preference to the existing requirements for disposal of that equipment provided by Section 2175.128.

Note that the provisions in Sections 5 and 6 of HB 2893 are duplicated in HB 4294.

Impact: UT System and its institutions must modify their policies and procedures for surplus and salvage property to reflect the changes made by HB 2893.

Effective: September 1, 2009

Scott A. Patterson

[HB 4294](#) by Branch, et al. and Shapiro, et al.

Relating to textbooks, electronic textbooks, instructional material, and technological equipment in public schools.

Chapter 2175 of the Government Code establishes the statutory requirements that state agencies must follow regarding surplus or salvage property.

Section 2175.304 provides that university systems and institutions of higher education are to establish written procedures for the disposition of their surplus or salvage property,

with a preference for transferring that property directly to a public school, a school district, or an assistance organization designated by a school district. Section 2175.304 further provides that Chapter 2175 does not apply to university systems and institutions or agencies of higher education except as stated in Section 2175.304.

However, a separate statute, Section 2175.128, identifies additional surplus/salvage requirements with which institutions of higher education must comply if the institutions do not dispose of surplus or salvage data processing equipment under other law. In those circumstances, Section 2175.128 requires the equipment to be transferred to a school district or open-enrollment charter school, an assistance organization specified by a school district, or the Texas Department of Criminal Justice.

Sections 9 and 10 of HB 4294 establish a computer lending pilot program under which computers are to be lent to students at educationally disadvantaged schools (as well as to the students' parents). Additionally, those sections require an institution of higher education to make any surplus or salvage data processing equipment that the institution does not dispose of under other law available to the computer pilot lending program, in preference to the existing requirements for disposal of that equipment provided by Section 2175.128.

Note that the provisions in Sections 9 and 10 of HB 4294 are duplicated in HB 2893.

Impact: UT System and its institutions must modify their policies and procedures for surplus and salvage property to reflect the changes made by HB 4294.

Effective: June 19, 2009

Scott A. Patterson

SB 2258 by Zaffirini and Hochberg

Relating to intensive summer programs for public school students and to college readiness programs at public institutions of higher education.

SB 2258 amends the law regarding grants to institutions of higher education for intensive academic programs for students identified as being at risk of dropping out of school or college. Under SB 2258, the Coordinating Board's charge includes enhancing college readiness by the development of bridge programs in specific subject areas to increase student success by reducing the need for developmental education, and by the development of a pilot program to award grants to institutions of higher education for intensive programs designed to address the needs of students at risk of dropping out of college. (Before the passage of SB 2258, the commissioner of education along with the commissioner of higher education were jointly responsible for the development of a pilot program to award grants for intensive academic instruction during the summer.) SB 2258 continues to specify that 50 percent of the students served must meet certain criteria in order for an institution of higher education to be eligible for a grant. The bill also gives

the Coordinating Board rulemaking authority to establish additional criteria regarding the students served in the program. The grant funds will be available from \$8.75 million per year appropriated to the Coordinating Board for the purposes of these college readiness grants as well as for technology teacher preparation academies and intensive summer programs administered by the Texas Education Agency.

Impact: SB 2258 impacts UT System institutions that develop programs for students identified as being at risk of dropping out of college in which the student participants meet certain criteria, including low entrance scores, because it provides grant funds for this purpose. UT System institution officials responsible for student college readiness and retention should be made aware of this bill and the opportunity to apply to the Coordinating Board for grant funding. SB 2258 also impacts UT System institution charter schools because it continues to provide grant funds for intensive summer programs for at risk students. University charter school officials should be made aware of this bill.

Effective: June 19, 2009

Priscilla A. Lozano

Studies

[HB 498](#) by McClendon, et al. and Ellis

Relating to the establishment of an advisory panel to assist with a study regarding the prevention of wrongful convictions.

HB 498 establishes the Timothy Cole advisory panel on wrongful convictions to assist the Task Force on Indigent Defense in preparing a report regarding the prevention of wrongful convictions. By January 1, 2011, the report must be submitted to the governor, lieutenant governor, speaker, and standing legislative committees with a representative serving on the advisory panel. One member of the 10-member advisory panel is a representative of a public law school in this state chosen by the deans of the public law schools in this state.

Impact: The dean of the School of Law at UT Austin is authorized to assist in choosing the public law school representative who will serve on the advisory panel.

Effective: September 1, 2009

Karen Lundquist

[HB 4149](#) by Rose/Branch and Zaffirini

Relating to certain studies and reports by the Texas Higher Education Coordinating Board regarding achievable cost-saving measures and the use and availability of electronic textbooks at institutions of higher education.

HB 4149 requires the Coordinating Board to conduct a study to identify achievable cost-saving measures in the management and operation of institutions of higher education. By January 31, 2011, the Coordinating Board must report the results of the study to the governor and the legislature and must include recommendations concerning cost-saving measures that are achievable at institutions of higher education and an estimate of the amount of money that would be saved during a five-year period through implementation of each recommendation.

HB 4149 also requires the Coordinating Board to conduct a study and recommend policies regarding the use and availability of electronic textbooks in higher education in Texas and in other states. The study and policy recommendations must include a specific focus on the results of the pilot program implemented by UT Austin with respect to the use of electronic textbooks and must address methods for encouraging the use of electronic textbooks at public or private institutions of higher education. Each student regent is required to assist the Coordinating Board in conducting the study and making recommendations according to procedures established by the board. The Coordinating Board is authorized to solicit and accept gifts and grants to conduct the study and develop recommendations, and the initial report and recommendations must be made by December 1, 2010.

Impact: UT System institutions may be required to provide information to the Coordinating Board for purposes of both studies and reports, and could later be impacted if any recommendations are enacted. UT Austin will specifically be contacted regarding the pilot program involving the use of electronic textbooks. The UT System student regent is required to assist the Coordinating Board in its study on electronic textbooks.

Effective: June 19, 2009

Karen Lundquist

[HB 4328](#) by Strama, et al. and Uresti/Zaffirini

Relating to the establishment of the Interagency Literacy Council for the study, promotion, and enhancement of literacy in this state.

HB 4328 amends the Labor Code to establish the Interagency Literacy Council composed of nine members, including a representative of the Coordinating Board.

The council is required to study current research to assess the adult literacy needs in Texas; consult with key stakeholders to identify barriers to improving literacy and best practices for improving literacy; review the status of programs and services administered by each agency represented on the council that promote literacy in an effort to coordinate

efforts, implement best practices, and improve accountability; build existing funding streams and identify additional funding sources; and raise literacy awareness.

The council is required to develop a comprehensive statewide action plan to improve literacy, including a timeline for implementation, and is required to submit a written report to the legislature, the governor, and the Texas Workforce Investment Council by November 1 of each even-numbered year concerning implementation of the plan. The initial report must be submitted by November 1, 2012.

Impact: HB 4328 does not directly impact UT System institutions, although some institutions could be indirectly affected by the statewide action plan developed by the Interagency Literacy Council.

Effective: June 19, 2009

Karen Lundquist

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Education

[HB 2154](#) by Edwards and Hinojosa, et al.

Relating to the physician education loan repayment program.

HB 2154 provides increased funding for the physician education loan repayment program through a modification of the state's smokeless tobacco taxation method (from an ad valorem system to a weight based system, which is used for other tobacco products). The increased funding will allow the physician education loan repayment program to increase awards to physicians with student loans who agree to provide health care services in a health professional shortage area to recipients under the medical assistance program or enrollees under the child health plan program.

Impact: HB 2154 could ease the pressure on UT System and its physicians (as well as other hospital and physician groups) by spreading out treatment of the uninsured. Increasing physicians in underserved areas could thus help to reduce overcrowding in emergency rooms at UT System health care facilities and could help to reduce the amount of uncompensated care provided.

HB 2154 is consistent with the recommendations of the Task Force on Access to Health Care in Texas, Code Red: The Critical Condition of Health in Texas, which issued reports in 2006 and 2008. All 10 of the Texas academic health institutions sponsored this Task Force, including the six University of Texas health care facilities. Part of Recommendation Seven in the 2008 Report was to expand medical school loan repayment programs.

Effective: September 1, 2009

Lannis Temple

[SB 98](#) by Lucio, et al. and Lucio III, et al.

Relating to establishing a health science center and medical school in South Texas.

SB 98 permits, but does not mandate, UT System to operate a new institution, The University of Texas Health Science Center - South Texas, with the main campus and administrative offices in Cameron County. However, SB 98 specifically prohibits appropriation for the institution until September 1, 2015.

This new institution could include a medical school and other health-related degree and related programs and facilities. If established by the Board of Regents, the institution would be entitled to participate in the Available University Fund. The regional academic health center currently in South Texas may be converted into The University of Texas Health Science Center - South Texas, with consideration given to available resources and the best interest of UT System, the people of the state and the South Texas region. SB 98 expresses legislative intent that this conversion occur. If this conversion occurs, all

current contracts and agreements, bonds authorized and issued, and the existing permanent endowment fund are to be transferred to the new health science center.

In addition to the campus in Cameron County, facilities located in specific south Texas counties may be included in the health science center with the operation of programs, activities and services in those counties.

Impact: Although SB 98 authorizes the establishment of The University of Texas Health Science Center - South Texas, appropriations are prohibited by SB 98 until September 1, 2015. This will entail long-range planning.

Effective: June 19, 2009

Melodie Krane

SB 1728 by West and Chavez/Branch

Relating to the administration of and eligibility for the Joint Admissions Medical Program

SB 1728 adds the medical school at Texas Tech University Health Sciences Center at El Paso as a participant in the Joint Admissions Medical Program. Additionally, the medical school must provide internships and mentoring under the Joint Admissions Medical Program as appropriate beginning with the 2011-2012 academic year, but is not required before the 2012-2013 academic year to admit participating students to the medical school under the program. SB 1728 also removes:

- the requirement that a student enroll at an institution of higher education not later than the first fall semester following the student's graduation from high school in order to participate in JAMP;
- the six year limitation on council service; and
- the scholarship and other academic support that was to be provided to program alternates.

Impact: SB 1728 does not directly impact UT System institutions.

Effective: June 19, 2009

Esther L. Hajdar

Health Professions

[HB 643](#) by Zerwas and Uresti

Relating to the qualifications of surgical technologists; providing penalties.

HB 643 establishes qualifications and responsibilities of surgical technologists and requires the Department of State Health Services to adopt rules to administer and enforce its provisions.

After September 1, 2010, a non-federal government health care facility may not employ a person as a surgical technologist unless the person has completed an accredited surgical technology educational program and has an appropriate certification, was trained in the United States military or in the Public Health Service, or was employed as a surgical technologist in a health care facility before September 1, 2009. If a health care facility is unable to employ a sufficient number of qualified technologists after diligent efforts, it may employ technologists who do not qualify under these provisions by making and keeping a written record of the diligent efforts.

Current law states that a person who assists in circulating duties in the operating room must be an LVN or a surgical technologist who is under the direct supervision of a qualified registered nurse circulator or a qualified registered nurse. HB 643 does not modify those requirements.

Impact: The human resources department and each department that employs or may employ surgical technologists for each UT System health care facility should be notified of the change in statutory qualifications for surgical technologist positions.

Effective: September 1, 2009

Lannis Temple

[HB 1740](#) by Donna Howard/Legler and Uresti

Relating to the authorization of physicians and therapeutic optometrists to dispense and charge for therapeutic contact lenses.

HB 1740 provides that a physician or therapeutic optometrist is not prevented by provisions of the Texas Pharmacy Act from dispensing and charging for therapeutic contact lenses, which are an emerging technology delivering pharmaceutical agents directly into the eye to treat eye disorders. HB 1740 states that it does not authorize therapeutic optometrists to prescribe, administer, or dispense a drug that is otherwise outside the therapeutic optometrist's scope of practice.

Impact: HB 1740 authorizes UT System therapeutic optometrists to dispense and charge for therapeutic contact lenses, which are now in the FDA approval process.

Effective: June 19, 2009

Lannis Temple

[HB 1785](#) by Kuempel and Nichols

Relating to the licensing of occupational therapists.

HB 1785 raises the minimum educational requirements for an occupational therapy license to a post-baccalaureate degree (if the applicant graduated after September 1, 2007), and amends provisions concerning late fees and reinstatement requirements, including requirements for out-of-state practitioners with an expired Texas license who desire to reinstate their Texas license.

Impact: HB 1785 impacts the four UT System occupational therapy programs, specifically The University of Texas School of Allied Health Science (at UTMB), University of Texas at El Paso, University of Texas Health Science Center at San Antonio, and University of Texas - Pan American. These programs, in order to retain their accreditation status, have already transitioned to post-baccalaureate programs. HB 1785 may increase the number of students who graduate from the post-baccalaureate programs, including the emerging field of occupational science.

Effective: June 19, 2009

Lannis Temple

[HB 3674](#) by Thompson/Naishtat and Nelson, et al.

Relating to the licensing requirements for a foreign-trained physician applicant.

HB 3674 makes it easier for physicians who graduated from a foreign medical school to obtain a medical license. It deletes the current requirement that an applicant for a physician's license who graduated from a medical school outside the United States and Canada present proof to the Texas Medical Board (TMB) that the applicant is eligible for a physician's license in the country in which the school is located. Since some countries require a physician to complete a term of service in the foreign country and some applicants cannot complete that service because they are training in the United States or have chosen to work elsewhere, that requirement prevented some graduates from a foreign medical school from obtaining a Texas physician's license.

HB 3674 also allows foreign-trained physicians to be licensed if they are board certified by a specialty board certified by a specialty board organization acceptable to TMB. It further allows an applicant to prove to TMB that the applicant has completed at least two years of graduate medical training in the United States or Canada that was approved by the board and at least one year of graduate medical training outside the United States or Canada that was approved for advanced standing by a specialty board organization approved by the board.

Impact: UT System health care facilities hire physicians who are graduates of foreign medical schools. HB 3674 makes it easier for physicians who are graduates of foreign medical schools to obtain a Texas medical license, thus making it easier for UT System to hire physicians who are graduates of foreign medical schools.

Effective: September 1, 2009

Lannis Temple

[SB 202](#) by Shapleigh/Uresti and Gonzales

Relating to provisional licensing of physicians to practice in underserved areas.

SB 202 requires the Texas Medical Board (TMB) to grant a provisional license to physicians to practice medicine in a location designated by the federal government as a health professional shortage area or designated by the federal or state government as a medically underserved area. The physician applicant must be licensed in good standing in another state to practice, have passed an examination recognized by TMB, and be sponsored by a licensed physician.

Impact: SB 202 may assist UT System in its efforts to place physicians for its contracts in health professional shortage areas or in medically underserved areas. This bill is consistent with the 2006 and 2008 recommendations in Code Red: The Critical Condition of Health in Texas to increase health care to the indigent and uninsured. The Task Force for Access to Health Care in Texas, with representatives from all ten academic health institutions in Texas, including the six UT System health care facilities, put forth the Code Red report and these recommendations.

Effective: September 1, 2009

Lannis Temple

[SB 292](#) by Nelson and Susan King

Relating to the requirement that licensed physicians provide emergency contact information to the Texas Medical Board and to the creation of the Texas Physician Health Program.

SB 292 requires a licensed physician to provide to the Texas Medical Board (TMB) and update e-mail addresses, telephone numbers, and fax numbers that the board may use to contact its licensees in an emergency. SB 292 exempts that information from disclosure under state public information laws and prohibits its use for any reason other than disseminating information to the physician, a designated public health or emergency management official, or the Federation of State Medical Boards in a public health emergency.

SB 292 also creates the Texas Physician Health Program, which is a statewide diversion program for Texas physicians and physician assistants. The program is very similar to the current program available for nurses through the Texas Peer Assistant Program for

Nurses (TPAPN), and the program available to pharmacists through the Professional Recovery Network (PRN). Under this program, physicians and physician assistants may be referred for monitoring and rehabilitation, either by self-referral, referral by a medical association, or referral by TMB as a condition of continuing licensure, for either chemical or mental impairment. Participation will be confidential.

Impact: UT System physicians should be informed that they must provide contact information to TMB no later than December 1, 2009, and also should be notified that they must always update TMB upon a change of business e-mail address or telephone or fax numbers. UT System physicians should also be notified of the availability of the Texas Physician Health Program.

Effective: September 1, 2009, except that any rehabilitation order under Chapter 167 or 204 of the Occupations Code, entered into on or before January 1, 2010, is governed by the law as it existed immediately before that date.

Lannis Temple

SB 455 by Shapleigh/Uresti and Hopson, et al.

Relating to the regulation of the practice of dental assistants, including the delegation of certain dental acts.

SB 455 allows any dentist to delegate to a dental assistant under general supervision the application of a pit and fissure sealant if the assistant has been certified in that procedure, coronal polishing if the assistant is certified in that procedure, the application of fluoride varnish, and the interim treatment of a minor emergency dental condition. Prior law only allowed a dentist to delegate pit and fissure sealants to a dental assistant certified in that procedure if the dentist was a Medicaid provider or served an area the Department of State Health Services had determined to be underserved and only allowed an assistant to perform coronal polishing in an orthodontic setting.

SB 455 requires a treating dentist to delegate orally or in writing in advance the interim treatment of a minor emergency dental condition to a dental assistant, to retain responsibility for the procedure, and to schedule a follow-up appointment with the patient within a reasonable time.

Impact: Since most, if not all, of UT System dentists treat Medicaid patients, the provision concerning pit and fissure sealants probably does not have a significant impact. However, UT System dentists should be educated concerning other provisions of SB 455, thereby allowing qualified dental assistants to perform more duties and giving the dentist more time for other patient care. SB 455 will help UT System's dentists and dental assistants who provide dental care services in some Head Start Programs to expand access to dental care. It is consistent with the 2006 and 2008 recommendations in Code Red: The Critical Condition of Health in Texas to increase health care to the indigent and uninsured. The Task Force for Access to Health Care in Texas, which had representatives from all ten academic health institutions in Texas, including the six UT System health care facilities, put forth the Code Red report and these recommendations.

Effective: September 1, 2009

Lannis Temple

[SB 532](#) by Dan Patrick and Coleman

Relating to a physician's delegation of prescriptive authority to physician assistants or advanced practice nurses.

SB 532 expands the parameters related to prescriptive authority to physician assistants and advanced practice nurses. SB 532 decreases, from 20 percent to 10 percent, the amount of time required for physicians delegating prescriptive authority to practice on-site with a physician assistant or nurse practitioner and allows a physician to satisfy the requirement of reviewing ten percent of the medical charts by electronic review from a remote location.

SB 532 also increases the distance allowed, from 60 to 75 miles, between an alternate site and a delegating physician's primary residence or practice site. SB 532 allows physicians to delegate prescriptive authority to four physician assistants or advanced practice nurses (an increase from three in the prior statute) and authorizes the Texas Medical Board (TMB) to waive limitations on the number of physician assistants or advanced practice nurses, mileage, and on-site supervision requirements. SB 532 authorizes the TMB to allow a physician an electronic option for the delegation registration process instead of maintaining delegation records.

SB 532 permits a physician to also delegate refill prescriptions and to increase the maximum duration of a prescription from 30 to 90 days.

Impact: UT System health care facilities are increasingly reliant on physician assistants and advanced practice nurses. Health care facility personnel should be educated on the provisions of SB 532 so that physicians can properly delegate certain functions, thus allowing the physicians to concentrate on more complicated patient services.

Effective: September 1, 2009

Lannis Temple

[SB 1225](#) by Huffman, et al. and Eissler

Relating to faculty temporary licenses to practice medicine.

SB 1225 permits the issuance of faculty temporary licenses to practice medicine so that others not on the faculty of a state medical school are also eligible for a faculty temporary license issued by the Texas Medical Board. A faculty temporary license is now available to a salaried faculty member holding a position that is "equivalent to" at least an assistant professor position. (Previously, only those holding an assistant professor position were eligible.) Rather than working full-time at an explicitly listed academic institution, an

applicant for a faculty temporary license may also fulfill the requirement for a faculty temporary license by working full-time at an institutional sponsor of a graduate medical education program accredited by the Accreditation Council for Graduate Medical Education (ACGME) or a non-profit health corporation certified by the Texas Medical Board that is affiliated with an institutional sponsor of a graduate medical education program.

Impact: SB 1225 expands those eligible for a faculty temporary license to practice medicine.

Effective: June 19, 2009

Melodie Krane

SB 1271 by Uresti and Hopson

Relating to the requirement that an orthotist or a prosthetist be licensed as a device manufacturer if fabricating or assembling without an order from certain health care professionals.

SB 1271 clarifies that a professional licensed to practice orthotics or prosthetics under Chapter 605, Occupations Code, will not be required to obtain an additional license under Chapter 431, Health and Safety Code, if he or she is acting under an order from a licensed physician, chiropractor, or podiatrist for the treatment of a specific patient. SB 1271 provides that a person licensed to practice orthotics or prosthetics who fabricates or assembles an orthosis or a prosthesis without an order from a licensed physician, chiropractor, or podiatrist for a specific patient is required to be licensed as a device manufacturer.

Impact: UT System orthotists and prosthetists will avoid the extra expense and administrative burden of obtaining an additional professional license under SB 1271 and they should be aware of its provisions.

Effective: May 27, 2009

Lannis Temple

SB 1705 by West and Pitts

Relating to the authority and policies and procedures of the Dallas County Hospital District with regard to appointing, contracting for, or employing physicians, dentists, and other health care providers.

SB1705 authorizes the Dallas County Hospital District to employ physicians, dentists, and other health care providers with an employment contract not to exceed four years as necessary to develop the efficient operation of the hospital district in providing medical and dental care for the indigent and needy residents of the district. The bill also directs the district to establish policies for credentialing, quality assurance, utilization review,

and peer review to be approved by a committee of at least five physicians currently practicing in the district.

Impact: With the Dallas County Hospital District's ability to directly employ physicians, dentists, and other health care providers, SB 1705 may impact UT Southwestern Medical Center's affiliation with the district. Accordingly, UTSWMC's administrators, business officers, physicians, and other health care providers should be aware of the hospital district's new employment authority.

Effective: June 19, 2009

Walter Mosher

SB 1984 by Uresti/Hegar and Tracy O. King

Relating to certification of a person in certain counties as eligible for disabled parking privileges.

SB 1984 allows physician assistants, as well as licensed physicians, to prescribe disabled parking placards to qualified individuals who reside in a county with a population of 125,000 or less.

Impact: Physician assistants employed by UT System institutions could be called upon to prescribe disabled parking placards to individuals who reside in counties with the stated population, and thus should be aware of SB 1984.

Effective: June 19, 2009

Terence L. Thompson

Nursing

HB 3961 by McReynolds/Pena and Nelson

Relating to the regulation of nursing.

HB 3961 makes a number of changes to the Nursing Practice Act that the Texas Board of Nursing identified as necessary to correct technical errors and improve the regulation of the practice of nursing. The changes range from clarifying and refining amendments to substantive changes, including establishing the board's authority to require physical and psychological evaluations. HB 3961 also codifies previously adopted Texas Board of Nursing rules to strengthen the board's role in overseeing licensure and it makes changes to more closely reflect other state licensing board operations as to complaints, sanctions, and administrative penalties.

HB 3961 makes personal contact information collected by the board confidential, including personal medical information submitted to the board. The bill adds a section

allowing the Board to request an evaluation of an applicant for an initial nursing license or license renewal if the board has probable cause that the applicant has a physical impairment, a mental impairment, or a problem with chemical dependency or abuse of drugs or alcohol.

HB 3961 authorizes the board to temporarily suspend a nurse's license on proof of a positive drug screening or a failure to comply with a board order to submit to a drug or alcohol test or a dismissal from a board-ordered peer assistance program and authorizes the board to require random drug screening as a condition of probation. It limits probation revocation hearings to the issue of whether the nurse violated the terms of probation.

HB 3961 removes the five-year limitation on the duration of time for which a person's license may be suspended if the board determines the person committed an act that provides grounds for disciplinary action.

As to other licensure issues, HB 3961 requires the nursing resource section within the Health Professions Resource Center established by the Coordinating Board and the Statewide Health Coordinating Council to conduct a research study to determine if graduates of clinical competency assessment programs in other states are substantially equivalent to graduates of a Texas-approved program with supervised clinical learning experience models involving multiple, ongoing assessments and feedback during supervised clinical learning experiences.

The board is required to accept nursing applications from graduates of schools in other states if that state's board of nursing approves the program and the other state's board standards are substantially equivalent to the Texas board's standards. This study will assist the Texas Board of Nursing to fulfill its duties under the Nursing Practice Act to adopt policies to ensure that other states' board standards are substantially equivalent to the Texas board's standards. HB 3961 also amends the Education Code to permit the Coordinating Board to award grant funds for this study.

Impact: Nursing departments in UT System health care facilities should be made aware of this bill.

Effective: June 19, 2009

Lannis Temple

[HB 4471](#) by Kolkhorst, et al. and Nelson

Relating to the professional nursing shortage reduction program.

According to the Department of State Health Services, Texas has suffered a shortage of registered nurses for many years and currently has approximately a 22,000 registered nurse shortage. In response, the Texas legislature previously enacted the professional nursing shortage reduction program, allowing public and private nursing programs to receive grants for increased nursing school graduates. In 2007, Texas nursing schools

dramatically increased registered nurse graduations. However, this increase is still far below the numbers needed.

HB 4471 makes changes in this existing professional nursing shortage reduction program to make it more cost efficient for public and private nursing programs to apply for and use funds to increase the number of nursing school graduates. Under SB 4471, the Coordinating Board is required to adopt rules that authorize grants to public and private nursing programs based on the fact that additional nursing students are currently enrolled towards an initial licensure as a registered nurse. Receiving the grant when an increased number of nursing students enroll, as opposed to receiving the grant after an increased number of students graduate, will allow Texas nursing programs to support a higher enrollment.

HB 4471 states that if a nursing program fails to graduate the additional students as indicated in the grant application or does not meet a benchmark in the grant application used to determine progress toward graduating the additional students, the commissioner of higher education may take several steps, including the withholding of any future payments.

HB 4471 also requires the Coordinating Board to establish rules to allow newly created nursing programs to participate in the nursing shortage reduction program.

Impact: HB 4471 impacts the UT System health care facilities that currently have a program for initial licensure as a registered nurse or that may establish such a program. Some UT System health care institutions have received funding in the past under this nursing shortage reduction program. It will be a benefit to those programs to receive the additional funding immediately after student enrollment is increased because in order to handle these additional students, new faculty must be hired and expenditures must be increased while the students are enrolled.

Effective: June 19, 2009

Lannis Temple

[SB 476](#) by Nelson, et al. and Donna Howard, et. al.

Relating to staffing, overtime, and other employment protections for nurses.

Legislative findings regarding the affect of nurse staffing on the improvement of patient outcomes and nurse satisfaction with the practice environment form the basis of SB 476.

With regard to staffing, SB 476 requires the governing boards of general and special hospitals, specifically including those operated by the state, and licensed mental hospitals to:

- Establish a nurse staffing committee as a standing committee of the hospital. At least 60 percent of the members of the committee must be registered nurses who provide direct patient care at least 1/2 of their work time and who have been

selected by their peers who also provide direct care at least 1/2 of their work time. The chief nursing officer is a voting member of the committee. Work on the committee is part of the employee's work time. Meeting on at least a quarterly basis, the committee is to develop and recommend a nurse staffing plan, address staffing concerns, identify outcome measures for evaluating the effectiveness of the official nurse staffing plan, and submit a report at least annually to the hospital's governing body on nurse staffing and patient care outcomes.

- Adopt, implement, and enforce a written nurse staffing policy and plan to ensure that an adequate number and skill mix of nurses are available to meet patient needs, with significant consideration given to the plan developed by the hospital's nurse staffing committee. The plan must reflect current standards, set minimum staffing levels, provide a means of adjusting the staff plan, and include a contingency plan. The hospital must use the nurse staffing plan in setting the nurse staffing budget and in guiding nurse assignments. The hospital must provide the official staffing plan levels and current staffing levels to nurses on each patient care unit for each shift.
- Report data to the Department of State Health Services annually regarding the existence of its nurse staffing policy, the nurse staffing committee, and its evaluation of the nurse staffing plan. This information is public information.

With regard to mandatory overtime, SB 476 prohibits a general or special hospital, specifically including those operated by the state, and licensed mental hospitals from:

- requiring a nurse to work mandatory overtime except in certain emergency or disaster situations; or
- using on-call time as a substitute for mandatory overtime.

Despite these prohibitions, a nurse may volunteer to work overtime. The above prohibitions do not apply in the event of disaster, emergency declaration, an emergency, or an unforeseen event that cannot be predicted, or if the nurse is actively engaged in an ongoing medical or surgical procedure and the presence of the nurse is necessary to ensure patient safety and health. In the event of an unforeseen event or emergency, a hospital is to make a good faith effort to use voluntary overtime, agency nurses or per diems, floats, or off-duty employees.

A hospital may not suspend, terminate, or otherwise discipline or discriminate against a nurse who refuses to work mandatory overtime.

SB 476 amends the nurse licensing statutes so that nurses who refuse to work mandatory overtime are protected from claims of patient abandonment or neglect.

The executive commissioner of the Health and Human Services Commission is to adopt rules to implement SB 476, but rewriting of current rules relating to nurse staffing are not required, except to the extent of conflict with the bill.

Impact: Hospitals, including those operated by the state, and licensed mental hospitals are required to establish nurse staffing committees and to adopt written nurse staffing policies. Mandatory overtime for nurses is prohibited, and the refusal of a nurse to work mandatory overtime may not be grounds for a hospital to discipline or discriminate against a nurse. UT System health institutions should be aware of SB 476 and should make changes to their policies and procedures accordingly.

Effective: September 1, 2009

Melodie Krane

Pharmacists and Drugs

[HB 19](#) by Leibowitz, et al. and Zaffirini

Relating to requirements for drugs dispensed by pharmacists.

HB 19 requires the Texas State Board of Pharmacy (TSBP) by January 1, 2010, to adopt rules relating to labeling requirements for drugs dispensed by pharmacists in Class A and Class E pharmacies. In addition to the information already required, additional required information includes:

- the name, address, and telephone number of the pharmacy;
- the date the prescription is dispensed;
- the name of the prescribing practitioner;
- the name of the patient or, if the drug was prescribed for an animal, the species of the animal and the name of the owner;
- instructions for use;
- the quantity dispensed;
- the date after which the prescription should not be used; and
- any other information required by rule of the TSBP.

Additionally, the TSBP by rule must require pharmacists, when dispensing certain drugs, to include the statement, “Do not flush unused medications or pour down a sink or drain.”

Impact: After June 1, 2010, Class A pharmacies (UT System institutions’ pharmacies and community pharmacies) must comply with TSBP rules that will require the above information on the dispensing container label.

Effective: September 1, 2009

Chuck Johnstone

[HB 1409](#) by Hopson and Nichols

Relating to the minimum patient age for administration of an influenza vaccination by a pharmacist.

HB 1409 authorizes a pharmacist to administer an influenza immunization to a child age seven years of age or older without a physician's authorization according to protocols established by the Texas Medical Board (TMB).

Impact: Pharmacists at UT System institutions may administer flu vaccine to a patient seven years of age or older without a physician's approval, subject to TMB protocols.

Effective: September 1, 2009

Chuck Johnstone

[HB 1966](#) by John Davis, et al. and Nelson

Relating to an e-prescribing implementation plan under the Medicaid and child health plan programs.

HB 1966 directs the Health and Human Services Commission (HHSC) to develop an e-prescribing implementation plan under the vendor drug program for the Medicaid and child health plan programs designed to improve patient safety and standardize electronic prescribing systems. The bill further requires HHSC to: (1) establish e-prescribing standards with which pharmacists, practitioners, pharmacy benefit managers, and health plans that transmit, directly or through an intermediary, prescriptions for Medicaid program recipients and child health plan program enrollees and prescription-related information using electronic media must comply; and (2) establish time frames within which pharmacists, practitioners, pharmacy benefit managers, and health plans must comply with the standards.

Impact: HB 1966 may require in-hospital pharmacies at UT System facilities to comply with the proposed Medicaid e-prescribing requirements. Administrators, business officers, and pharmacists should be aware of this new state initiative and modify policies and procedures as necessary.

Effective: June 19, 2009

Walter Mosher

SB 381 by Van de Putte and Hopson

Relating to the authority of physicians to delegate to certain pharmacists the implementation and modification of a patient's drug therapy.

SB 381, under the circumstances detailed below, permits the delegation of the implementation or modification of a patient's drug therapy under a protocol, including signing prescription drug orders for dangerous drugs.

The delegation requires:

- the physician to make a diagnosis, initial assessment, and drug therapy order;
- the pharmacist to practice in a hospital, a hospital-based clinic, or an academic health care institution;
- the hospital, hospital-based clinic or academic health care institution to adopt bylaws and a medical staff policy permitting a physician to delegate a patient's drug therapy to a pharmacist;
- the pharmacist to provide the name, address, and telephone number of the pharmacist and of the delegating physician on each prescription signed by the pharmacist; and
- the pharmacist to provide a copy of the protocol to the Texas State Board of Pharmacy.

The Texas State Board of Pharmacy, with the advice of the Texas Medical Board, shall adopt rules implementing SB 381 by December 1, 2009.

Impact: In order to permit a physician to delegate a patient's drug therapy to a pharmacist, academic health care institutions must adopt bylaws and a medical staff policy permitting such delegation. Pharmacists and physicians should be advised of the requirements for delegation of a patient's drug therapy.

Effective: September 1, 2009

Melodie Krane

SB 904 by Williams and McReynolds

Relating to the classification of and prescriptions issued for certain controlled substances.

SB 904 amends the section of the Health and Safety Code (Section 481.074) dealing with prescriptions for controlled substances. It allows a prescribing practitioner to issue multiple prescriptions authorizing up to a 90-day supply of a Schedule II controlled substance if:

- a legitimate medical purpose is served;
- the earliest refill date is noted;
- there is no undue risk of diversion or abuse; and
- the issuance of multiple prescriptions complies with other applicable state and federal laws.

SB 904 applies only to a prescription issued on or after June 19, 2009. The director of the Department of Public Safety has rulemaking authority.

Impact: Subject to DPS rules, physicians at UT System institutions may prescribe multiple prescriptions of a Schedule II controlled substance authorizing up to a 90-day supply, and pharmacists at those institutions may fill those prescriptions.

Effective: June 19, 2009

Chuck Johnstone

[SB 1645](#) by Van de Putte and Hopson

Relating to the distribution of a prescription drug and a study of the feasibility of establishing separate reimbursement under the Medicaid vendor drug program for certain pharmacy care management services.

SB 1645 requires the Health and Human Services Commission (HHSC) to conduct a study to evaluate the feasibility of establishing separate reimbursement rates under the Medicaid vendor drug program for pharmacies that provide pharmacy care management services to patients who are administered specialty pharmacy drugs, including drugs indicated for the prophylaxis of respiratory syncytial virus, blood factor, or any other biologic or therapy that requires complex care. Pharmacy care management services include supportive services such as caregiver or provider contact and education, compliance services, and tracking services. HHSC is also required to consult with the Centers for Medicare and Medicaid Services and may consider the adoption of pharmacy care management services reimbursement for pharmacy services adopted by other state Medicaid programs. HHSC must submit a report by September 1, 2010, to the legislature.

Impact: Administrators, business officers, and pharmacists should be aware of this study since its findings and recommendations may affect further pharmacy operations, clinical practices for pharmacists, and reimbursement for pharmacy services provided.

Effective: June 19, 2009

Walter Mosher

SB 1853 by Van de Putte and Hopson

Relating to disciplinary actions regarding a pharmacy technician or pharmacy technician trainee.

SB 1853 expands the Texas State Board of Pharmacy's (TSBP) ability to discipline an applicant/registrant for a pharmacy technician license upon board determination that the applicant/registrant:

- lacks the reasonable skill, competence, and safety to practice as a pharmacy technician or trainee;
- performed duties that only a pharmacist may perform;
- used alcohol or drugs in an intemperate manner that could endanger a patient's life;
- engaged in negligent, unreasonable, or inappropriate conduct when working in a pharmacy;
- violated a disciplinary order;
- is required to register as a sex offender; or
- has been disciplined by a pharmacy or other health regulatory board of Texas or another state

SB 1853 also authorizes TSBP after a TSBP determination to request a person, on probable cause, to submit to a mental or physical examination by a health care professional designated by TSBP.

Impact: UT System institutions with pharmacies and pharmacy training programs should know that TSBP has expanded authority and grounds to discipline pharmacy technicians/trainees for the above reasons.

Effective: September 1, 2009

Chuck Johnstone

Health Care Services

[HB 888](#) by Naishtat and Uresti

Relating to the detention and examination of certain persons accepted for a preliminary mental health examination.

HB 888 extends the release deadline for those persons being evaluated over a 48-hour period that ends on a weekday or a legal holiday until 4 p.m. (versus noon) of the next business day.

Impact: Health care providers will have an extra four hours in order to prepare any necessary materials relating to a mental health patient based upon observation (e.g. protective orders).

Effective: June 19, 2009

Chuck Johnstone

[HB 1240](#) by Villarreal, et al. and Uresti

Relating to information required to be provided to parents of an infant.

HB 1240 requires hospitals, birthing centers, physicians, and midwives who provide prenatal care to a woman who receives Medicaid to provide the patient, the father of the infant, or another adult caregiver with a resource guide in English and Spanish relating to child development, child health and safety, and the establishment of a “medical home” for the child. The provision of this resource guide as well as an already required pamphlet about resources for postpartum issues and shaken baby syndrome must be documented in the woman’s record. Providers may fulfill this requirement by providing the pamphlet and resource guide in a printable version on the Department of State Health Services website.

The Health and Human Services Commission (HHSC) must evaluate the effectiveness of the resource guide in reducing costs to the state and in improving outcomes for children. HHSC must submit a report by December 1 of each odd-numbered year regarding its evaluation.

Impact: UT System health institutions and providers that provide prenatal care to women under the Medicaid program must provide a resource guide and resource pamphlet to patients and document this in the woman’s medical record.

Effective: September 1, 2009

Melodie Krane

[HB 1363](#) by Gutierrez/Castro and Van De Putte/Uresti

Relating to the diabetes mellitus registry pilot program.

After November 1, 2009, a physician practicing in the San Antonio Metropolitan Health District (District) must submit the diagnosis codes of a patient along with the patient's sample when ordering a glycosylated hemoglobin level test from a clinical laboratory. The clinical laboratory must submit to the District and the Department of State Health Services (DSHS) the results of the patient's glycosylated hemoglobin test along with the diagnostic codes provided by the physician.

However, a physician who orders a glycosylated hemoglobin test must provide the patient with a DSHS form that allows the patient to opt out of having the patient's information included in the registry. In the event the patient opts out, the physician must keep the form in the patient's medical records and is prohibited from submitting to the clinical laboratory the patient's diagnosis codes when submitting the patient's sample.

DSHS, not later than October 1, 2009, must develop and make available the opt-out form on its Internet website.

Impact: UT System institutions' physicians practicing in the San Antonio Metropolitan Health District will have to submit a patient's diagnosis codes along with the patient's sample when ordering a glycosylated hemoglobin level test unless the patient opts out, in which case the physician must retain the form in the patient's records.

Effective: September 1, 2009

Chuck Johnstone

[HB 1510](#) by Bonnen, et al. and Mike Jackson

Relating to including information on sudden infant death syndrome in a resource pamphlet for parents of newborn children.

HB 1510 requires hospitals, birthing centers, physicians, nurse midwives, and midwives providing care to a pregnant woman to provide a resource pamphlet that includes information about sudden infant death syndrome (SIDS), including current recommendations for infant sleeping conditions to lower the risk of SIDS. The provision of this information must be documented in the woman's record and retained for at least five years. The Department of State Health Services is to update its resource pamphlet relating to SIDS on its website by January 1, 2010. Providers are not required to provide the updated brochure containing the SIDS information before March 1, 2010.

Impact: UT System health care providers providing care to pregnant women during gestation or delivery must provide this resource pamphlet beginning March 1, 2010.

Effective: September 1, 2009

Melodie Krane

[HB 1672](#) by Crownover, et al. and Deuell

Relating to newborn screening.

HB 1672 amends the state's newborn screening program for certain hereditary diseases by adding screening for the sickle-cell trait. It requires physicians and health care providers to provide the parent or legal representative of a newborn child with a copy of the written disclosure statement developed by the Department of State Health Services (DSHS) detailing options to safeguard the privacy of the newborn's genetic material and screening results. HB 1672 also makes the information obtained by DSHS confidential, but permits release under certain limited circumstances, along with ensuring that providers comply with the disclosure requirements. Finally, HB 1672 directs the formation of an interim study by the legislature on newborn screening and disclosure procedures.

Impact: HB 1672 requires physicians and health care providers who participate in the newborn screening programs at UT System health care institutions to provide state disclosure statements to parents, managing conservators, or guardians related to the samples taken pursuant to HB 1672.

Effective: May 27, 2009

Walter Mosher

[HB 1795](#) by Pierson, et al. and Uresti

Relating to newborn screening and the creation of the Newborn Screening Advisory Committee.

HB 1795, entitled Grayson's Law, expands currently mandated newborn screening to add secondary targets of the uniform screening panel in addition to the core panel, based on the 2005 report by the American College of Medical Genetics (ACMG) or more stringent guidelines. If the Department of State Health Services (DSHS) uses the ACMG report as the basis for establishing the newborn screening requirements, an additional 25 screens will be required, to the extent that such funding is available. DSHS, with the advice of the Newborn Screening Advisory Committee, may require tests for other conditions as well. However, tests for galactose epimerase and galactokinase may be excluded from newborn screening. The expanded newborn screening tests are not required until January 1, 2010.

HB 1795 also mandates diagnostic testing during pregnancy and after birth. Anyone attending a pregnant woman during gestation or at delivery is required to do the following:

- at the first examination or visit, take blood samples and other appropriate specimens, which are required to be submitted to an appropriately certified lab approved by the U.S. Food and Drug Administration (FDA) for syphilis, HIV, hepatitis B, and to retain reports of the results for nine months and deliver the report to any successor in the case;
- at an examination during the woman's third trimester, take a blood sample or other appropriate specimens, submit for testing to an appropriately certified lab approved by the FDA for HIV infection, and to retain reports of the results for nine months and deliver the report to any successor in the case (not applicable until January 1, 2010);
- on admission for delivery, take a sample of blood or other specimen from the mother and submit for testing to a certified lab approved by the FDA for syphilis and hepatitis B infection; and
- at delivery, if no prior HIV testing is found in the medical records, take blood samples or specimens from the mother and, within two hours of birth, from the newborn, and then submit for expedited testing to a certified lab for HIV testing approved by the FDA with instruction to return results not less than six hours after submission (not applicable until January 1, 2010).

If the pregnant woman objects to HIV testing or if a parent, managing conservator or guardian objects to the newborn HIV testing, then testing may not be conducted.

HB 1795 also establishes a Newborn Screening Advisory Committee within the DSHS whose members are appointed by the commissioner with membership to include health care providers, a hospital representative, persons with family members affected by a condition for which newborn screening may be required, and persons involved in delivery of newborn screening services in this state. The committee shall advise DSHS on planning, policy, rules, and services related to newborn screening, meet at least three times per year, and adopt bylaws.

New governmental programs in HB 1795 that create a new entitlement or impose a duty on a governmental entity are not mandatory without a specific appropriation for implementation. No specific appropriation was found.

Impact: UT System institutions and anyone attending during gestation or delivery must have proper procedures in place to accomplish the additional diagnostic testing for syphilis, HIV, and hepatitis B at an FDA certified laboratory. Newborn screening must be expanded by institutions performing newborn screening.

Effective: September 1, 2009

Melodie Krane

[HB 2027](#) by Zerwas, et al. and Harris

Relating to adoption of the Revised Uniform Anatomical Gift Act; providing criminal penalties.

This extensive legislation codifies the vast majority of the Revised Uniform Anatomical Gift Act (2006 UAGA) which attempts to create uniformity among states regarding organ donation and which generally favors organ donation.

The highlights of HB 2027 are as follows:

- Bars a person from changing a donor's wishes (either pro or con) regarding organ donation (notable exception is the authority of a reasonably available parent to change the donation decision of a deceased un-emancipated minor).
- Expands the list of individuals authorized to make an anatomical gift during and after the donor's life to include in descending priority the decedent's various family members and relatives, followed by an adult who exhibited special care and concern for the decedent, the decedent's guardians at the time of death, the hospital administrator, and any other person authorized to dispose of the decedent's body.
- Increases the methods by which a donor or a surrogate decision maker may make an anatomical gift.
- Clarifies the impact of certain actions that may otherwise cause confusion regarding organ donation intent (e.g. cancellation of a donor registry card does not invalidate an anatomical gift).
- Provides for organ donation through a donor registry in addition to donor cards and driver's licenses.
- Establishes criminal sanctions for the sale or purchase of body parts or for forging/falsifying a gift document.
- Requires that a forensic science program that receives willed bodies/parts must submit a quarterly report to the State Anatomical Board listing the number of bodies/parts received and the methods used for education or research.
- Authorizes a procurement organization to conduct a reasonable examination to ensure the medical suitability of a part that is or could be an anatomical gift for transplantation, therapy, research, or education.
- Prohibits the withdrawing of measures necessary to ensure the medical suitability of a potential anatomical gift, during the examination period, unless the hospital or procurement organization knows that the individual expressed a contrary intent.

- Requires a procurement organization, unless it knows the minor was emancipated, to conduct a reasonable search to provide the parents with an opportunity to revoke the minor's anatomical gift or revoke the minor's refusal.
- Prohibits the attending physician at death or the physician who pronounces the time of death from participating in the procedures for removing or transplanting a part from the decedent.
- Requires each hospital in Texas to enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.
- Requires each hospital to have a protocol (and provides the requirements for that protocol) that ensures the hospital's maintenance of an effective donation system maximizing organ, tissue, and eye donation.
- Criminalizes (Class A misdemeanor) knowingly purchasing or selling for valuable consideration an anatomical part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death. However, HB 2027 specifically authorizes a person to charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.
- Criminalizes (Class A misdemeanor) intentionally falsifying, forging, concealing, defacing, or obliterating a document of gift, an amendment or revocation of a document of gift, or a refusal in order to obtain a financial gain.
- Requires the Department of State Health Services (DSHS) to develop and promote a registry program (Glenda Dawson Donate Life-Texas Registry) in consultation with the Texas Department of Public Safety.
- Requires DSHS to develop a program to educate health care providers and attorneys in this state about anatomical gifts.
- Requires DSHS to encourage Texas medical and nursing schools to include mandatory organ donation education in the schools' curricula.
- Requires DSHS to encourage Texas medical schools to require a physician in a neurology or neurosurgery residency program to complete an advanced course in organ donation education.
- Provides for the ability of a responsible government official (e.g. medical examiner, justice of the peace) to release to either an organ procurement organization or a tissue bank those anatomical parts of a person whose death required an inquest.

Impact: HB 2027 has considerable impact on UT System institutions' hospitals and indirectly upon medical and nursing schools as detailed above. It imposes certain procedural requirements on hospitals and related organizations regarding anatomical gifts. For example, hospitals are required to enter into affiliation agreements with procurement organizations for coordination of harvesting and use of anatomical gifts. In addition, hospitals must implement a protocol relating to a donation system. Attending physicians cannot participate in the procurement of anatomical parts.

Health providers should be aware that HB 2027 identifies new surrogate decision makers who can make decisions regarding anatomical gifts of the deceased. It provides different methods of signifying a donor's intent to either make an anatomical gift or to go on record for not wanting to make such a donation.

UT System health care institutions with forensic science programs that receive willed bodies/parts are required to submit a quarterly report to the State Anatomical Board.

HB 2027 also indirectly affects health care education. DSHS is to encourage medical and nursing schools to offer mandatory organ education courses. DSHS is also to encourage medical schools to require neurology and neurosurgery students to take courses in organ donation education.

Criminal sanctions now exist with respect to the sale or purchase of anatomical parts and for forging or falsifying an anatomical gift document.

Effective: September 1, 2009

Chuck Johnstone

[HB 2217](#) by Flores, et al. and Hinojosa

Relating to partnering with the United States Department of Veterans Affairs and other federal agencies to establish a hospital in the Rio Grande Valley region of the state.

HB 2217 directs the Texas Veterans Commission and the Department of State Health Services to work with the US Department of Veterans Affairs (VA) and any other appropriate federal agency to propose that the federal government establish a veterans hospital in the Rio Grande Valley region of the state. HB 2217 further authorizes the state to contribute money, property, and other resources to establish, maintain, and operate a veterans hospital in the region. HJR 7 is the related constitutional amendment authorizing state resources for these purposes.

Impact: In addition to providing needed health care and related support services to eligible veterans, VA hospitals can increase the level of quality of care to the local patient populations, reduce the patient-load burden on the local health care delivery system, increase federal funds to the local economy with federal jobs and procurements, and increase collaborative educational opportunities. Establishing a VA hospital in the Rio Grande Valley would facilitate the academic and medical education efforts by local UT System institutions. HB 2217 requires no action by UT System academic and health

institutions. However, administrators and business officers working in the Rio Grande region or on projects affecting the region should be aware of this state-federal initiative.

Effective: June 19, 2009

Walter Mosher

[HB 2330](#) by Guillen and Zaffirini

Relating to laboratory tests measuring kidney functions.

HB 2330 requires a laboratory that performs a serum creatinine test on a sample from a person 18 years of age or older to also calculate and include in the reported results the person's estimated glomerular filtration rate or the results of an alternative equivalent calculation measuring kidney function.

Physicians requesting serum creatinine tests are required to provide the laboratory with all relevant clinical information about the person necessary to calculate the person's estimated glomerular filtration rate or an alternative equivalent calculation, unless the physician determines that the calculation is unnecessary.

HB 2330 exempts laboratories performing serum creatinine tests on samples taken from hospital patients and exempts laboratories whose equipment cannot be reprogrammed to perform such tests.

Impact: HB 2330 requires physicians at UT System institutions to provide additional information when ordering serum creatinine tests unless the physician determines otherwise. It will require those institutions' laboratories that perform serum creatinine tests to calculate and report estimated glomerular filtration rates or an equivalent calculation unless a sample is from a hospital patient or unless the laboratory equipment is incapable of performing such a test.

Effective: September 1, 2009

Chuck Johnstone

[HB 2626](#) by Naishtat, et al. and Zaffirini/Uresti

Relating to the forensic medical examination of a sexual assault victim who has not reported the assault to a law enforcement agency.

HB 2626 provides a victim of a sexual assault, whether or not the assault has been reported, with a right to a forensic medical examination if it is reported within 96 hours of the sexual assault or such an examination is conducted at a health care facility.

For a sexual assault victim who has not reported the assault to a law enforcement agency, HB 2626 requires that such forensic medical examinations be conducted at health care facilities, including a general or special hospital owned by the state, if the victim arrives

at the facility within 96 hours of the assault and the victim consents to the examination. Fees for the forensic portion of the medical exam and for the evidence collection kit shall be paid by the Department of Public Safety (DPS) if the forensic portion of the exam is conducted within 96 hours. If a health care facility does not provide diagnosis or treatment services to sexual assault victims who are seeking a forensic medical examination, the health care facility shall refer the victim to a facility that provides those services.

As soon as practicable, the attorney general and the DPS shall adopt rules relevant to this bill. Funding is provided for implementation of this bill.

Impact: To the extent that health care facilities, including UT System facilities, perform forensic medical examinations, they should be able to collect costs associated with the forensic portion of the exam and for the evidence collection kit.

Effective: June 19, 2009

Melodie Krane

[HB 4276](#) by Menendez, et al. and Uresti/Zaffirini

Relating to a transportation plan for persons furloughed or discharged from certain mental health facilities.

HB 4276 requires that the facility administrator of a mental health facility to develop a transportation plan for persons furloughed or discharged from a mental health facility to which the person was committed by court-order for inpatient mental health services. The plan must be developed in conjunction with the local mental health authority. The plan must consider the capacity of the person, must be in writing, and must specify who is responsible for providing transportation, when the person will be transported, and where the person will arrive. With consent, the facility administrator shall forward the plan to a patient's family member before transport.

Impact: UT System facilities providing court-ordered inpatient mental health services must develop a transportation plan for furloughed or discharged patients.

Effective: September 1, 2009

Melodie Krane

[HJR 7](#) by Flores, et al. and Hinojosa/Lucio

Relating to proposing a constitutional amendment authorizing the state to contribute money, property, and other resources for the establishment, maintenance, and operation of veterans hospitals in this state.

HJR 7 permits the State of Texas to contribute money, property, and other resources for the establishment, maintenance, and operation of veterans hospitals throughout the state.

There are currently 11 veterans hospitals in Texas. The constitutional amendment proposed by this resolution will be submitted to the voters at an election to be held on November 3, 2009.

Impact: This joint resolution has an indirect impact on UT System academic and health institutions that maintain educational agreements with local veterans hospitals. Authorizing state resources to establish, maintain, and operate veterans hospitals increases collaborative educational opportunities by ensuring a strong state-federal partnership in providing health care and related support services to eligible veterans in all VA hospitals in Texas. Administrators and business officers working on projects involving local VA hospitals should be aware of this state-federal initiative.

Effective: Upon approval by the voters at the November 3, 2009 general election

Walter Mosher

[HCR 86](#) by Pena, et al. and Lucio, et al.

Relating to memorializing Congress in the support of establishing a veterans hospital in the Rio Grande Valley.

HCR 86 is a concurrent resolution to affirm the legislature's support to establish a veterans hospital in the Rio Grande Valley by directing that the Texas Secretary of State forward official copies of the resolution to the President of the United States, the Secretary of Veterans Affairs, the Speaker of the U.S. House of Representatives, the President of the U.S. Senate, and to all members of the Texas delegation with the request that the resolution be entered in the Congressional Record. HB 2217 and HJR 7 are related legislative initiatives.

Impact: The establishment of a veterans hospital in the Rio Grande Valley would have an indirect impact on UT System academic and health institutions that develop and maintain educational and training programs in the Rio Grande region. Along with providing the necessary medical care to eligible veterans, establishing a veterans hospital in the Rio Grande Valley would increase collaborative educational opportunities with local health care institutions, facilities, and programs. Administrators and business officers working in the Rio Grande region or on projects affecting the region should be aware of this state-federal initiative.

Effective: June 19, 2009

Walter Mosher

Medical Records

[HB 1218](#) by Donna Howard and Watson/Uresti

Relating to programs to exchange certain health information between the Health and Human Services Commission and certain health care entities and facilities.

HB 1218 requires the Health & Human Service Commission (HHSC) to create a pilot program using at least two local or regional health information exchanges to determine the feasibility, costs, and benefits of such a program. A “health information exchange system” is defined as a health information exchange system created under HB 1218 that moves health-related information among entities according to nationally recognized standards. The bill outlines the specific stages for development of the pilot program.

HHSC must also develop an electronic information system to improve the quality, safety and efficiency of health care services provided under CHIP or Medicaid programs that complies with specific requirements set forth in HB 1218.

HHSC must also appoint an advisory committee to assist HHSC in implementing HB 1218 and to collaborate with the Texas Health Services Authority to ensure that all health information exchange systems can interoperate with and not impede the electronic health information infrastructure that the Texas Health Services Authority is developing.

If feasible, HHSC must adopt rules establishing an information exchange with nursing facilities that elect to participate, in return for incentives, in a program to improve quality of care and services provided by the facility to medical assistance recipients.

Finally, HB 1218 requires HHSC to establish a health information exchange program with each hospital in the state to exchange data on indicators related to potentially preventable readmissions of Medicaid patients and information concerning each hospital’s performance in reducing potentially preventable readmissions of Medicaid patients.

Impact: UT System institution hospitals that treat Medicaid recipients will be required to participate in the health information exchange program related to potentially preventable readmissions of Medicaid patients.

Many UT System health science institutions are using or exploring the use of health information exchange technology. Those institutions may wish to become involved in the pilot project or seek to participate in the advisory committee that will be appointed to assist HHSC in implementing HB 1218.

Effective: September 1, 2009

Barbara M. Holthaus

[HB 2585](#) by Hartnett and Uresti

Relating to digital or electronic signatures and witness signatures on advance directives.

HB 2585 provides that electronic or digital signatures on Advance Medical Directives (AMDs, e.g. do not resuscitate orders) are acceptable and allows such signatures to be authenticated by either witnesses or a notary public. The executive commissioner of the Health and Human Services Commission is required to adopt rules to set signature standards by December 1, 2009. A person may not sign an AMD using a digital or electronic signature before January 1, 2010.

Impact: HB 2585 permits individuals to either electronically or digitally sign AMDs and have their signatures witnessed or notarized. Ultimately, HB 2585 makes it easier for all individuals to have AMDs that will eventually become part of an electronic medical record.

Effective: September 1, 2009

Chuck Johnstone

[HB 4029](#) by Marquez and Shapleigh

Relating to the release of certain health care information.

HB 4029 amends the hospital licensing law related to the production of and related charges for medical and billing records in response to patient requests. It specifically excludes authorization to charge for payment information and permits electronic production and delivery of records if requested. A \$75 processing fee as well as the applicable mailing and shipping fees are authorized for records provided in a digital or electronic medium.

Impact: Since UT hospitals are exempt from the hospital licensing law, HB 4029 is technically inapplicable. Nonetheless, administrators and business affairs should consider HB 4029 in setting fees and policies related to medical and billing records production.

Effective: September 1, 2009

Walter Mosher

[SB 346](#) by Nelson/Shapleigh and Kolkhorst/Donna Howard

Relating to information submitted to and maintained in the immunization registry after an individual becomes an adult.

SB 347 amends the confidentiality provisions of the immunization registry to enable individuals or their legal representatives to obtain, release, maintain, or remove immunization data in the state registry. It also permits physicians and other health care

providers to continue to provide vaccination data to the registry for individuals after they have reached 18 years of age with the individual's consent. Additionally, the Department of State Health Services (DSHS) is directed to develop educational information for health care providers and facilities to update them on the operations of the immunization registry and the option for adult individuals to consent to submission and retention of their immunization data in the registry.

Impact: UT System health care facilities and providers should be aware that vaccination data for adults may be submitted to the immunization registry with their consent. DSHS will provide further details in forthcoming educational materials.

Effective: September 1, 2009

Walter Mosher

[SB 347](#) by Nelson and Kolkhorst/John Davis

Relating to the receipt and release of immunization information by the immunization registry in connection with a disaster; providing penalties.

Under previous authority, the Department of State Health Services developed a state immunization registry as an initiative to increase vaccination coverage for children. It is a confidential registry designed to consolidate immunization records from multiple providers and electronically store immunization histories in one secure central system. With parental consent, the registry receives childhood vaccination information from health care providers across the state including Women, Infant and Children (WIC) clinics, Medicaid, and health plans. Upon registration, immunization histories are available to physicians and other health care providers, schools, licensed child-care facilities, local health departments, select state agencies, and payors.

SB 347 amends the confidentiality provisions of the immunization registry to address a disaster contingency by authorizing the state to release immunization data to local and out-of-state health officials where residents will evacuate or relocate. SB 347 also provides for intra-state cooperation agreements for sharing immunization data without parental consent for the limited purpose of immediate access during disaster recovery efforts.

Impact: SB 347 does not directly affect UT System academic and health institutions. However, UT System health care facilities and providers should be aware that vaccination data for children may be available in the immunization registry during times of disaster recovery.

Effective: September 1, 2009

Walter Mosher

[SB 652](#) by Zaffirni and Frost

Relating to the maintenance of emergency contact and medical information databases by the Department of Public Safety of the State of Texas.

SB 652 permits, but does not require, a person to provide emergency contact information to the Department of Public Safety (DPS) as part of the person's application for a new, replacement, or renewed driver's license or personal identification certificate. Only peace officers otherwise authorized to access the DPS driver's license and personal identification certificate files may access such information. The information can only be accessed for the purpose of contacting the person's emergency contact to report the person's injury or death, confirming health information about the person provided to the officer by the person, or determining if the person has a health condition that may impede the person from communicating with the peace officer.

Impact: Peace officers in the Office of the Department of Police or employed by UT System institutions will be able to access emergency contact information if they are otherwise authorized to access information from these DPS files.

Effective: September 1, 2009

Barbara M. Holthaus

[SB 1171](#) by Nichols and McReynolds

Relating to certain health-related reports, records, and information.

SB 1171 provides the following:

- Health information received from any source, including a federal agency or another state, that relates to cases or suspected cases of diseases or health conditions and that is furnished to a public health district, a health authority, a local health department, or the Department of State Health Services (DSHS) is confidential while in the possession of the public health district, health authority, local health department, or DSHS.
- Medical and epidemiological information held by DSHS involving certain contagious diseases can be shared with physicians and medical personnel who are treating the individual, appropriate state agencies in this state or another state, a health authority or local health department in this state or another state, or federal, county, or district courts to comply with Chapter 81, Health and Safety Code, and related rules relating to the control and treatment of communicable diseases and health conditions or under another state or federal law that expressly authorizes the disclosure of this information. A county or district court must enter a protective order to limit disclosure of such information if it is entered into evidence in connection with a court case.

SB 1171 also permits the release of an HIV/AIDS test result to a county or district court to comply with the disease control and treatment requirements of requirement of Chapter 81. It also permits the court to enter a protective order to limit disclosure of any such information that is entered into evidence in connection with a court case.

Impact: UT System institutions that conduct HIV/AIDS testing must comply with the new requirements for releasing test information to certain courts.

Effective: June 19, 2009

Barbara M. Holthaus

SB 1409 by Shapleigh and McReynolds

Relating to the definition of first responder for purposes of the immunization registry.

SB 1409 expands the definition of “first responder” to include any federal, state, or private person who may respond to a disaster, including any public health and safety personnel, commissioned law enforcement personnel, emergency medical services personnel, including hospital emergency facility staff, and any other worker who responds to a disaster in the worker’s scope of employment, or any related personnel who provide support services during the prevention, response, and recovery phases of a disaster.

Impact: Individuals from a broad spectrum of emergency related workers, including public health personnel and emergency health care providers and hospital emergency staff whose scope of employment would include responding to a disaster, can be included in the immunization registry thereby increasing their possible medical protection. This would include several groups of individuals at UT System institutions.

Effective: June 19, 2009

Chuck Johnstone

Reports

HB 1362 by Gutierrez and Van de Putte

Relating to the pilot program for reporting of methicillin-resistant Staphylococcus aureus infections.

HB 1362 continues the pilot program for reporting methicillin-resistant Staphylococcus aureus (MRSA) infections, making clear that it relates to reporting of MRSA infections, not the mere presence of the bacteria. The pilot program requires all clinical laboratories, specifically including hospital laboratories and clinical reference laboratories, that serve

participating health authorities to report positive MRSA infections, regardless of where contracted, to the health authority using automated and secure electronic data means.

Health authorities are not required to participate in the reporting program. However, those that choose to participate are to administer the reporting program locally and report to the Department of State Health Services (DSHS) as required. Facilities located in an area served by a participating health authority are not required to report MRSA infections to DSHS under existing law but the participating health authority is to report these incidents to DSHS.

In addition, the pilot program is to track the prevalence of MRSA infections, develop a methodology for electronic transfer of information, and compile and summarize data. By the expiration date of the pilot program, September 1, 2011, DSHS, in consultation with participating health authorities, is to submit a report to the legislature regarding the effectiveness of the pilot program.

Impact: UT System health institutions that perform laboratory work for health authorities must report positive MRSA cases.

Effective: June 19, 2009, except that provisions relating to the required legislative report take effect September 1, 2009.

Melodie Krane

SB 203 by Shapleigh, et al. and Coleman/Yvonne Davis

Relating to health care-associated infections and preventable adverse events in certain health care facilities.

SB 203 modifies the existing statute requiring the reporting of the incidence of surgical site infections that occur in specified procedures in a general hospital, a health care facility, and pediatric and adolescent hospitals to specifically include the reporting of the causative pathogen if the infection is confirmed by a laboratory.

SB 203 also expands the Texas Health Care-Associated Infection Reporting System and its advisory panel established by the 80th Legislature to now also include the reporting of preventable adverse events. Specifically health care facilities are required to report to the Department of State Health Services (DSHS) the occurrence of preventable adverse events, that are the subject of Centers for Medicare and Medicaid Services (CMS) policy of nonpayment for Medicare health care-associated adverse events and also must report those events on the list of adverse events identified by the National Quality Forum, unless the executive commissioner excludes the event from reporting after consultation with the advisory panel. DSHS is required to make summary information relating to preventable adverse events available to the public just as it does with reported infections; names of facilities at which adverse events occur are not protected from disclosure. SB 203 also explicitly protects state employees and officers from being examined in any proceeding about the existence or contents of any such reports, and published preventable adverse events may not be used to establish a standard of care for a health care facility. For the

purpose of public health research and analysis only, DSHS may disclose information about infection rates and adverse events to the Health and Human Services Commission (HHSC) and other health and human service agencies. HHSC must adopt rules relating to the reporting of preventable adverse events by February 1, 2010.

SB 203 further requires the HHSC to adopt rules for denial or reduction of reimbursement under the medical assistance program for preventable adverse events in a hospital setting. The rules must impose the same reimbursement denials or reductions for adverse events as those imposed by CMS rules relating to health care-associated adverse conditions but may also include those identified by the National Quality Forum. Rules relating to denial of payments must be adopted by September 1, 2010, and only apply to adverse events after the effective date of the rules.

Impact: The reporting requirement relating to surgical site infections and preventable adverse events applies to general hospitals maintained and operated by the state, and therefore includes UT System hospitals. Revenue could be affected by reimbursement denials or reductions for preventable adverse events.

Effective: September 1, 2009

Melodie Krane

SB 1003 by Deuell and Flynn

Relating to the continuation and functions of the Office of State-Federal Relations and the administrative attachment of that agency to the office of the governor.

SB 1003 provides that the Office of State-Federal Relations is administratively attached to the office of the governor.

The office retains most of its current general powers in its role as liaison from the state to the federal government, and is also required to:

- notify the governor, lieutenant governor, speaker, and certain standing legislative committees of federal activities relevant to the state and inform the Texas congressional delegation of state activities;
- conduct frequent conference calls with the lieutenant governor and speaker regarding state-federal relations and programs;
- respond to requests for information from the legislature, congress, and federal agencies;
- coordinate with the Legislative Budget Board regarding the effects of federal funding on the state budget; and
- report to, and on request appear before, the legislative standing committees with primary jurisdiction over intergovernmental affairs.

If the office elects to contract with federal-level government relations consultants, the office must adopt written procedures for those contracts as provided by SB 1003.

A state agency, including a “state college or university,” must report to the office on any contract between the agency and a federal-level government relations consultant. The report must be submitted within 30 days after the contract is executed and again not later than 30 days after the contract is terminated and must include the name of the consultant or consulting firm, the issue on which the consultant was hired to consult, and the amount of compensation paid or to be paid to the consultant. If the consultant subcontracts the work to another firm or individual, the state agency must report the subcontract to the office. If the contract was entered into before September 1, 2009, and was not terminated before that date, the agency must submit the report not later than September 30, 2009.

SB 1003 repeals a number of provisions. Of interest to UT System are the following:

- it repeals the requirement that a state agency identified by the LBB as receiving significant federal funding must develop a plan of state-federal coordination and submit the plan to the office and the LBB; and
- it repeals the requirement that agencies and institutions of higher education report to the office, the LBB, and the governor’s office concerning federal grant applications, awards, and waivers.

Impact: UT System will be required to report to the Office of State-Federal Relations any contracts between UT System and a federal-level government relations consultant. Additionally, the report to the office and the LBB concerning federal grants will no longer be required.

Effective: September 1, 2009

Karen Lundquist

[SB 1326](#) by Nelson and Susan King

Relating to the functions of the statewide health coordinating council; providing civil penalties.

Most significantly, under SB 1326 hospitals that do not submit the required hospital financial and utilization data to the Department of State Health Services are subject to civil penalties. Hospitals include: (1) a general or special hospital licensed under Chapter 241; (2) a private mental hospital licensed under Chapter 577; and (3) a treatment facility licensed under Chapter 464.

Impact: Any UT System facility that meets the definition of “hospital” will be subject to penalties for failure to submit required hospital financial and utilization data.

Effective: June 19, 2009

Melodie Krane

Payment for Health Care Services

[HB 1342](#) by Menendez/Thompson and Harris

Relating to adoption of certain information technology.

HB 1342 requires certain health plans to use information technology (IT) to provide real-time, point-of-service claims eligibility information to health care providers regarding services the health care provider proposes to provide to an enrollee in the plan. Information available through the IT must include the enrollee/patient's estimated financial responsibility and any applicable co-pays, co-insurance, and deductibles for the proposed services. A health care provider, including a physician or a hospital, is required to use this IT no later than September 13, 2013. However, a physician or health care provider with less than five employees is not required to use the IT and health plans may not require use of the IT by such providers through a contract. The Texas Department of Insurance (TDI) must adopt rules requiring a health plan to permit waivers for other providers from the IT requirements based on hardship and other special circumstances.

A health plan may not directly charge a plan enrollee or a health provider a fee to cover the cost of complying with the IT requirements created by HB 1342. TDI must adopt rules under which a health plan can apply for a waiver from compliance due to undue hardship or other circumstances. Those waivers will not be available after January 1, 2012, and no waiver can extend past January 1, 2013.

HB 1342 also requires a health care provider, including a physician or a hospital, to refund the amount of any overpayment received by a patient for the amount owed by the patient on a claim within 30 days of the discovery of the overpayment unless the payment was made in connection with a managed care or preferred provider plan claim that is subject to the "clean claims requirements" of Texas Insurance Code Sections 843.350 or 1301.132.

Impact: A UT System institution that provides health care must return any overpayments made by patients for services not subject to the "clean claims act" within 30 days of its discovery of the overpayment. This may require immediate changes in its internal procedures and billing and other policies and practices.

UT System institutions with hospitals or physicians that contract as providers with health plans subject to HB 1342 are required to be able to use the IT provided by the contracting health plans by January 1, 2013. This may require changes in internal procedures and billing and other policies and practices before that date.

HB 1342 could also indirectly affect the UT System self-funded health plan if any of its third party administrators change their claims adjudication processes to comply with HB 1342.

Effective: May 30, 2009

Barbara M. Holthaus

[HB 1888](#) by John Davis, et al. and Duncan

Relating to standards required for certain rankings of physicians by health benefit plans.

HB 1888 limits the ability of insurance carriers that offer certain health plans (not including UT System's self-funded health plan) to rank the performance of physicians who contract with a plan to participate in the plan's provider network. It does not apply to Medicaid managed care programs under Chapter 32 of the Human Resources Code and Chapter 62 of the Health and Safety Code, CHIP plans, or Medicare Supplement plans.

HB 1888 requires a health plan that ranks physicians to use standards that conform to nationally recognized guidelines, to disclose the guidelines to each affected physician, and to provide those physicians with an opportunity to review and dispute a ranking before it is published. This opportunity to dispute a ranking must include a review by an advisory panel of at least three physicians who participate in the plan's provider network and must include a physician who practices in the same or a similar specialty as the physician under review.

Physicians subject to ranking may not request or require that their patients refrain from participating in any surveys or provide comments related to ranking of the physician by a health plan. Affected plans must involve physicians in the development of ranking standards and use methods and methodology for ranking that are transparent.

Outcomes of the review process must be provided to the physician in writing and include the basis for any outcome that is not favorable to the physician. Rankings must be reported to the Texas Department of Insurance. The department has rulemaking authority and must use standards for ranking physicians adopted by the National Committee on Quality Assurance or a similar organization. If neither the National Quality Forum nor AQA alliance has adopted standards for such ranking and the authority to sanction carriers who fail to comply with the bill.

Impact: HB 1888 impacts UT System institutions that employ physicians who contract as providers with health plans that are subject to HB 1888 and that perform physician rankings. Physicians and institutional policy makers should be aware of the bill's prohibition against attempting to restrict a patient from completing surveys or providing comments to health plans about a physician's performance. HB 1888 does not impact the UT System uniform group insurance program.

Effective: September 1, 2009

Barbara M. Holthaus

[HB 2256](#) by Hancock, et al. and Duncan

Relating to mediation of out-of-network health benefit claim disputes concerning enrollees, facility-based physicians, and certain health benefit plans; imposing an administrative penalty.

HB 2256 establishes a mediation process for settling out-of-network benefit claims for services provided by a facility-based physician at a hospital or other treatment facility if the physician does not contract with the same preferred provider plan network with which the facility contracts. “Facility-based physicians” are anesthesiologists, pathologists, emergency room physicians, or neonatologists to whom a facility has extended clinical privileges and who provides medical services to the facility’s patients.

Section 1 permits an enrollee to invoke the mediation process for claims for amounts of \$1000 if the services were provided by a facility-based physician at a hospital or other treatment facility and the billing physician does not contract with the facility’s preferred provider plan network. The mediation requirements also apply if the enrollee is a participant in the group employee health plan offered by the Employee Retirement System of Texas (ERS) and the physician providing services to the participant is not part of an ERS provider network with which the facility contracts.

The mediation required by HB 2256 must include a three-step dispute resolution involving teleconferencing, mediation, and if necessary, a trial on the underlying issue by a special judge. The facility-based physician and the insurer or third party administrator (TPA) billed by the physician must both participate in the mediation. The mediation must address whether the amount charged by the physician is excessive, whether the amount paid by the health plan is unreasonably low, and if the amount the enrollee must pay to the physician is excessive. More than one claim affecting the same parties may be heard at a single mediation.

No meditation is required if the facility-based physician provides a written disclosure that notifies the enrollee, before the delivery of any services, that the physician does not contract with the enrollee’s plan, the projected maximum amount the enrollee may owe the physician for the services, and the circumstances in which the physician may bill the enrollee for the full amount of the services (“balance billing”). If the enrollee agrees to sign the disclosure, the physician is not required to mediate a claim if the amount actually billed by the physician to the enrollee turns out to be less than or equal to the amount set forth in the disclosure. This option is not available to emergency room physicians. Failure to provide a disclosure is not grounds for sanctions under HB 2256.

The Texas Department of Insurance (TDI) and the Texas Medical Board (TMB) must adopt rules for investigating and resolving complaints relating to the settlement of out-of-network claims. The rules must provide priority for resolution of complaints that involve allegations of delayed medical care. A health plan found to have engaged in bad faith settlement of a claim can be sanctioned by TDI. A facility-based physician can be sanctioned by TMB for bad faith settlement practices.

Section 2 requires TDI to adopt network adequacy standards for all preferred provider plans regulated by TDI and to collect reimbursement reporting information from such health benefit plans in an attempt to ensure that plan enrollees have a complete network of physicians available in contracting facilities.

Section 3 requires a facility-based physician who bills a patient covered by a preferred provider plan or an ERS non-HMO plan, but who does not contract with the patient's plan as a network provider, to notify the patient of the availability of the mediation process created by HB 2256 if the enrollee's bill will exceed \$1000 after deduction of any applicable co-payment, deductible, or co-insurance.

Section 5 requires facilities to implement policies to provide a written disclosure to each patient who is enrolled in a preferred provider plan or an ERS non-HMO plan that provides the name and contact information for each facility-based physician providing services at the facility and that states the possibility that a patient may be billed by these physicians for services not fully covered by the patient's health care plan. The notice must inform the patient that she or he may request information from any facilities-based physician on the physician's status as a non-network provider and the circumstances under which the physician may balance bill the patient. If the facility maintains a website that lists physicians with medical privileges, the website must provide the name and contact information for each facilities-based physician and must be updated at least quarterly to reflect any changes in the list.

Section 7 requires TDI, TMB, and the State Office of Administrative Hearings to adopt rules to implement and enforce HB 2256 as soon as practicable.

HB 2256 applies only to claims incurred on or after June 19, 2009.

Impact: HB 2256 applies to 1) any hospitals and other health care facilities operated by UT System institutions that contract to participate in preferred provider health plan provider networks but do not also require their anesthesiologists, pathologists, emergency room physicians, or neonatologists to contract as network providers within those networks; and 2) UT System physicians or physician groups who provide services as anesthesiologists, pathologists, emergency room physicians, or neonatologists at other hospitals or health care facilities, but who do not contract to participate in the same preferred provider health plan provider networks as the employing hospitals or other facilities.

If there are such physicians at UT System institutions, they must participate in, and share the costs of, any mediations conducted pursuant to HB 2256 or provide the patient notices required by the bill. The physicians would be subject to complaints filed with TMB in connection with their role in settlements involving out-of-network claims, and could be subject to sanctions by TMB for failing to comply with HB 2256 or engaging in bad-faith mediation. If a UT System institution employs such physicians, it must give patients the notices required by Section 5.

HB 2256 does not apply to the UT System self-funded health plan but the requirements may impact the business operations of TPAs who partner with the Office of Employee Benefits (OEB), which may in turn lead to an increase in overall administrative fees charged by the TPAs to OEB for contracted services.

Effective: June 19, 2009

Barbara M. Holthaus

[HB 4290](#) by Smithee and Duncan

Relating to retrospective utilization review and utilization review to determine the experimental or investigational nature of a health care service.

Utilization review is a process whereby an insurance plan or other third party claims payor determines if a claim for medical treatment is medically necessary and therefore covered by a health insurance plan or a workers' compensation plan. HB 4290 expands the rights available under the Texas Insurance Code to a patient or provider to appeal a denial of a claim for proposed health services (preauthorization) to an independent reviewer by extending that right to utilization reviews that are conducted by a payor after the services have been provided (a "retrospective review"). It also provides that a patient is entitled to an independent review if a claim is denied on the grounds that the treatment that is proposed or has been provided is experimental or investigational in nature. HB 4290 applies only to plans issued or renewed on or after January 1, 2010.

Impact: The UT System workers' compensation plan will be required to comply with these new requirements to the extent that it conducts retrospective claims reviews. This may increase costs to the plan. Physicians employed by UT System institutions may find it easier to get claims paid by insurers who conduct retrospective reviews.

Effective: September 1, 2009

Barbara M. Holthaus

[HB 4341](#) by Truitt and Shapiro

Relating to the regulation of discount health care programs by the Texas Department of Insurance.

A "discount health care program" is a person who, in exchange for fees, dues, charges, or other consideration, contracts with providers, provider networks, or other discount health care program operators to offer access to health care services at a discount and determines the charge to members. It is not an insurance plan, although a health plan may include a discount program as a "value added" feature. HB 4341 shifts responsibility for regulating discount programs from the Texas Department of Licensing and Regulation to the Texas Department of Insurance and creates a new registration process and requirements. It spells out specific practices that are considered to be unfair trade practices by discount programs and health care providers that participate in such

programs. It prohibits health care providers providing discount program services from charging patient who are program participants fees in excess of the amount specified in the discount program for those services. It also requires health care providers providing services under a discount program who lose eligibility to provide services due to loss of licensure, etc., to inform the discount program immediately.

Impact: HB 4341 may impact UT System to the extent that a UT System institution has a facility or health care providers that contract or otherwise agree to provide services through a discount program or to the extent that it may contract with such a program in the future.

Effective: September 1, 2009

Barbara M. Holthaus

[SB 39](#) by Zaffirini, et al. and Zerwas

Relating to health benefit plan coverage for routine patient care costs for enrollees participating in certain clinical trials.

SB 39 requires health benefit plans regulated by the Texas Department of Insurance, including the UT System employee group insurance plan, and, as permitted by federal law, state Medicare programs, to cover the routine costs of all patient care costs for which benefits are ordinarily provided under the plan, regardless of whether the care is provided as part of an experimental clinical trial. The health plan is not required to cover any costs that the research institute conducting the trial would normally cover. The institute must agree to accept the reimbursement rates in place under the enrollee's health plan for covered services. The plan may impose its existing requirements for deductibles, co-payments, co-insurance, out-of-network, and out-of-state coverage on any covered services. A plan may not drop an enrollee from the plan solely due to the enrollee's participation in a clinical trial.

Impact: SB 39 impacts UT System. It could make it easier for UT System institutions to recruit research participants and lower their research costs. UT System currently voluntarily provides such coverage.

Effective: September 1, 2009

Barbara M. Holthaus

[SB 2423](#) by Deuell and Gonzales Toureilles

Relating to the transfer or sale of patient information or prescription drug history by discount health care programs; providing penalties.

SB 2423 clarifies that a person who provides a discount for health services in return for patient information and drug history information is a discount health plan operator who is subject to registration as a discount plan operator and is subject to sanctions for any acts

taken in violation of the requirements in the Texas Insurance Code for discount health care program operators. It requires discount health care programs to disclose how a program participant's patient information and drug history information accessed through the discount program will be transferred or sold.

Impact: SB 2423 could impact a UT System institution if it operates a discount health care program or if a facility or health care providers at the institution are participating in such a program.

Effective: September 1, 2009

Barbara M. Holthaus

Medicaid and Indigent Health Care

[HB 1966](#) by John Davis, et al. and Nelson

Relating to an e-prescribing implementation plan under the Medicaid and child health plan programs.

HB 1966 directs the Health and Human Services Commission (HHSC) to develop an e-prescribing implementation plan under the vendor drug program for the Medicaid and child health plan programs designed to improve patient safety and standardize electronic prescribing systems. The bill further requires HHSC to: (1) establish e-prescribing standards with which pharmacists, practitioners, pharmacy benefit managers, and health plans that transmit, directly or through an intermediary, prescriptions for Medicaid program recipients and child health plan program enrollees and prescription-related information using electronic media must comply; and (2) establish time frames within which pharmacists, practitioners, pharmacy benefit managers, and health plans must comply with the standards.

Impact: HB 1966 may require in-hospital pharmacies at UT System facilities to comply with the proposed Medicaid e-prescribing requirements. Administrators, business officers, and pharmacists should be aware of this new state initiative and modify policies and procedures as necessary.

Effective: June 19, 2009

Walter Mosher

HB 2963 by Coleman and Patrick

Relating to the authority of a county, hospital district, or public hospital to provide health care services to an indigent patient.

HB 2963 authorizes a county, public hospital, or hospital district to provide health care services to eligible county residents through the purchase of health coverage or other health benefits.

Impact: HB 2963 indirectly impacts UT System health institutions providing health care services to indigent patients through counties, public hospitals, or hospital districts. The purchase of health coverage for indigents could provide payments for currently uncompensated care. Physicians, health care providers, administrators, and business officials should be aware of this new state health care coverage initiative.

Effective: September 1, 2009

Walter Mosher

SB 203 by Shapleigh, et al. and Coleman/Yvonne Davis

Relating to health care-associated infections and preventable adverse events in certain health care facilities.

SB 203 modifies the existing statute requiring the reporting of the incidence of surgical site infections that occur in specified procedures in a general hospital, a health care facility, and pediatric and adolescent hospitals to specifically include the reporting of the causative pathogen if the infection is confirmed by a laboratory.

SB 203 also expands the Texas Health Care-Associated Infection Reporting System and its advisory panel established by the 80th Legislature to now also include the reporting of preventable adverse events. Specifically health care facilities are required to report to the Department of State Health Services (DSHS) the occurrence of preventable adverse events, that are the subject of Centers for Medicare and Medicaid Services (CMS) policy of nonpayment for Medicare health care-associated adverse events and also must report those events on the list of adverse events identified by the National Quality Forum, unless the executive commissioner excludes the event from reporting after consultation with the advisory panel. DSHS is required to make summary information relating to preventable adverse events available to the public just as it does with reported infections; names of facilities at which adverse events occur are not protected from disclosure. SB 203 also explicitly protects state employees and officers from being examined in any proceeding about the existence or contents of any such reports, and published preventable adverse events may not be used to establish a standard of care for a health care facility. For the purpose of public health research and analysis only, DSHS may disclose information about infection rates and adverse events to the Health and Human Services Commission (HHSC) and other health and human service agencies. HHSC must adopt rules relating to the reporting of preventable adverse events by February 1, 2010.

SB 203 further requires the HHSC to adopt rules for denial or reduction of reimbursement under the medical assistance program for preventable adverse events in a hospital setting. The rules must impose the same reimbursement denials or reductions for adverse events as those imposed by CMS rules relating to health care-associated adverse conditions but may also include those identified by the National Quality Forum. Rules relating to denial of payments must be adopted by September 1, 2010, and only apply to adverse events after the effective date of the rules.

Impact: The reporting requirement relating to surgical site infections and preventable adverse events applies to general hospitals maintained and operated by the state, and therefore includes UT System hospitals. Revenue could be affected by reimbursement denials or reductions for preventable adverse events.

Effective: September 1, 2009

Melodie Krane

SB 1645 by Van de Putte and Hopson

Relating to the distribution of a prescription drug and a study of the feasibility of establishing separate reimbursement under the Medicaid vendor drug program for certain pharmacy care management services.

SB 1645 requires the Health and Human Services Commission (HHSC) to conduct a study to evaluate the feasibility of establishing separate reimbursement rates under the Medicaid vendor drug program for pharmacies that provide pharmacy care management services to patients who are administered specialty pharmacy drugs, including drugs indicated for the prophylaxis of respiratory syncytial virus, blood factor, or any other biologic or therapy that requires complex care. Pharmacy care management services include supportive services such as caregiver or provider contact and education, compliance services, and tracking services. HHSC is also required to consult with the Centers for Medicare and Medicaid Services and may consider the adoption of pharmacy care management services reimbursement for pharmacy services adopted by other state Medicaid programs. HHSC must submit a report by September 1, 2010, to the legislature.

Impact: Administrators, business officers, and pharmacists should be aware of this study since its findings and recommendations may affect further pharmacy operations, clinical practices for pharmacists, and reimbursement for pharmacy services provided.

Effective: June 19, 2009

Walter Mosher

SB 531 by Dan Patrick, et al. and Zerwas

Relating to the medical assistance program and to the billing coordination system for claims submitted for payment from the Medicaid program.

SB 531 directs the Health and Human Services Commission (HHSC) to expand its Medicaid billing coordination system, if cost-effective and feasible, to process all claims for health services in addition to acute care services. SB 531 also directs HHSC to provide reimbursement to licensed pharmacists for immunizations they administer under the Medicaid medical assistance program in a manner similar to physicians and other health care providers. Other provisions in SB 531 relate to the state's third-party recovery of payments from other health insurers for medical care provided to their covered patients under the Medicaid medical assistance program.

Impact: Administrators, business officers, and pharmacists should be aware of the new Medicaid reimbursement provisions in SB 531 for immunization services provided by pharmacists.

Effective: September 1, 2009

Walter Mosher

SB 2424 by Deuell and Naishtat

Relating to the authorization of certain nonemergency ambulance services under the Medicaid program.

SB 2424 requires physicians, health care providers, and other responsible parties to obtain authorization (on the same day or following day) from the Health and Human Services Commission when using non-emergency ambulance services for patients covered by the state's Medicaid (medical assistance) program. For use of non-emergency services on more than one day, prior authorization is required.

Impact: SB 2424 impacts UT System health institutions by requiring physicians, health care providers, or administrators to obtain state authorization to transport Medicaid covered patients with an ambulance for non-emergency purposes. Physicians, health care providers, administrators, and business officials should be aware of this new requirement. UT System health facilities should ensure that the appropriate policies are updated to comply with the new statutory requirements.

Effective: June 19, 2009

Walter Mosher

Public Health

[HB 1908](#) by Tracy O. King and Hinojosa

Relating to the safety of the fresh fruit and vegetables produced in this state.

HB 1098 provides that the Texas Agriculture Department must assist the fresh fruit and vegetable industries with food safety issues and may provide assistance to federal agencies in their implementation of voluntary guidelines relating to sound agricultural practices. The department must coordinate, plan, and approve training and awareness programs for producers and packers of fresh fruits and vegetables and is the lead agency for education and training. The department must coordinate the planning and implementation of programs with colleges and universities in this state, the Texas AgriLife Extension Service, the Texas AgriLife Research, the Department of State Health Services, and private industry.

Impact: UT System institutions may be requested to coordinate with the Texas Department of Agriculture concerning food safety programs.

Effective: May 27, 2009

Caren Burbach

[SB 870](#) by Lucio and Castro/Lucio III

Relating to the duties of the interagency obesity council and the Department of Agriculture relating to health, wellness, and prevention of obesity and to the establishment of an obesity prevention pilot program.

SB 870 requires the interagency obesity council (which is comprised of the Commissioner of Agriculture, the Commissioner of State Health Services and the Commissioner of Education, or a staff representative of each) to create an evidence-based public health awareness plan to explore past successful public health awareness efforts. The plan must include a cost estimate that accounts for continuing implementation of the plan, recommendations on reaching populations that would most benefit from increased public health awareness, and recommendations on encouraging employers to participate in wellness programs for employees. SB 870 requires the council to solicit input on the plan from the private sector. It also requires the council to provide to the Department of State Health Services (DSHS) information on effective strategies for employers to use to promote workplace wellness, including information on the projected costs and benefits, and requires DSHS to post the information on its Internet website.

The interagency obesity council is authorized to contract with a private or public university to assist in gathering information related to its duties. An agency represented on the council is authorized to accept gifts and grants on behalf of the council.

SB 870 requires the council's biennial report to include certain information regarding the awareness plan, including its projected costs, goals, and benefits, and recommendations

for future legislation. The bill clarifies the requirement that the council meet at least once each year, but removes the requirement that the council consider the feasibility of tax incentives for employees who promote activities designed to reduce obesity in the workforce.

Lastly, SB 870 directs the Health and Human Services Commission and DSHS to establish a pilot program to decrease the rate of obesity and improve the nutritional choices and physical activity level of child health plan program enrollees and Medicaid recipients, to be implemented for a minimum of 24 months in one or more of the health care regions of the state. The commission must periodically report to the legislature on the pilot program's goals and results and provide a recommendation as to whether the program should be continued or implemented statewide.

Impact: SB 870 does not directly impact UT System or its institutions but may nevertheless be noteworthy because of its subject matter. The provision authorizing the interagency obesity council to contract with public universities to gather data may result in a contract with a UT System institution.

Effective: September 1, 2009

Terence L. Thompson

SB 1526 by Shapleigh and Pickett

Relating to the composition, administration, and duties, including reporting requirements, of the Border Health Institute.

SB 1526 makes adjustments to the Border Health Institute, which was created by the legislature in 1999 in El Paso to facilitate a collaboration of international, national, regional, and local health-related institutions working in the Texas-Mexico border region. SB 1526 removes several entities as Institute members, including The University of Texas Health Science Center at Houston-School of Public Health.

SB 1526 amends the annual reporting requirement to a biennial reporting requirement to reflect the institute's current activity level and requires each member of the institute to provide a long-term strategic plan for that member to each member of the governing board of the institute, each member of the legislature whose district includes any portion of a county in which the institute operates, and the Coordinating Board not later than December 1 of each even-numbered year. The long-term strategic plan must include a statement of the member's goals and objectives for providing health care services and education to persons living in the border region and conducting research into issues affecting public health in the border region, including research related to diabetes, infectious diseases, emerging infections, trauma care, environmental health, children's health, and health issues of particular concern to persons of Hispanic descent.

Impact: SB 1526 removes the University of Texas Health Science Center at Houston-School of Public Health as a member of the Border Health Institute and thus that institution no longer has any duties related to the institute. However, The University of

Texas at El Paso continues to be a member, and thus UTEP should be aware of SB 1526, especially the required long-term strategic plan.

Effective: June 19, 2009

Lannis Temple

Student Vaccinations

[HB 4189](#) by Rose and Watson

Relating to the conduct of compliance programs by institutions of higher education and to the vaccination of students of institutions of higher education against bacterial meningitis.

HB 4189 requires certain students to provide a certificate evidencing that the student has been vaccinated against bacterial meningitis. HB 4189 applies to first-time students, including transfer students, of an institution of higher education who reside in, or have been accepted to reside in, an on-campus dormitory or housing facility at the institution. Pursuant to rules adopted by the Coordinating Board, a student must provide a certificate signed by a health practitioner evidencing that the student has been vaccinated against bacterial meningitis. A student is not required to comply with the vaccination requirements if the student provides an affidavit or a certificate signed by a licensed physician stating that the vaccination would be injurious to the health and well-being of the student or if the student presents an affidavit or certificate signed by the student stating that he or she declines the vaccination for reasons of conscience, including a religious belief, except that the exemption for reasons of conscience does not apply during a public health emergency, terrorist attack, disaster, or extraordinary law enforcement emergency. The Coordinating Board is required to adopt rules for administering this vaccination requirement, including the date by which a student must have received the vaccination, which may not be later than the date the student moves into on-campus housing. The vaccination requirement applies only to first-time students enrolling in institutions of higher education on or after January 1, 2010.

HB 4189 also makes confidential information that directly or indirectly reveals the identity of an individual who makes a report to the compliance program office of an institution of higher education, sought guidance from the office, or participated in an investigation conducted under the compliance program. In addition, it makes confidential information that directly or indirectly reveals the identity of an individual who is alleged to have been involved in activities that are the subject of a compliance program report if, after completing its investigation, the compliance office determines the report to be unsubstantiated or without merit. The above provisions do not apply to information related to an individual who consents to disclosure. Finally, HB 4189 makes confidential information produced in a compliance program investigation if the release would interfere with an ongoing compliance investigation. Information that is made confidential or excepted under this section may be made available to a law enforcement agency or prosecutor for official purposes. "Compliance program" is defined broadly as

a process to ensure compliance by the employees of an institution of higher education with applicable rules, laws, policies and regulations.

Impact: UT System institutions must create a process to notify first-time students who will be living in an on-campus dorm or housing facility of the bacterial meningitis vaccination requirement and to verify that the students have provided either: (1) documentation that they have been vaccinated for bacterial meningitis; or (2) documentation for an exception to the vaccination requirements due to health concerns or personal beliefs.

As for the compliance program investigation exception, UT System and its institutions must protect information that, if revealed, would interfere with an ongoing compliance program investigation and also must protect information that tends to reveal the identity of a person making a report to the compliance office, which may, in some instances, mean that the entirety of the report is confidential. In addition, information relating to the identity of an individual who, after investigation, is cleared of any participation in violating relevant rules, law, policies and regulations is confidential. Given the broad definition of compliance program, the institutions may be able keep confidential information that is the subject of an administrative investigation regardless of whether the investigation is carried out specifically by the compliance office.

Effective June 19, 2009

Neera Chatterjee

[SB 291](#) by Nelson and McReynolds

Relating to hepatitis B vaccination for students enrolled in certain health-related courses of study at an institution of higher education.

SB 291 provides that a rule adopted by the executive commissioner of the Health and Human Services Commission requiring a hepatitis B vaccination for students may apply only to students enrolled at an institution of higher education in a course of study that involves potential exposure to human or animal blood or bodily fluids.

SB 291 requires the executive commissioner to adopt those rules not later than November 1, 2009.

Impact: UT System institutions should monitor the rulemaking of the Health and Human Services Commission to ensure that students who are required to receive the hepatitis B vaccination do so. Rule 50401 of The Regents' *Rules and Regulations* should be amended to reflect the new HHSC rule.

Effective: June 19, 2009

Chuck Johnstone

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Funding

[HB 101](#) by Fred Brown and Uresti

Relating to the formula funding for public institutions of higher education for certain credit hours that do not count toward a degree.

Section 61.0595, Education Code, excludes from the formula funding calculations the credit hours taken by an undergraduate student who already has 30 credit hours more than that required for the student's degree program. Certain credit hours are not counted in determining whether a student has exceeded that limit. HB 101 adds to the list of credit hours not counted toward the limit any hours that are earned by the student before graduating high school and that were used to satisfy high school graduation requirements. HB 101 applies beginning with formula funding for 2011-2012 academic year.

Impact: Beginning with appropriations for the 2011-2012 academic year, an institution will receive formula funding for some credit hours that would otherwise be excluded from formula funding calculations.

Effective: June 19, 2009

Steve Collins

[HB 464](#) by Paxton, et al. and Nelson

Relating to the preparation by the Legislative Budget Board of a dynamic fiscal impact statement for certain bills and joint resolutions affecting taxes and fees.

HB 464 requires the Legislative Budget Board (LBB), the legislative service agency that prepares fiscal notes analyzing the fiscal impact of legislative measures, to also prepare a "dynamic fiscal impact statement" for each measure that raises or lowers a tax or fee and that has a positive or negative impact on state revenue of at least \$75 million a year. The statement is an estimate of the effect of the measure on the pace of economic growth in the state or the change in economic output and income in response to the measure.

Impact: Tuition is considered state revenue for purposes of fiscal notes, and a bill or joint resolution affecting tuition rates will likely require a dynamic fiscal impact statement. As a result, it is likely that beginning with 2011 legislative session, the Legislative Budget Board may request information from System institutions and offices concerning the effect a tuition measure may have on matters such as incentives to work, save, invest, and conduct economic affairs; the resulting change in the overall level of economic activity; and the impact of the resulting higher or lower level of economic activity on receipts and program costs. Generally, student fee measures are not considered to impact state revenue. Accordingly, the LBB is not likely to request additional information on student fee measures.

Effective: September 1, 2009

[HB 4583](#) by Pitts and Ogden

Relating to the creation and re-creation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.

HB 4583 is the biennial omnibus funds clean-up bill, abolishing any special account or special funds created in the state treasury by the 81st Legislature, and any dedications or rededications of revenue in the treasury or collected by a state agency, on August 31, 2009. It exempts dedications required to comply with federal law as well as increases in fees and similar revenue. It also exempts federal funds that are required to have separate accounting, trust funds, bond funds, and constitutional funds.

HB 4583 contains the annual re-enactment of the funds sweep legislation that limits dedications of revenue to the amount actually appropriated and sweeps the balance into the unobligated portion of general revenue.

HB 4583 purports to prevail over any conflicting enactment of the 81st legislature, but exempts from abolition the dedication of the proceeds of some specialty license plates to the cancer research and prevention fund (HB 4064, effective September 1, 2009). Also exempted from abolition is the fund created in SB 1387 (effective September 1, 2009), relating to disposal of carbon dioxide, which has a minimal effect on UT West Texas Lands, and the scholarship trust fund for 5th year accounting students in HB 2440 (effective September 1, 2009).

HB 4583 establishes the American Recovery and Reinvestment Act Fund and exempts it from abolition. Enacted as Section 403.0122, Government Code, the law requires a “state agency” that receives money under ARRA to deposit those funds in the treasury as the comptroller determines is necessary. Money deposited to the credit of the fund may only be used for the purposes identified in the recovery act to stimulate the economy, including aid for unemployment, welfare, education, health, and infrastructure.

Impact: Although HB 4583 is primarily in the nature of a “housekeeping” bill, the provision of HB 4583 establishing the American Recovery and Reinvestment Act Fund has the potential for significant impact on the handling of ARRA funds received by institutions of higher education. Chapter 403, Government Code, in which this fund is created, has no general definition of “state agency.” As a result, it will remain to be determined whether this provision applies to institutions of higher education receiving ARRA funds, but an institution of higher education is generally considered to be a state agency unless expressly excluded. Thus, the law appears to apply to funds received by institutions of higher education, including competitive grant funds. Accordingly, if the comptroller determines it to be necessary, the comptroller may require the deposit of those funds in the treasury.

Effective: June 19, 2009

Steve Collins

[HJR 14](#) by Frank Corte, et al. and Duncan

Relating to proposing constitutional amendments limiting the public taking of private property, establishing the national research university fund to fund emerging research universities, and eliminating the higher education fund.

HJR 14 proposes two constitutional amendments. The first would amend Article 1, Section 17, of the Texas Constitution to prohibit the taking of private property unless the taking, damage, or destruction is necessary for the possession, occupation, and enjoyment of the property by the public at large, by the state or a political subdivision of the state, by an entity granted the power of eminent domain under law, or for the elimination of urban blight on a particular parcel of property. Further, it would require that any new grant of eminent domain power by the legislature receive at least a 2/3 vote of all the members elected to each house.

The second proposed amendment relates to the establishment of the national research university fund to enable increased funding for emerging research universities in this state. This is the funding mechanism to assist more state universities to achieve “tier 1” status. The legislature may dedicate state revenue to the credit of the fund. Also, all funds now in the higher education fund established by Article VII, Section 17(i), of the Texas Constitution would be transferred to the fund. State universities other than UT Austin and Texas A&M University are authorized to receive distributions from the fund according to criteria to be established by the legislature. The eligible state universities could use distributions from the fund only for the support and maintenance of educational and general activities that promote increased research capacity.

Impact: The first proposed amendment would apply to UT System in exercising its powers of eminent domain.

The second proposed amendment might significantly benefit UT System institutions by assisting one or more institutions to achieve tier 1 status. Currently, only UT Austin is a tier one institution.

Effective: Upon approval by the voters at a general election to be held November 3, 2009

Mark E. Bentley

[SB 638](#) by Nichols/Ellis and Flynn, et al.

Relating to the collateralization of certain public funds; providing administrative penalties.

Under existing law, a “public entity” depositing funds with financial institutions in excess of Federal Deposit Insurance Company insurance limits must receive a pledge of securities having a market value greater than their deposits; each entity is required to have its deposits collateralized individually, even if a financial institution holds several

different deposits belonging to an entity. As an alternative to individual collateralization, SB 638 authorizes the comptroller to provide for centralized pooled collateralization. Participation by financial institutions and by the public entities whose funds are on deposit is voluntary. In theory, pooled collateral lowers the cost to the financial institution of holding public funds because under individual collateralization the financial institution must pledge securities to cover a public entity's highest deposit levels. The comptroller is to adopt rules establishing the pooled collateral program not later than April 1, 2010. Several other states have also adopted pooled collateral laws.

Impact: Because of drafting ambiguities, it is not clear that an institution of higher education may participate in a pooled collateral program. Chapter 2257, Government Code, the law amended by SB 638, does not define "public funds." Rather, the law defines "public entity," "public agency," and "state agency," and distinguishes among the three. Institutions of higher education are expressly included as a "public agency," but expressly excluded as a "public entity." "Public agency" is used in existing law primarily to include a broad array of public bonds that qualify as investment securities for use as collateral; the remainder of the current law governing deposits and collateralization does not govern institutions of higher education, as it applies to "public entities."

SB 638 references participation by "each affected public entity" to be voluntary (Section 2257.102(d)(1)). However, other provisions reference "a binding collateral security agreement with a public agency for deposit of public funds" (Section 2257.103(1)) and "a daily report of the aggregate ledger balance of deposits of public agencies participating..., with each public entity's funds held itemized" (Section 2257.105(a)(1)). It would appear the drafter took as synonymous two terms ("public agency" and "public entity") that in fact have very different meanings in the law at issue.

The ambiguity as to whether the legislature intended to permit institutions of higher education to participate may offer the opportunity for UT System institutions, including UTIMCO on behalf of System institutions, to participate if it is determined to be advantageous. If that is the case, System finance officers should closely monitor the proposed rules of the comptroller of public accounts.

Effective: September 1, 2009

Steve Collins

[SB 1515](#) by Watson and McCall, et al.

Relating to a major events trust fund, a motor sports racing trust fund, and an events trust fund for sporting and non-sporting events.

Before the enactment of SB 1515, the Sporting Event Trust Fund, Motor Sports Racing Trust Fund, and the Other Events Trust Fund existed to assist local governments in recruiting or retaining events that are actively being recruited by other states. The programs authorized a portion of state tax revenue generated by an event to be returned to the city or county that hosted the event to assist in paying expenses incurred in connection with the event.

SB 1515 renames the “Other Events Trust Fund;” renames the “Sporting Event Trust Fund;” expands the purpose of the specified funds from sporting or athletic events to sporting or non-sporting games or events; and modifies application and reimbursement procedures for the newly named “Major Events Trust Fund” and “Events Trust Fund.” In addition, the bill removes certain population criteria for the Motor Sports Racing Trust Fund and the Events Trust Fund.

Major Events Trust Fund: SB 1515 renames the “Other Events Trust Fund” the “Major Events Trust Fund” and allows the comptroller to adopt rules necessary to implement the provisions relating to the fund. For the Major Events Trust Fund, SB 1515 provides that a county and municipality can be an endorsing county or endorsing municipality, respectively, without an event site chosen by a site selection organization if the county or municipality is in the market area for the event as designated by the comptroller and the county or municipality is a party to an event support contract. SB 1515 provides that for an event to be eligible for funding from the Major Events Trust Fund, a site selection organization must choose a Texas site after a highly competitive process in which one or more out-of-state sites are considered, the chosen Texas site is the sole site for the event, and the event is not held more than once a year. It also specifies certain duties of the comptroller related to Major Events Trust Fund events.

SB 1515 also adds provisions that apply only to an event that the comptroller determines will generate at least \$15 million in state and local tax revenue. The bill authorizes the comptroller and one or more endorsing municipalities or counties to enter into an agreement to provide for one or more endorsing municipalities or counties to remit to the comptroller a specified local contribution to be deposited into the Major Events Trust Fund before the event. It also prescribes procedures relating to funding the event.

Events Trust Fund: SB 1515 also renames the “Sporting Event Trust Fund” the “Events Trust Fund,” removes the population requirement for a county or municipality to be an endorsing county or municipality, and authorizes the comptroller to adopt rules to implement provisions related to this fund. It provides that a site selection organization is any entity that conducts or considers conducting an eligible event in Texas. An event is eligible for the Events Trust Fund if a site selection organization chooses a Texas site after a highly competitive process in which one or more out-of-state sites are considered, the chosen Texas site is the sole site for the event or is the sole site in a region composed of Texas and one more adjoining states, and the event is not held more than once a year in Texas or an adjoining state. It also prescribes procedures relating to funding the event.

Motor Sports Racing Trust Fund: For the Motor Sports Racing Trust Fund, SB 1515 removes the 1 million population requirement for a county or municipality to be an endorsing county or municipality of a selected site for an event under this fund.

Impact: Under SB 1515, “events” include, among many other happenings, a NCAA Final Four tournament basketball game, a Bowl Championship Series collegiate football game, a national collegiate championship of an amateur sport recognized by the United States Olympic Committee, and various Olympic activities, including feeder

programs sanctioned by the USOC. Therefore, the changes to existing law made by SB 1515 may be of interest to UT System and its institutions.

Effective: September 1, 2009

Terence L. Thompson

Purchasing and Construction

[HB 432](#) by Lucio III, et al. and Estes

Relating to the acquisition by state agencies of low-emissions vehicles and vehicles using alternative fuels.

HB 432 makes various changes to the provisions of Chapter 2158 of the Government Code requiring the state agencies subject to that chapter to purchase passenger vehicles that meet low-emissions standards and use alternative fuels. For example, HB 432 ensures that those vehicles actually use (and are not merely capable of using) various alternative fuels, and expands the list of those vehicles to include plug-in hybrid motor vehicles and those that use biodiesel and biodiesel/diesel blends.

Impact: HB 432 will not affect UT System Administration and institutions to the extent that UT System procures passenger vehicles under the “best value” procurement authority granted to Texas institutions of higher education. The “best value” procurement authority permits institutions to procure goods and services without being required to comply with Chapter 2158 of the Government Code.

Nevertheless, UT System Administration and institutions purchase and maintain vehicles, and as a result may decide to voluntarily comply with the requirements of Chapter 2158 as modified by HB 432. Therefore, the offices that procure vehicles should be aware of the changes to Chapter 2158 that are made by HB 432.

Effective: September 1, 2009

Scott A. Patterson

[HB 2521](#) by Pickett, Solomons (Senate Sponsor - West)

Relating to a preference in state purchasing for certain media-related services offered by businesses based in Texas.

HB 2521 revises Chapter 2155 of the Government Code to require the comptroller and those state agencies subject to Chapter 2155 to give preference to a commercial production company or advertising agency located in Texas if the comptroller or state agency conducts an advertising campaign that includes the procurement of the creation or production of a commercial. HB 2521 provides the Governor’s Music, Film, Television,

and Multimedia Office with exclusive rulemaking authority for purposes of: (1) determining when advertising campaigns undertaken by the comptroller or state agency are subject to the new preference; and (2) establishing the bidding requirements that the comptroller or state agency must follow when the new preference is applicable.

Impact: The “best value” procurement authority granted to institutions of higher education under Sections 51.9335, 73.115, and 74.008 of the Education Code states that, except as provided by those Sections, Texas institutions of higher education are not required to acquire goods or services as provided by Chapter 2155 of the Government Code. Therefore, to the extent that UT System or one of its institutions procures the creation or production of a commercial in accordance with the “best value” procurement authority, the changes made by HB 2521 do not directly apply. Nevertheless, UT System or an institution may wish to voluntarily comply with HB 2521 in the event of the procurement of services involving the creation or production of a commercial.

Effective: September 1, 2009

Scott A. Patterson

SB 1796 by Zaffirini and Castro

Relating to the approval of certain construction, repair, or rehabilitation projects at public institutions of higher education in this state.

SB 1796 amends Section 61.058, Education Code, to increase the threshold value for Coordinating Board review of a construction project from \$1 million for new projects and \$2 million for renovation projects to \$4 million for each. SB 1796 also allows the Coordinating Board to increase the threshold review amount in the future to insure that it only approves “substantial” projects.

Impact: The changes will reduce the amount of oversight required for the construction of new and renovation projects under \$4 million.

Amendments to the Regents’ *Rules and Regulations* are proposed for the August board meeting that would adjust the definition of “minor projects” (currently \$1 million new and \$2 million renovation) to raise them to the new \$4 million threshold. Minor projects are approved for management at the institutional level.

Effective: September 1, 2009

Edwin Smith

SB 2381 by West and Dukes

Relating to the fee charged for registration on the master bidders list.

Chapter 2155 of the Government Code requires the comptroller to maintain a centralized master bidders list of each vendor that registers to do business with the state. SB 2381

authorizes the comptroller to charge \$20 to each of those registrants, and to use those charges to enforce state purchasing statutes and the prevention of fraud in the historically underutilized business (HUB) program.

Impact: It does not appear that UT System and its institutions will be directly affected by SB 2381, since the “best value” procurement authority granted to institutions of higher education as set forth in Sections 51.9335, 73.115, and 74.008 of the Education Code states that such institutions are not required to acquire goods or services as provided by Chapter 2155 of the Government Code. However, the procurement offices at UT System and its institutions should be made aware of SB 2381.

Effective: June 19, 2009

Scott A. Patterson

Emergencies and Disasters

HB 1831 by Frank Corte, et al. and Carona

Relating to disaster preparedness and emergency management and to certain vehicles used in emergencies; providing a penalty.

HB 1831 makes numerous changes to Chapter 418 of the Government Code pertaining to emergency management. The definition of “disaster” is modified to add “extreme heat” to the list of occurrences that may require emergency action. The required training in emergency preparedness, response, and recovery is redirected to be mandatory for elected law enforcement officers, county judges, and appointed public officers of the state and political subdivisions whose duties involve management or supervision that include emergency management.

Amendments clarify that the governor’s emergency management council (council) will be composed of representatives (not the actual head) of the various organizations, including state agencies, and that those representatives, designated by the head of each entity selected, will assist the Governor’s Division of Emergency Management (division) in responding to major emergencies by identifying, mobilizing and deploying state resources. HB 1831 permits the establishment of a database of public facilities that may be commandeered by the governor to shelter individuals during a disaster as part of the state’s emergency management plan. It requires the division to develop an “annex” to the state emergency management plan that addresses initial response planning for providing population support supplies, equipment, and services during the first five days immediately following a disaster. The goals of these additional provisions in the state emergency plan are wide ranging and include maintaining operations of hospitals and other critical facilities; plans for the clearance of debris from major roadways; interagency coordination of disaster response efforts; development of prearranged contracts for food, water, and ice for disaster victims; methods for providing basic medical support for disaster victims, including medical supplies and pharmaceuticals;

and, provisions to provide emergency or backup power to restore or continue operation of critical water and wastewater facilities following a disaster. The division is directed to develop these supplemental provisions of the state emergency plan in cooperation with a wide range of entities including volunteer groups, local governments, the emergency management council, health and medical facilities, FEMA, and private sector partners. The division is also authorized to direct, oversee, and approve a supplement to the state emergency management plan developed by the Department of State Health Services providing for health standards and operational requirements for short-term and long-term emergency shelters operated with state funds or receiving state assistance. The division is also directed to oversee and approve planning for emergency personnel surge capacity during disasters that is required of each regional planning agency established under Chapter 391, Local Government Code. Under this law, the Department of Agriculture and the Texas Animal Health Commission, in cooperation with the Division, are directed to develop an agriculture emergency response plan as an annex to the state emergency management plan. The plan must include information relevant to an all-hazards approach to agricultural disaster management. The Department of Agriculture and the Texas Animal Health Commission are required to issue an annual report to the legislature that includes this emergency response plan.

HB 1831 expands the powers and duties of the division by directing it to require the integration of volunteer groups into emergency management plans and establish a liability awareness program for volunteers, including medical professionals. Under this law, the division is authorized to organize, train, and equip a group of disaster reservists to temporarily augment its staff. This cadre of reservists may be activated to support recovery operations after a disaster or major emergency. Certain laws relating to the state classification system, the procurement of professional and consulting services, and state purchasing, construction, HUB, and other related statutes, do not apply to a disaster reservist.

The division is required to develop a phased reentry plan, including a reentry credentialing process, for areas previously evacuated because of a disaster or threat of disaster. The reentry plan is to provide local emergency management directors with flexibility to make adjustments to the plan to accommodate varying circumstances. The division is directed to consult with affected parties in the development of the reentry credentialing process. The division is also authorized to request any state agency, political subdivision or interjurisdictional agency to perform a postdisaster evaluation, including the identification of areas for improvement, and issue a report of the evaluation.

This law establishes a Communications Coordination Group to facilitate interagency communications support and planning during an emergency. The Communications Coordination Group members are selected by the division. This law identifies twenty-three types of entities, including several specific state agencies, that are required to be represented on this committee.

Under existing law, an “emergency management director” is the presiding officer of the governing body of an incorporated city or a county, or the chief administrative officer of a joint board. These officials are authorized to exercise the authority granted to the

governor on behalf of their political subdivision during emergency situations. HB 1831 clarifies that persons other than emergency management directors may not seize or use resources of a state or federal agency without prior authorization from the division or the agency responsible for those resources. HB 1831 also expands the current license portability provisions to include persons requested to perform work by state agencies under the Texas Statewide Mutual Aid System, not just local governmental entities. This means that under the new law, a person holding a license, certificate, permit, or other professional qualification who is requested to perform work by a state agency under the mutual aid system after an emergency or disaster is considered duly licensed or certified in the political subdivision in which the service is provided. HB 1831 also allows an agency of the state to request funding from the disaster contingency fund to purchase property insurance covering facilities of the state as required to qualify for federal disaster assistance funds.

HB 1831 authorizes the governor or a county judge or mayor of an area stricken or threatened by a disaster to compel persons to leave an area that is subject to an evacuation order. A county judge or mayor who issues such an order may authorize the use of reasonable force to remove persons from the area. A person who knowingly ignores a mandatory evacuation order may be civilly liable to a governmental entity or non-profit agency cooperating with a governmental entity for the person's rescue. The mandatory evacuation provisions do not apply to persons authorized to be in an evacuated area, including those persons acting in compliance with the phased reentry program.

HB 1831 directs the Department of State Health Services to establish a public education program relating to disaster and emergency preparedness under rules developed by the executive commissioner of the Health and Human Services Commission.

Entities responsible for the care of individuals with special needs are directed to develop and distribute information to the public regarding how to volunteer in connection with a disaster. The division is directed to provide information concerning how volunteers can be identified and trained to help all persons, including those with special needs and those in assisted living facilities. Licensed nursing homes and assisted living facilities must register with the Texas Information and Referral Network to assist the state in identifying persons needing assistance evacuating in a disaster or other emergency. These licensed facilities are also required to notify each resident's next of kin or guardian regarding how to register for evacuation assistance under the Texas Information and Referral Network. HB 1831 directs the division to issue a report to the legislature not later than 30 days after September 1, 2009, regarding the implementation of medical special needs plans in connection with Hurricane Ike, including identification, evacuation, transportation, shelter, care, and reentry during the period ending on the 30th day after the conclusion of the disaster. The Department of State Health Services must cooperate in the preparation of the report.

HB 1831 authorizes the governor to waive the waiting period for disaster unemployment assistance benefits under certain circumstances. Governmental entities with charge and control of a "critical governmental facility" must equip the facility with a "combined heating and power system" during construction or extensive renovation if the expected

energy savings of the system exceed the expected costs. The term “critical governmental facility” includes those facilities owned by the state or a political subdivision that are continuously occupied, maintain peak operations for at least 6,000 hours each year, and have a peak electricity demand exceeding 500 kilowatts and includes hospitals, biological research facilities, hazardous waste storage facilities, communications or data centers, food preparation or storage facilities, water or wastewater facilities, police or fire protection facilities, command and control centers, shelter, and prisons or jails. The term “combined heating and power system” is basically defined as an on-site system that is capable of providing all of the electricity and thermal energy that the facility needs for at least a 14-day period. The Public Utility Commission (PUC) is authorized to require electric utilities (including co-ops and municipally owned), generation companies, and power marketers (companies) to sell electricity and provide interconnection services to other companies to meet customer demand if the company seeking to purchase is unable to meet its customer demand because of a natural disaster or other emergency. The PUC must conduct a wide-ranging study of the capacity of electric companies to comply with such directives as authorized by HB 1831 and to issue a report that includes recommendations for the implementation of the changes in law. The PUC’s study must be completed not later than June 1, 2010.

The Department of State Health Services (DSHS) must establish a public health extension service pilot program in Health Service Region 11 (South Texas) for the purpose of supporting local public health and medical infrastructure, promoting disease control and medical preparedness, and enhancing biosecurity. HB1831 provides additional, broad program objectives that DSHS may achieve in the development of this pilot program, and specifically provides that “the department may contract with the Texas A&M University System or the University of Texas System or both to implement or administer the program.” The program is scheduled to expire on September 2, 2011. The department is directed to report to the governor, lieutenant governor, and speaker of the house of representatives on the program not later than December 1, 2010. The report is to include recommendations for continuing or expanding the program to other regions of the state.

HB 1831 also allows “emergency services personnel” to take compensatory time accrued during a disaster as time off for a period of 18 months after the week such time was accrued. The change in law also allows the administrative head of each state agency the discretion to pay the employee for all or part of the compensatory time. Such pay would be calculated at the employee’s regular hourly salary rate. A state employee who fits the definition of emergency services personnel (firefighters, police, peace officers, emergency medical technicians, emergency management personnel, and others required to provide services to the public during emergency situations) is entitled to reimbursement of actual expenses of lodging when no rooms are available at the state rate.

The Supreme Court of Texas is authorized to modify or suspend procedures of conduct of any court proceedings affected by a disaster declared by the governor. These amendments also provide contingency authorization should the supreme court be unable to act due to a disaster.

HB 1831 also establishes a registry of persons providing school safety or security consulting services to a school district or institution of higher education. The term “school safety or security consulting services” is defined broadly. The registry is for informational purposes only.

Institutions of higher education are required to develop, adopt, and implement a multihazard emergency operations plan for use at the institution. The plan must address mitigation, preparedness, response, and recovery and must provide for employee training in responding to an emergency; mandatory drills for students, faculty and employees; measures to ensure coordination with DSHS, local emergency management agencies, law enforcement, health departments, and fire departments; and, implementation of the routine audit required by the new law. The safety and security audit must be conducted once every three years and should follow the procedures developed in consultation with the division. The results of the audit must be reported to the institution’s board of regents and the division. The new law anticipates an annual review of the established plan. The law restricts the documents concerning the plans that are subject to disclosure under the public information law.

HB 1831 establishes a new “University of Houston Hurricane Center for Innovative Technology” at the University of Houston, and hosted by the university’s College of Engineering. The purpose is to promote research, education, and training for the development of products and technologies to mitigate wind and structural damage in the built environment and offshore structures caused by hurricanes in the Gulf of Mexico and to develop protocols for the fast and efficient recovery of the public and private sectors, including utilities, hospitals, industry, and local communities following a hurricane.

Finally, HB 1831 requires public junior colleges to establish a multihazard emergency operations plan and conduct safety and security audits.

Impact: The primary, direct impact is the requirement for each UT System institution to establish a multihazard emergency operations plan and perform safety and security audits. Several of the short-term and long-term emergency planning mandates in HB 1831 relate specifically to the operation of hospitals, and UT health institutions will be directly affected by the outcome of those planning decisions. Similarly, the disaster reentry plan to be developed under HB 1831 will impact the institutions. Should the university police departments be called upon to enforce the reentry plans or the evacuation plans, the newly authorized use of reasonable force and civil liability standards in this bill are important to evaluate and implement. Changes in employee benefits, including the potential waiver of the waiting period for unemployment benefits, and the use and payment of compensatory time and travel reimbursement may have an operational impact. The new provisions relating to combined heating and power systems will impact certain future design and construction projects of UT System institutions.

Effective: September 1, 2009

Mark Gentle

[HB 4102](#) by Eiland/Guillen and Carona/Lucio

Relating to the disaster contingency fund and relief for school districts located in a disaster area.

HB 4102 changes the law governing the disaster contingency fund. Prior law limited expenditures of that fund to the extraordinary costs incurred implementing preventative measures taken before or during an emergency and costs incurred in repairs for which the presiding officer of a municipality or county has declared an emergency and for which the governor has declared an emergency. HB 4102 allows any state or local governmental entity that participates in disaster preparation or disaster recovery to request and receive funding for any costs incurred in preparing for or recovering from a disaster.

In addition, HB 4102 requires a state or local governmental entity that receives money from the disaster contingency fund to reimburse the fund with any money received from the federal government for the same costs. The governor's emergency management division is to prescribe accounting and other procedures necessary for implementation of the reimbursement requirement.

HB 4102 contains many other provisions that are limited in effect to school districts and other local governmental entities and that have no effect on UT System or its institutions.

Impact: HB 4102 simplifies the standards to qualify for, receive, and expend disaster contingency fund awards, and UT System and its institutions will be eligible under the simplified standards.

Effective: June 19, 2009

Steve Collins

[HB 4409](#) by Taylor, et al. and Mike Jackson

Relating to emergency preparation and management.

HB 4409 revamps the purpose, scope, administration, regulation, and financial structure of the Texas Windstorm Insurance Association (TWIA). HB 4409 directs the Texas Department of Insurance to develop incentive programs to encourage authorized insurers to write insurance on a voluntary basis and to minimize the use of TWIA as a means to obtain windstorm and hail insurance. The revisions allow TWIA to fund policy losses through a combination of assessments on member insurers, issuance of public securities, and development of rates using recognized catastrophe models and flexible rating plans. To be eligible for new or renewal insurance coverage through TWIA on and after September 1, 2009, the applicant must have received at least one declination of coverage from an authorized insurer writing property insurance, including windstorm and hail coverage in the first tier coastal counties. The term "declination" is only generally defined, but incorporates the definition of that term contained in the TWIA plan of operations. Another new eligibility criterion is the requirement for applicants to show proof of flood insurance, or proof that such coverage is unavailable. HB 4409 establishes

a windstorm legislative oversight board composed of eight members, four from the senate and four from the house of representatives. This board is directed to monitor windstorm insurance issues in the state including rates, the operation of TWIA, and the availability of coverage.

HB 4409 also amends Chapter 418 of the Government Code by exempting state and local employees and volunteers from liability when they are working at the direction of a state or local government official in an activity relating to sheltering or housing individuals being evacuated from an area stricken or threatened by a disaster. It also adds new Chapter 2311, Government Code, relating to combined heating and power systems, identical to that found in HB 1831 (generally effective September 1, 2009).

Impact: As a policyholder of TWIA, HB 4409 directly impacts UT System. It is designed to move windstorm and hail insurance coverage away from TWIA and toward the voluntary market. The expectation should be that rates in the voluntary market may be substantially higher than current TWIA rates. The issue to be examined is whether an unreasonable rate quote from an insurer in the voluntary market will be considered a declination under the TWIA plan of operations as modified to implement HB 4409. Without such protection, unfair and anticompetitive practices could arise in this market.

Effective: June 19, 2009, except that certain provisions take effect September 1, 2009

Mark Gentle

[SB 347](#) by Nelson and Kolkhorst/John Davis

Relating to the receipt and release of immunization information by the immunization registry in connection with a disaster; providing penalties.

Under previous authority, the Department of State Health Services developed a state immunization registry as an initiative to increase vaccination coverage for children. It is a confidential registry designed to consolidate immunization records from multiple providers and electronically store immunization histories in one secure central system. With parental consent, the registry receives childhood vaccination information from health care providers across the state including Women, Infant and Children (WIC) clinics, Medicaid, and health plans. Upon registration, immunization histories are available to physicians and other health care providers, schools, licensed child-care facilities, local health departments, select state agencies, and payors.

SB 347 amends the confidentiality provisions of the immunization registry to address a disaster contingency by authorizing the state to release immunization data to local and out-of-state health officials where residents will evacuate or relocate. SB 347 also provides for intra-state cooperation agreements for sharing immunization data without parental consent for the limited purpose of immediate access during disaster recovery efforts.

Impact: SB 347 does not directly affect UT System academic and health institutions. However, UT System health care facilities and providers should be aware that vaccination data for children may be available in the immunization registry during times of disaster recovery.

Effective: September 1, 2009

Walter Mosher

[SB 476](#) by Nelson, et al. and Donna Howard, et. al.

Relating to staffing, overtime, and other employment protections for nurses.

Legislative findings regarding the affect of nurse staffing on the improvement of patient outcomes and nurse satisfaction with the practice environment form the basis of SB 476.

With regard to staffing, SB 476 requires the governing boards of general and special hospitals, specifically including those operated by the state, and licensed mental hospitals to:

- Establish a nurse staffing committee as a standing committee of the hospital. At least 60 percent of the members of the committee must be registered nurses who provide direct patient care at least 1/2 of their work time and who have been selected by their peers who also provide direct care at least 1/2 of their work time. The chief nursing officer is a voting member of the committee. Work on the committee is part of the employee's work time. Meeting on at least a quarterly basis, the committee is to develop and recommend a nurse staffing plan, address staffing concerns, identify outcome measures for evaluating the effectiveness of the official nurse staffing plan, and submit a report at least annually to the hospital's governing body on nurse staffing and patient care outcomes.
- Adopt, implement, and enforce a written nurse staffing policy and plan to ensure that an adequate number and skill mix of nurses are available to meet patient needs, with significant consideration given to the plan developed by the hospital's nurse staffing committee. The plan must reflect current standards, set minimum staffing levels, provide a means of adjusting the staff plan, and include a contingency plan. The hospital must use the nurse staffing plan in setting the nurse staffing budget and in guiding nurse assignments. The hospital must provide the official staffing plan levels and current staffing levels to nurses on each patient care unit for each shift.
- Report data to the Department of State Health Services annually regarding the existence of its nurse staffing policy, the nurse staffing committee, and its evaluation of the nurse staffing plan. This information is public information.

With regard to mandatory overtime, SB 476 prohibits a general or special hospital, specifically including those operated by the state, and licensed mental hospitals from:

- requiring a nurse to work mandatory overtime except in certain emergency or disaster situations; or
- using on-call time as a substitute for mandatory overtime.

Despite these prohibitions, a nurse may volunteer to work overtime. The above prohibitions do not apply in the event of disaster, emergency declaration, an emergency, or an unforeseen event that cannot be predicted, or if the nurse is actively engaged in an ongoing medical or surgical procedure and the presence of the nurse is necessary to ensure patient safety and health. In the event of an unforeseen event or emergency, a hospital is to make a good faith effort to use voluntary overtime, agency nurses or per diems, floats, or off-duty employees.

A hospital may not suspend, terminate, or otherwise discipline or discriminate against a nurse who refuses to work mandatory overtime.

SB 476 amends the nurse licensing statutes so that nurses who refuse to work mandatory overtime are protected from claims of patient abandonment or neglect.

The executive commissioner of the Health and Human Services Commission is to adopt rules to implement SB 476, but rewriting of current rules relating to nurse staffing are not required, except to the extent of conflict with the bill.

Impact: Hospitals, including those operated by the state, and licensed mental hospitals are required to establish nurse staffing committees and to adopt written nurse staffing policies. Mandatory overtime for nurses is prohibited, and the refusal of a nurse to work mandatory overtime may not be grounds for a hospital to discipline or discriminate against a nurse. UT System health institutions should be aware of SB 476 and should make changes to their policies and procedures accordingly.

Effective: September 1, 2009

Melodie Krane

[SB 1409](#) by Shapleigh and McReynolds

Relating to the definition of first responder for purposes of the immunization registry.

SB 1409 expands the definition of “first responder” to include any federal, state, or private person who may respond to a disaster, including any public health and safety personnel, commissioned law enforcement personnel, emergency medical services personnel, including hospital emergency facility staff, and any other worker who responds to a disaster in the worker’s scope of employment, or any related personnel who provide support services during the prevention, response, and recovery phases of a disaster.

Impact: Individuals from a broad spectrum of emergency related workers, including public health personnel and emergency health care providers and hospital

emergency staff whose scope of employment would include responding to a disaster, can be included in the immunization registry thereby increasing their possible medical protection. This would include several groups of individuals at UT System institutions.

Effective: June 19, 2009

Chuck Johnstone

[SB 1474](#) by Nichols and McReynolds

Relating to compensation for certain emergency services personnel.

SB 1474 allows FLSA-exempt emergency services personnel to take compensatory time off during the 18-month period following the end of the workweek in which they accrued compensatory time. SB 1474 also allows the head of the employee's state agency to instead pay the employee overtime at the employee's regular hourly rate for some or all of the compensatory time hours accrued during a declared disaster that occurred the preceding 18-month period. Any of these hours for which the employee is paid will reduce the employee's compensatory time balance by one hour. Finally, SB 1474 defines "emergency services personnel" to include police officers, other peace officers, EMTs, emergency management personnel, and others whose job requires them to provide services for the benefit of the general public during emergency situations.

Impact: First, SB 1474 requires each institution and System Administration to identify, to the extent possible, their employees who constitute "emergency services personnel." Next, SB 1474 requires each institution and System Administration to amend their Handbooks of Operating Procedures provisions and/or applicable internal policies regarding the FLSA and overtime payments to account for this new exception. In addition, SB 1474 requires System Administration to amend INT113 (FLSA - Overtime). SB 1474 may also require each institution and System Administration to devise new time accounting procedures to ensure that emergency services personnel are eligible to accrue compensatory time even if they are otherwise exempt from the FLSA's overtime provisions. Finally, each institution and System Administration may wish to develop policies to determine the circumstances in which eligible emergency services personnel will be paid for their compensatory time accrued, rather than afforded compensatory time off.

Effective: September 1, 2009

Omar A. Syed

[SB 2298](#) by Watson and Farabee

Relating to compensation of certain state employees.

SB 2298 makes several changes to the manner in which employees are compensated for their service during natural disasters, declared emergencies, and other extraordinary circumstances.

First, SB 2298 authorizes an institution of higher education to offer a one-time merit payment to an employee if the institution's chief administrative officer determines in writing that the payment relates to the employee's performance during a natural disaster or other extraordinary circumstance. An institution may offer these rewards even if the employee has received another merit payment within the last six months. Notably, an institution may offer these rewards to current employees whom it has employed for a total of six months, even if those six months do not immediately precede the payment.

Second, SB 2298 authorizes, but does not require, a government employer to pay any employee (whether exempt or non-exempt under the Fair Labor Standards Act (FLSA)) for compensatory time the employee accrues when the employee totals more than 40 hours worked, holiday hours, and/or other paid leave hours in a workweek due to work related to a disaster or federally- or state-declared emergency. Before the employee may be paid for that compensatory time, approval must be obtained from the agency's administrative head.

Third, SB 2298 allows a state employee to accumulate state compensatory time off for work performed during a calendar week at the employee's personal residence if the employee obtains advance approval from the administrative head of the employee's agency.

Impact: SB 2298 requires each UT System institution and System Administration to amend their criteria for the granting of one-time merit increases. These amendments should be made to a Handbook of Operating Procedures provision or another applicable internal policy regarding the granting of those increases. When crafting these amendments, an institution should clarify whether an employee will be eligible for the increase even if the employee has not been employed for the immediately preceding six months, but rather, for a total of six months. The institution may also wish to describe the level or quantity of performance that will justify the granting of an increase in disaster or emergency situations.

In addition, each UT System institution and System Administration should consider whether to amend their Handbook of Operating Procedures provisions or applicable internal policies regarding the FLSA and overtime payments to account for the new authority to pay employees for overtime worked during a disaster or other emergency situation. If the answer is yes, SB 2298 may require each institution and System Administration to devise new accounting procedures to pay employees, or give them the choice to be paid, for compensatory time they accrue in these situations.

Finally, each UT System institution and System Administration should determine whether to allow employees to accrue state compensatory time for hours worked at the employee's personal residence. An institution that wishes to allow it should amend its Handbook of Operating Procedures provisions or internal policies regarding state compensatory time and telecommuting to permit employees to accrue state compensatory time with advance approval from the institution's president or designee.

Effective: June 19, 2009

Omar A. Syed

Workers' Compensation

[HB 2547](#) by Giddings and Deuell

Relating to the use of a description of employment in determining the safety and appropriateness of a return to employment by an injured employee.

HB 2547 adds a new section (Section 408.0221) to the Texas Workers' Compensation statute which requires an employer, upon request from the injured employee's treating doctor, to provide to the treating doctor a specific description of the scope, tasks, and duties of the injured employee's job before the injury.

HB 2547 further requires the Commissioner of Workers' Compensation to prescribe a form to be used by the employer to provide this information.

Impact: HB 2547 provides for a new form for the employer to transmit information to the employee's treating doctor about the injured employee's job before the injury.

The human resources department of each UT System institution should be aware of HB 2547 and should be prepared to provide the requested information.

Effective: September 1, 2009

Jack C. O'Donnell

[HB 4290](#) by Smithee and Duncan

Relating to retrospective utilization review and utilization review to determine the experimental or investigational nature of a health care service.

Utilization review is a process whereby an insurance plan or other third party claims payor determines if a claim for medical treatment is medically necessary and therefore covered by a health insurance plan or a workers' compensation plan. HB 4290 expands the rights available under the Texas Insurance Code to a patient or provider to appeal a denial of a claim for proposed health services (preauthorization) to an independent reviewer by extending that right to utilization reviews that are conducted by a payor after the services have been provided (a "retrospective review"). It also provides that a patient is entitled to an independent review if a claim is denied on the grounds that the treatment that is proposed or has been provided is experimental or investigational in nature. HB 4290 applies only to plans issued or renewed on or after January 1, 2010.

Impact: The UT System workers' compensation plan will be required to comply with these new requirements to the extent that it conducts retrospective claims reviews.

This may increase costs to the plan. Physicians employed by UT System institutions may find it easier to get claims paid by insurers who conduct retrospective reviews.

Effective: September 1, 2009

Barbara M. Holthaus

Information Resources

[HB 1705](#) by Geren and Ellis

Relating to the Department of Information Resources, including the abolition of the telecommunications planning and oversight council, the electronic commerce network, and the electronic procurement marketplace and standards for certain school district software.

HB 1705 makes extensive changes to Texas law regarding information technology planning and oversight, electronic commerce, and procurement. The changes with potentially the greatest anticipated impact to UT System and its institutions include the following:

- HB 1705 abolishes the Telecommunications Planning and Oversight Council established in Chapter 2054 of the Government Code and transfers that council's statutory duties to the Department of Information Resources (DIR).

Impact: The Telecommunications Planning and Oversight Council has included a member representing the interests of institutions of higher education. Since that council is abolished by HB 1705, UT System may need to find other means to ensure that its interests in telecommunication planning and oversight are addressed.

- HB 1705 repeals Chapter 2177 of the Government Code addressing electronic commerce undertaken by the state. The repeal of Chapter 2177 may affect certain electronic procurement systems established and managed by the comptroller and DIR.

Impact: Before its repeal, Section 2177.005 of the Government Code provided that institutions of higher education may, but are not required to, participate in any electronic systems established under Chapter 2177 of the Government Code. However, UT System and UT System institutions may have voluntarily chosen to use those systems when procuring goods and services. As a result, if HB 1705's repeal of Chapter 2177 affects the existence or functionality of those systems, UT may be required to identify other ways to implement and use electronic systems in support of procurement activities.

- HB 1705 repeals the authority for DIR and the comptroller to implement an online travel reservation and ticketing capability system for use by state agencies that participate in the comptroller's contracts for travel services.

Impact: Section 2171.055 of the Government Code currently provides that Texas institutions of higher education are only required to participate in the comptroller’s contracts for travel agency services or other travel services if those services are purchased using general revenue funds or educational and general funds as defined by the Education Code. Therefore, HB 1705’s repeal of the online travel reservation and ticketing capability system may affect UT System and its institutions to the extent that they use such a system to participate in the comptroller’s contracts for such services.

- HB 1705 repeals the following requirements from Chapter 2054 of the Government Code:
 - (1) DIR’s obligation to perform a biennial automated information systems report assessing the current automated information systems of state agencies (including university systems and institutions of higher education); and
 - (2) establishment of state agency software portfolio management training, including requirements for: (a) DIR to create an interagency panel to assist state agencies, including university systems and institutions of higher education, in performing software audits, managing software, and purchasing software and software licenses; and (b) state agencies (including university systems and institutions of higher education) to cooperate with and donate agency resources to the interagency panel.

Chapter 2054 of the Government Code also establishes requirements for information technology projects undertaken by state agencies (including university systems or institutions of higher education.) HB 1705 broadens the definition of those projects to include all initiatives that provide information resources technologies and create products, services, or results within or among elements of a state agency.

HB 1705 also terminates DIR’s authority under Chapter 2054 of the Government Code to establish an information resources technology evaluation center for use by DIR and other state agencies.

Impact: UT System and its institutions should evaluate how HB 1705’s broadening of the term “project” as used in Chapter 2054 of the Government Code would affect compliance by university systems and institutions of higher education with the provisions of Chapter 2054.

- HB 1705 adds a new statute to Chapter 39 of the Education Code that authorizes DIR, in cooperation with the Commissioner of Education, to adopt performance and interoperability standards for software used by school districts for financial accounting or attendance reporting. It also authorizes DIR to require compliance with those standards in any solicitation for software used for such a purpose (including requiring vendors responding to such a solicitation to certify that their software is compliant), and negotiate state-contract pricing for that software.

Impact: Offices at UT System and its institutions, such as the UT System Institute for Public School Initiatives (IPSI) and the elementary school operated by UT Austin, are involved with the types of schools that use the type of software addressed by the new requirements. Those offices should be aware of these changes.

Effective: September 1, 2009

Scott A. Patterson

[HB 1830](#) by Frank Corte/Edwards and Ellis

Relating to information technology security practices of state agencies.

Open Meetings/Public Information. HB 1830 makes the following changes to the open meetings law and the public information law related to information technology security:

- HB 1830 makes the Department of Information Resources (DIR) exempt from any requirement to conduct an open meeting pursuant to the open meetings law in which the following topics are deliberated: (1) security assessments or deployments relating to information resources technology; (2) network security information; or (3) the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.
- HB 1830 provides that confidential information concerning network security that the Texas Computer Network Security System provides may only be released to certain state officials is additionally exempt from disclosure under the public information law.
- HB 1830 expands the public information law's designation of security assessments of Texas governmental body or state contractor data processing operations or technologies as "confidential information" that is exempt from disclosure under the public information law so that such an exemption includes assessments of: (1) system interfaces; (2) both sensitive and critical information electronically stored by a governmental body or a state contractor; and (3) the vulnerability of such operations or technologies to inappropriate use. However, HB 1830 further modifies the public information law to permit governmental bodies to disclose any such confidential information to a bidder if the governmental body determines that the disclosure is necessary for the bidder to provide an accurate bid.

Impact: UT System and its institutions must implement these provisions in processing requests under the public information law.

Information Security Reports. HB 1830 also revises Chapter 2054 of the Government Code to extend the authority of the information resources manager of a state agency to prepare reports (and executive summaries of those reports) that assess the extent to which the agency's computing resources are vulnerable to unauthorized access or harm. It requires an electronic copy of the report to be provided to the agency's executive

director. The reports may include an assessment of computer system interfaces and the extent that information electronically stored by the state agency or its contractors is vulnerable to inappropriate use. A state agency must create a separate, publicly-available summary of a vulnerability report that does not contain information that might compromise the security of the computer systems of that state agency or of that agency's contractors.

Impact: These changes require UT System and its institutions to implement the extended authority and duty to perform vulnerability assessments of, as well as reports on, the security of the computer systems of the institution and its contractors.

Procurement Certification for Network Hardware and Software. Finally, HB 1830 authorizes DIR to adopt rules by September 1, 2010, that will require state agencies (including university systems and institutions of higher education) to include in contracts for the procurement of network hardware and software a certification from the vendor that the equipment and software have undergone independent certification testing for known and relevant vulnerabilities.

Impact: This change requires UT System and its institutions to modify their information technology procurement processes to ensure that the certification is obtained when network hardware and software are procured. Therefore, the information technology, information security, procurement, and legal offices at UT System and its institutions should be notified of this change.

Effective: September 1, 2009

Scott A. Patterson

[HB 2003](#) by McCall, et al. and Watson

Relating to the creation of the offense of online harassment.

HB 2003 makes it a criminal offense for a person to:

- use the name or persona of another person to create a web page or post messages on a commercial social networking site without the other person's consent and with the intent to harm, defraud, intimidate, or threaten any person; or
- send an email, instant or text message, or similar communication referencing another person's name, Internet domain address, phone number, or other identifying information without the other person's consent if performed with the intent to cause the recipient of the information to believe that the other person actually authorized or transmitted that communication and to harm or defraud any person.

However, HB 2003 provides a defense to prosecution if the offense is committed by (or the person committing the offense is solely acting as an employee of) a commercial social

networking site, an Internet service provider, an interactive computer service, a telecommunications provider, or a video service or cable service provider.

Impact: UT System and its institutions must ensure that their policies and procedures regarding the use of information resources are in compliance with and address the new criminal offenses established by HB 2003.

Effective: September 1, 2009

Scott A. Patterson

HB 2004 by McCall and Ellis

Relating to a breach of computer security involving sensitive personal information and to the protection of sensitive personal information and certain protected health information.

HB 2004 makes the following changes to Texas law regarding the security of personal and health information, especially any such information maintained in computerized form:

- HB 2004 requires any state agency or local government that owns, licenses, or maintains computerized data that includes sensitive personal information to comply with the notification requirements in Section 521.053 of the Business & Commerce Code in the event of a breach of system security, to the same extent that other persons conducting business in Texas are required to comply with the requirements of that law.

Section 521.053 defines a breach of system security as the unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of sensitive personal information that is maintained by a person. HB 2004 expands the definition of the sensitive personal information to which Section 521.053 applies to include information identifying an individual's physical or mental health as well as the provision of (and payment for) health care to that individual. HB 2004 further revises Section 521.053 to provide that a breach of system security addressed by that section includes an unauthorized acquisition of encrypted data by a person who has the encryption key necessary to access that data.

- Chapter 181 of the Health and Safety Code addresses the obligations of certain "covered entities" with regard to the privacy of medical records, including the protected health information of individuals. HB 2004 adds a new section providing that if a covered entity is also a governmental unit, then the covered entity's obligations under that Chapter 181 regarding an individual's protected health information extend to any information reflecting that the individual received health care from the governmental unit. In addition, the new section provides that the individual's protected health information is not public information and is not subject to disclosure under the public information law (Chapter 552, Government Code.)

- Section 521.052 of the Business and Commerce Code sets forth the duty of a business to protect sensitive personal information that it collects in the course of business, including requirements for the business to destroy customer records containing such information. HB 2004 revises Section 521.052 so that the businesses subject to that statute include nonprofit athletic or sports associations.

Impact: HB 2004 clarifies that Texas university systems and institutions of higher education are state agencies subject to Chapter 2054 of the Government Code and Section 521.053 of the Business & Commerce Code. Therefore, UT System and its institutions must comply with the revisions of HB 2004 in the event of a breach of computer system security.

Additionally, all UT offices that possess or handle the protected health information of individuals should be made aware of the changes related to that information that HB 2004 makes to Section 521.053 of the Business & Commerce Code and Chapter 181 of the Health and Safety Code.

Finally, any UT System institutions that have formed or are otherwise involved with nonprofit athletic or sports associations must comply with the revisions that HB 2004 makes to Section 521.052 of the Business and Commerce Code regarding the duty of a business to protect sensitive personal information that it collects. As a result, all athletic departments and offices at those UT System institutions should be informed of the revisions made by HB 2004.

Effective: September 1, 2009

Scott A. Patterson

[HB 2893](#) by Hochberg and Shapleigh

Relating to the technology demonstration sites project and to a computer lending pilot program.

Chapter 2175 of the Government Code establishes the statutory requirements that state agencies must follow regarding surplus or salvage property.

Section 2175.304 provides that university systems and institutions of higher education are to establish written procedures for the disposition of their surplus or salvage property, with a preference for transferring that property directly to a public school, a school district, or an assistance organization designated by a school district. Section 2175.304 further provides that Chapter 2175 does not apply to university systems and institutions or agencies of higher education except as stated in Section 2175.304.

However, a separate statute, Section 2175.128, identifies additional surplus/salvage requirements with which institutions of higher education must comply if the institutions do not dispose of surplus or salvage data processing equipment under other law. In those circumstances, Section 2175.128 requires the equipment to be transferred to a school district or open-enrollment charter school, an assistance organization specified by a school district, or the Texas Department of Criminal Justice.

Sections 5 and 6 of HB 2893 establish a computer lending pilot program under which computers are to be lent to students at educationally disadvantaged schools (as well as to the students' parents). Additionally, those sections require an institution of higher education to make any surplus or salvage data processing equipment that the institution does not dispose of under other law available to the computer pilot lending program, in preference to the existing requirements for disposal of that equipment provided by Section 2175.128.

Note that the provisions in Sections 5 and 6 of HB 2893 are duplicated in HB 4294.

Impact: UT System and its institutions must modify their policies and procedures for surplus and salvage property to reflect the changes made by HB 2893.

Effective: September 1, 2009

Scott A. Patterson

[HB 4294](#) by Branch, et al. and Shapiro, et al.

Relating to textbooks, electronic textbooks, instructional material, and technological equipment in public schools.

Chapter 2175 of the Government Code establishes the statutory requirements that state agencies must follow regarding surplus or salvage property.

Section 2175.304 provides that university systems and institutions of higher education are to establish written procedures for the disposition of their surplus or salvage property, with a preference for transferring that property directly to a public school, a school district, or an assistance organization designated by a school district. Section 2175.304 further provides that Chapter 2175 does not apply to university systems and institutions or agencies of higher education except as stated in Section 2175.304.

However, a separate statute, Section 2175.128, identifies additional surplus/salvage requirements with which institutions of higher education must comply if the institutions do not dispose of surplus or salvage data processing equipment under other law. In those circumstances, Section 2175.128 requires the equipment to be transferred to a school district or open-enrollment charter school, an assistance organization specified by a school district, or the Texas Department of Criminal Justice.

Sections 9 and 10 of HB 4294 establish a computer lending pilot program under which computers are to be lent to students at educationally disadvantaged schools (as well as to the students' parents). Additionally, those sections require an institution of higher education to make any surplus or salvage data processing equipment that the institution does not dispose of under other law available to the computer pilot lending program, in preference to the existing requirements for disposal of that equipment provided by Section 2175.128.

Note that the provisions in Sections 9 and 10 of HB 4294 are duplicated in HB 2893.

Impact: UT System and its institutions must modify their policies and procedures for surplus and salvage property to reflect the changes made by HB 4294.

Effective: June 19, 2009

Scott A. Patterson

[SB 28](#) by Zaffirini and Deshotel

Relating to the use of a computer for an unauthorized purpose; providing a civil penalty.

SB 28 establishes various legal prohibitions on the creation or use of “zombies” (computers that have been compromised to give access or control to a person or a computer program other than the owner or operator of that computer without that owner or operator’s consent) or “botnets” (a collection of two or more zombies).

SB 28 provides for both injunctive relief and the recovery of monetary costs and damages for violations of the prohibitions. SB 28 further permits a court to increase such monetary damages by up to three times if the court finds that a person has demonstrated a pattern or practice of such violations. However, SB 28 also includes language providing that its prohibitions do not apply to certain activities of telecommunications carriers, cable operators, computer hardware or software providers, or providers of information services or interactive computer services.

Impact: SB 28 provides UT System and its institutions with additional legal tools to use against persons who attempt to use UT computers for the purpose of creating zombies or botnets that will perform unauthorized, malicious tasks. The information security, information technology, and legal offices at UT System and its institutions should be made aware of SB 28.

Effective: September 1, 2009

Scott A. Patterson

Real Property, Public Lands, and Eminent Domain

[HB 396](#) by Hartnett and Carona

Relating to expunction of a notice of lis pendens.

HB 396 requires a person who files a notice of lis pendens for record to serve a copy of the notice on each party to the action who has an interest in the real property affected by the notice, and to do so within three days after the filing date of the notice. A party to the action in connection with the notice may request the court to expunge the notice and file evidence in support of its request.

The court must order the notice expunged if the court determines that (i) the pleading on which the notice is based does not contain a real property claim, (ii) the claimant fails to establish by a preponderance of the evidence the probable validity of the real property claim, or (iii) the person who filed the notice did not serve a copy of the notice on each affected party.

If an order expunging a notice of lis pendens is recorded, the notice and any information derived from the notice will neither (i) constitute actual or constructive notice of any matter contained in the notice or of any matter relating to the proceeding, nor (ii) create any duty of inquiry in a person with respect to the property described in the notice. Further, the notice and any information derived from it will not affect the validity of a conveyance to a purchaser for value or of a mortgage to a lender for value, and will not be enforceable against the purchaser or lender regardless of whether the purchaser or lender knew of the lis pendens action.

The court may require the party prevailing in the expunction hearing to submit an undertaking to the court in an amount determined by the court.

HB 396 applies only to a notice of lis pendens filed on or after September 1, 2009.

Impact: If UT System or one of its institutions intends to file a notice of lis pendens, it must comply with the notice requirements and court proceedings set forth in HB 369.

Effective: September 1, 2009

Ha K. Dao

[HB 406](#) by Rodriguez and Carona

Relating to the disposition of excess proceeds of a tax sale of real property or foreclosure of a tax lien on real property.

HB 406 amends Chapter 34 of the Tax Code which, among other things, details who (and in what order) should receive the excess proceeds that may exist after the tax sale of real property. Under HB 406, former owners must be defendants in the judgment and meet other requirements to be eligible to receive these proceeds. The transferee/assignee of a claim to excess proceeds must pay the assignor at least 80 percent of the claim amount and the assignor must swear that he or she in fact received this amount in the transfer document. If the transferee/assignee attempts to obtain or obtains a transfer of a claim without following these new requirements, he or she can be liable to the assignor for the amount of the excess proceeds and attorney's fees. The amount a transferee/assignee can recover under an assignment/transfer of claim is capped at 125 percent of the amount he or she paid for the assignment/transfer. An assignment/transfer obtained as a result of an in-person or telephone solicitation will not be valid. HB 406 provides that only attorneys can charge a fee to obtain excess proceeds on behalf of an owner. HB 406 also provides that excess proceeds stemming from the foreclosure on a homestead by a home equity or reverse mortgage lender shall also be deposited with the clerk of the court issuing the

order of sale, and distributed as provided under 34.03 and 34.04 of the Tax Code. The change in law appears to apply to all non-distributed excess proceeds existing on September 1, 2009.

Impact: To the extent UT System is the assignee/transferee of an excess proceeds claim, the new requirements will need to be followed or System could risk losing its initial investment and the excess proceeds obtained and could be required to pay attorney's fees as well.

Effective: September 1, 2009

Traci L. Cotton

[HB 2685](#) by Callegari, et al. and Nichols

Relating to the landowner's bill of rights.

HB 2685 amends Section 21.0112(a), Property Code. That section previously required that the landowner's bill of rights, a statutorily-mandated statement of the rights of landowners in eminent domain proceedings, be provided to a landowner by an entity with eminent domain authority before the entity begins negotiating with a landowner to acquire the property. HB 2685 amends the section to provide that the landowner's bill of rights must be delivered no later than the seventh day before the date that a final offer is made for the property. However, the bill also requires an entity with eminent domain authority to deliver the landowner's bill of rights to the landowner before or at the same time as the entity first represents to the landowner that the entity possesses eminent domain authority.

HB 2685 also requires the attorney general's office to prepare a new landowner's bill of rights incorporating the changes made by the 81st Legislature and any amendments to the Texas Constitution made by the voters.

Impact: The UT System Real Estate Office, and any other UT System entity involved in negotiations for the acquisition of real property, will now have until the seventh day before a final offer is made to deliver the landowner's bill of rights to the property owner. However, if a UT System representative represents to the selling landowner that UT System has the right of eminent domain, the bill of rights must be delivered before or at the same time that the first representation is made.

Effective: January 15, 2010

Mark E. Bentley

[HB 3479](#) by Gallego and Uresti

Relating to filing of instruments conveying real property in certain counties and redemption of property after the foreclosure of certain assessment liens.

HB 3479 adds a new Section 11.0041 to the Property Code. Section 11.0041 applies only to the county clerk of a county: (1) that is located on the international border and has a population of less than 15,000; (2) in which a colonia self-help center is located; or (3) that is served by a colonia self-help center in another county. Section 11.0041 provides that before accepting an instrument conveying real property for filing, the county clerk may send that instrument to the county attorney to determine whether that instrument meets the platting requirements of Sections 232.023, 231.025, and 232.031, Local Government Code. The county attorney must inform the county clerk of the county attorney's determination not later than five business days after the date the county attorney receives the instrument. The county clerk must notify the party that presented the instrument for recording that the instrument has been referred to the county attorney for review and that the county clerk is not required to file the instrument if the county attorney determines the clerk is not required to file. These provisions apply only to an instrument delivered to a county clerk on or after September 1, 2009.

HB 3479 also amends Sections 209.010 and 209.011, Property Code, to require a property owners' association that conducts a foreclosure sale of an owner's lot to send written notice to each lienholder of record, in addition to the lot owner, of such sale and to inform each lienholder of its right to redeem the property. A lienholder may redeem the property from any purchaser of the foreclosed property within 180 days after the association mails written notice of the sale to the owner and the lienholder. However, a lienholder may not redeem the property before 90 days after the date the association mails written notice of the sale to the lot owner and the lienholder, and only if the lot owner has not previously redeemed. These provisions apply only to a foreclosure sale conducted on or after September 1, 2009.

Impact: The oversight provided by county attorneys under HB 3479 will decrease recordation of defective conveyance documents, thereby improving affected real property records systems and facilitating real estate transactions. Possible adverse impact may arise in those cases in which UT System's conveyance documents are subject to review by a county attorney and the review causes a delay.

HB 3479's modifications to Sections 209.010 and 209.011, Property Code, will have minimal impact on UT System. UT System's real properties are not, as a general rule, encumbered by liens, and current Texas law disallows foreclosure of state-owned properties.

Effective: September 1, 2009

Ha K. Dao

[HJR 14](#) by Frank Corte, et al. and Duncan

Relating to proposing constitutional amendments limiting the public taking of private property, establishing the national research university fund to fund emerging research universities, and eliminating the higher education fund.

HJR 14 proposes two constitutional amendments. The first would amend Article 1, Section 17, of the Texas Constitution to prohibit the taking of private property unless the taking, damage, or destruction is necessary for the possession, occupation, and enjoyment of the property by the public at large, by the state or a political subdivision of the state, by an entity granted the power of eminent domain under law, or for the elimination of urban blight on a particular parcel of property. Further, it would require that any new grant of eminent domain power by the legislature receive at least a 2/3 vote of all the members elected to each house.

The second proposed amendment relates to the establishment of the national research university fund to enable increased funding for emerging research universities in this state. This is the funding mechanism to assist more state universities to achieve “tier 1” status. The legislature may dedicate state revenue to the credit of the fund. Also, all funds now in the higher education fund established by Article VII, Section 17(i), of the Texas Constitution would be transferred to the fund. State universities other than UT Austin and Texas A&M University are authorized to receive distributions from the fund according to criteria to be established by the legislature. The eligible state universities could use distributions from the fund only for the support and maintenance of educational and general activities that promote increased research capacity.

Impact: The first proposed amendment would apply to UT System in exercising its powers of eminent domain.

The second proposed amendment might significantly benefit UT System institutions by assisting one or more institutions to achieve tier 1 status. Currently, only UT Austin is a tier one institution.

Effective: Upon approval by the voters at a general election to be held November 3, 2009

Mark E. Bentley

Environmental Issues, including Carbon Dioxide Disposal

[HB 469](#) by Phil King, et al. and Seliger

Relating to the establishment of incentives by this state for the implementation of certain projects to capture and sequester carbon dioxide that would otherwise be emitted into the atmosphere.

HB 469 grants franchise tax credits to clean energy projects, meaning those projects that involve the use of coal, biomass, petroleum coke, solid waste, or fuel cells in the generation of energy or the creation of liquid fuels outside of the existing fuel production infrastructure while co-generating electric energy; that result in specified reductions of certain emissions, and that capture not less than 50 percent of the carbon dioxide in the emissions stream and sequester that captured carbon dioxide by geologic storage or other means. An entity wishing to qualify for the tax incentives will have to contract with the Bureau of Economic Geology (BEG) at UT Austin to design the initial protocols and standards for the capture and sequestration of carbon dioxide, to review the conduct of the process, to evaluate the results of the process, to provide that evaluation to the Railroad Commission, and to verify compliance to the comptroller. Unless otherwise agreed to, the contracting entity will have to pay BEG according to the following schedule:

• First Year	\$700,000
• Second Year	\$1,300,000
• Third Year	\$1,800,000
• Fourth Year	\$1,500,000
• Fifth Year	\$1,200,000
• Sixth Year	\$900,000
• Seventh Year	\$500,000
• Eighth Year	\$200,000

Impact: The BEG could benefit greatly from HB 469, depending on the number of clean energy projects that might take advantage of the tax incentives. This would require additional staffing and facilities at BEG to allow it to perform in accordance with the statute.

Effective: September 1, 2009

Mark E. Bentley

[HB 1796](#) by Chisum, et al. and Watson

Relating to the development of carbon dioxide capture and sequestration in this state.

HB 1796 addresses the long-term storage of carbon dioxide. Carbon dioxide is released from coal or other combustibles during the power generating process and constitutes a major greenhouse gas. Modern processes are being developed to capture the carbon dioxide before it is released to the atmosphere and to sequester it in geological formations so it does not contribute to global warming. HB 1796 puts the focus of that underground storage on off-shore submerged lands owned by the School Land Board (Board) and controlled by the General Land Office. The Board is empowered to create infrastructure and facilities to accept carbon dioxide for storage in its submerged lands, subject to standards for the measurement, monitoring, and verification of the status of the permanent storage of the gas in the repository to be established by the Texas Commission on Environmental Quality (TCEQ). The Bureau of Economic Geology (BEG) at The University of Texas at Austin will serve as a scientific advisor, and perform the measurement, monitoring, and verification for the repository and will provide data to the Board relating to its duties. The carbon dioxide in the repository will belong to the Board.

HB 1796 also creates a new technology grant program administered by TCEQ to further advance clean energy projects. It allows TCEQ to contract with one or more well-qualified nonprofit organizations or institutions of higher education for administration of the grant program. Another grant program is established for air quality research. Institutions of higher education are eligible for grants under both of these programs.

Impact: HB 1796 could create an opportunity for BEG to expand its operations into new areas. This may require additional staffing and facilities at BEG to allow it to perform in accordance with the statute. However, HB 1796 also provides that a provision of the bill that imposes a new governmental duty is not mandatory unless a specific appropriation is made or the agency determines that the duty may be absorbed within agency resources without additional state funding; no appropriation was located for the operation of the BEG under HB 1796. Therefore, BEG will have to determine whether it can comply with HB 1796. While no mention of UT System or its institutions is made in the grant portions of the bill, there may be opportunities for grant funding in these research areas.

Effective: September 1, 2009

Mark E. Bentley

[HB 2063](#) by Callegari/Creighton and Duncan

Relating to enforcement of rules by a groundwater conservation district.

HB 2063 amends Section 36.102, Water Code, to add the phrase “against any person” in four places in order to expressly provide for the enforcement of district rules and assessment of penalties against any “person.” The significance of the change is that the

Code Construction Act (Chapter 311, Government Code), defines “person” to mean any legal entity, including state and local governments. The issue is whether a groundwater conservation district may enforce its rules against a local government or a state agency, including UT System. It has generally been held that the state is not subject to the regulations of a local government, and a case on this issue is currently pending before the Texas Supreme Court. The change in the law is designed to provide for enforcement of groundwater conservation district rules against the state.

Impact: UT System ordinarily leases rights to produce water to third parties who under prior law were subject to groundwater district rules. Not all University Lands are in groundwater conservation districts, but where the districts exist, it has been the position of University Lands that the lessees are subject to local control. On the other hand, should the Board of Regents choose for UT System to be a direct operator producing, transporting, or selling water, HB 2063 would arguably subject the System to the rules and penalties of the local groundwater conservation district. This may restrict the amount of revenue that can be gained from this asset of the PUF and, given the Regents’ constitutional exclusive authority to manage PUF lands, the attempted enforcement of district regulations against the System will raise serious constitutional issues.

Effective: June 19, 2009

Mark E. Bentley

[HB 2259](#) by Crownover, et al. and Duncan

Relating to the plugging of certain inactive oil or gas wells and to standards for electrical power lines serving certain oil and gas facilities.

HB 2259 specifically sets out in the Natural Resources Code the requirement for plugging inactive oil and gas wells and the circumstances under which the plugging could be deferred on a year-by-year basis. Also, it mandates the disconnection of electrical lines to inactive and abandoned oil and gas wells.

Impact: There are many unplugged wells on University Lands. It is not uncommon for tracts to be offered for lease with one or more unplugged and non-producing wells on them. HB 2259 clarifies who has responsibility for the plugging of those inactive wells and creates additional enforcement tools to bring about the plugging.

Effective: September 1, 2009

Mark E. Bentley

[HB 3544](#) by Lucio III and Fraser

Relating to the standards, methods, and procedures used by governmental bodies in taking certain actions and managing certain information, including standards, methods, and procedures relating to electronic notices by the Texas Commission on Environmental Quality, electronically

stored information provided by a governmental body, confidentiality of e-mail addresses provided to a governmental body, and determinations regarding whether property is pollution control property for ad valorem tax purposes.

HB 3544 is an omnibus bill relating to electronic notices by the Texas Commission on Environmental Equality (TCEQ), electronically stored information provided by a governmental body, confidentiality of e-mail addresses, and determinations relating to whether property is pollution control property for purposes of ad valorem taxes.

Sections 1 and 2 provide that TCEQ may use electronic means to transmit notices, orders, and decisions issued or sent by it.

Sections 3 through 6 amend the provisions in the Tax Code that entitle an individual to an exemption from taxation on property owned by the individual that is used wholly or partly for the control of air, water or land pollution.

Section 7 provides that e-mail addresses provided to a governmental body for the purpose of receiving orders or decisions from the governmental body are not confidential. Further, e-mail addresses provided to a governmental body for the purpose of providing public comment on or receiving notices related to an application for a license as defined by Section 2001.003, Government Code, are not confidential.

Section 8 provides that if a governmental body is unable to comply with a public information request to produce public information in a requested medium, the governmental body shall provide a copy of the information in another medium that is acceptable to the requestor. This applies only to requests received by the governmental body on or after September 1, 2009.

Impact: UT System and its institutions should be aware that the TCEQ may use electronic means to communicate its notices, decisions, and orders.

With regard to e-mail addresses provided to a governmental body, the institutions must be aware that additional categories of e-mail addresses are subject to disclosure under the public information law. Finally, if the institutions cannot comply with a request to produce public information in the format desired by the requestor, the institutions must provide a copy in another medium that is acceptable to the requestor and may not merely provide a paper copy.

Effective September 1, 2009

Neera Chatterjee

[SB 1387](#) by Seliger and Crownover

Relating to the implementation of projects involving the capture, injection, sequestration, or geologic storage of carbon dioxide.

SB 1387 is an attempt to comprehensively address the area of carbon dioxide disposal in wells. It gives the the Railroad Commission (RRC) jurisdiction to regulate the storage of anthropogenic carbon dioxide. The applicant must provide a letter from the Texas Commission on Environmental Quality (TCEQ) that no water-producing zones will be affected. The RRC, in the exercise of its rulemaking powers, may not impose any more stringent standards than those imposed by the US Environmental Protection Agency. SB 1387 provides that the ownership of the injected carbon dioxide would remain with the storage operator as personal property, irrespective of the ownership of the surface or the mineral estate, unless expressly provided under a contract, bill of sale, deed, mortgage, etc., and absent a final judgment of willful abandonment by a court or regulatory authority. Further, unlike some previous bills regulating the injection and storage of carbon dioxide, SB 1387 anticipates that the carbon dioxide might be withdrawn from storage in the future. It calls for the TCEQ, in conjunction with the General Land Office and the Bureau of Economic Geology (BEG) at UT Austin, to file a report with the legislature on or before December 1, 2010, addressing the entire issue of underground storage of carbon dioxide, including a recommended permitting framework and recommendations of which agencies should have jurisdiction over the permitting process.

Impact: Although SB 1387 mandates the participation of the BEG in the report process, no provision is made for compensation of UT Austin or BEG for this participation. In fact, SB 1387 contains a provision that would indicate that, to the extent that this bill creates new duties for state agencies, it is ineffective unless appropriations are made. The General Appropriations Act does make provisions for funding the permitting process to be carried out by the RRC, but did not fund the study and the report.

Effective: September 1, 2009

Mark E. Bentley

[SB 2534](#) by Wentworth and Frank Corte

Relating to the creation of an interagency task force on economic growth and endangered species; providing information and direction regarding endangered species issues in certain areas of the state.

SB 2534 establishes a mechanism for state agencies to provide policy and technical assistance regarding compliance with endangered species laws to assist local and regional governmental entities engaged in economic development activities so that compliance is as effective and cost efficient as possible.

A task force is created consisting of the comptroller, Agriculture Commissioner, and the executive directors of Parks and Wildlife, Soil and Water Conservation, and TxDOT,

with the comptroller named as presiding officer. The task force will assess the economic impact of endangered species regulations, assist landowners and other persons to implement cost-efficient strategies, and facilitate state and local governmental efforts to implement endangered species regulations.

The comptroller may create advisory committees consisting of affected landowners and representatives of conservation interests and municipalities and other jurisdictions. The task force is to coordinate with US Fish and Wildlife, institutions of higher education, and agriculture and conservation organizations. The Texas A&M University System is to assist in the analysis of biological and economic impacts and direct programs recommended by the task force.

SB 2345 directs the comptroller to appoint an advisory committee within 30 days of June 19, 2009, to assist in identifying strategies for economic development and cost effective compliance in the Camp Bullis area in Bexar County and no later than October 31, 2009, provide a recommendation on a specific, coordinated program of work to assist Camp Bullis in accomplishing its training missions.

Impact: Although Texas A&M University System is given primary responsibility to assist the endangered species task force, UT System institutions may be called upon to assist the task force in developing cost efficient methods to foster economic growth while complying with endangered species regulations. SB 2534 does not make an appropriation, and thus the provisions that create the task force and impose duties on the comptroller may not be mandatory.

Effective: June 19, 2009

Jim Phillips

Utilities

[HB 1799](#) by Bohac, et al. and Eltife

Relating to information that must be included on certain electric bills.

HB 1799 requires a retail electric provider (REP) to include on a customer's electric bill the following statement:

For more information about your electric service, please visit www.powertochoose.com.

The above requirement expires on September 1, 2011.

Impact: HB 1799 requires the designated statement on electric bills for UT System institutions that receive service from an REP. The statement will not be required after August 31, 2011.

Effective: September 1, 2009

Dana L. Hollingsworth

[HB 1822](#) by Solomons, et al. and Fraser

Relating to the use of certain terms by certificated telecommunications utilities, retail electric providers, and electric utilities in retail bills.

Among other things, HB 1822 requires the Public Utility Commission (PUC) to adopt rules that:

- include a list of defined terms common to the telecommunications and electricity industries; and
- require that applicable terms be labeled uniformly on each retail bill sent to a customer by a certificated telecommunications utility, retail electric provider, or electric utility to facilitate consumer understanding of relevant billing elements.

Impact: HB 1822 may increase uniformity and improve readability of utility bills from a telecommunications utility, retail electric provider, or electric utility.

Effective: September 1, 2009

Dana L. Hollingsworth

[HB 2259](#) by Crownover, et al. and Duncan

Relating to the plugging of certain inactive oil or gas wells and to standards for electrical power lines serving certain oil and gas facilities.

HB 2259 specifically sets out in the Natural Resources Code the requirement for plugging inactive oil and gas wells and the circumstances under which the plugging could be deferred on a year-by-year basis. Also, it mandates the disconnection of electrical lines to inactive and abandoned oil and gas wells.

Impact: There are many unplugged wells on University Lands. It is not uncommon for tracts to be offered for lease with one or more unplugged and non-producing wells on them. HB 2259 clarifies who has responsibility for the plugging of those inactive wells and create additional enforcement tools to bring about the plugging.

Effective: September 1, 2009

Mark E. Bentley

[SB 547](#) by Eltife and Hughes

Relating to transition to competition in the Southwestern Electric Power Company service area.

SB 547 relates to the transition to retail competition for Southwestern Electric Power Company (SWEPCO) and sets up a six-stage process to accomplish this transition in the SWEPCO service area. It permits the Public Utility Commission (PUC) to modify the sequence but not the substance of the six-stage process to accomplish transition to competition in the SWEPCO service area. It also authorizes the PUC to issue an order initiating retail competition for the SWEPCO service area.

Impact: SB 547 may delay retail electric competition for UT System institutions or facilities located in the SWEPCO service area, but may also help ensure fair retail competition and reliability of electric service when retail electric competition is implemented. According to the SWEPCO website, the SWEPCO service area includes Longview and Texarkana. UT System institutions with campuses or facilities located in the SWEPCO service area may want to monitor during the six-stage transition to competition process for the SWEPCO service area.

Effective: September 1, 2009

Dana L. Hollingsworth

Charitable Organizations and Trusts

[SB 666](#) by Shapleigh and Hartnett

Relating to the administration of charitable trusts.

SB 666 establishes rules for changing the situs of charitable trusts to outside the State of Texas with regard to the grant-making function of the trust. Unless specifically authorized by the terms of the trust instrument, the situs of the trust may not be changed to out of state unless it complies with the new law.

Any time the trustee wishes to change the situs to out of state, the trustee, after consulting with the settlor if living and not incapacitated, must submit the proposed new location to the attorney general.

If the trust instrument does not authorize the change of location, the trustee must obtain approval from the district court or statutory probate court in which the trust was created by showing that the charitable purposes of the trust would not be impaired if the trust administration is moved.

The attorney general may bring action to enforce the statute. The appropriate district court or statutory probate court may remove any trustee who fails to comply with the statute. The costs of a proceeding to remove a trustee, including reasonable attorney's

fees, may be assessed against the removed trustee. The statute states that it does not affect the trustee's authority to sell real estate owned by a charitable trust.

Impact: SB 666 would apply to UT System in those unusual situations in which the Board of Regents is serving as trustee of a trust exclusively for the benefit of two or more charities. The law does not apply to charitable remainder trusts of which the Board of Regents is the trustee. The new law would also indirectly impact UT System as a beneficiary of a charitable trust of which another entity or person is the trustee.

Effective: September 1, 2009

Donald Jansen

SB 918 by Harris and Leibowitz

Relating to attorney general participation in proceedings involving charitable trusts.

SB 918 permits the attorney general to file a lawsuit against a charitable trust, which by definition includes charitable entities like UT System, on behalf of the "public's interest" for breach of fiduciary duty in Travis County or in the county where the trust has its principal office. If the attorney general successfully obtains a judgment against a charitable trust, the court may award the attorney general litigation costs, expenses of suit and reasonable attorney's fees from either the charitable trust or its fiduciary. Prior law was silent on this issue, although the attorney general has successfully petitioned various courts for those fees and costs under the Civil Practice and Remedies Code.

Impact: Historically, the attorney general has represented UT System and its institutions in charitable trust matters under a client-agency representation, not on behalf of the "public's interest." Accordingly, SB 918 will not change this practice, which is governed by an interagency contract, but will explicitly allow the attorney general to recover litigation expenses and attorney's fees when successfully prosecuting a lawsuit against a charitable trust for breach of fiduciary duty.

Effective: September 1, 2009

Ha K. Dao

SB 2442 by Uresti and Gallego

Relating to the exemption from ad valorem taxation of property owned by certain charitable organizations.

SB 2442 makes three changes to the property tax exemptions for charitable organizations.

It amends the law providing a property tax exemption for charitable organizations providing support to the elderly and the handicapped.

It also creates new exemption for a charitable organization that operates a radio station that broadcasts educational, cultural, or other public interest programming, including classical music, and that in the preceding five years has received or been selected to receive one or more grants from the Corporation of Public Broadcasting. In other words, the exemption would apply to certain public radio stations.

SB 2442 also exempts from property taxes real property owned by a charitable organization and leased to an institution of higher education to the same extent the property would be exempt if the property were owned by the institution.

Impact: The exemption for real property owned by a charitable organization and leased to a higher education institution directly impacts a current situation for UT System in Harris County. There Hermann Memorial Hospital owns land which is net leased to UTHSCH, which owns the building on the land. The Harris County Appraisal District has taken the position that the land is subject to ad valorem taxes in such an ownership situation. The new statute grants an exemption.

The new public radio exemption does not apply to radio stations owned by UT System (e.g., KUT) since those radio stations are already exempt as public property owned by the state.

Effective: January 1, 2010

Donald Jansen

Alcoholic Beverages

[HB 1084](#) by Truitt and Gallegos

Relating to shipment of wine to ultimate consumers.

Chapter 16 of the Alcoholic Beverage Code permits holders of winery permits to directly ship wine to the ultimate consumers of that wine located in Texas. Similarly, Chapter 54 of the Alcoholic Beverage Code permits the holder of an out-of-state winery direct shipper's permit to sell and deliver wine that it produces or bottles to the ultimate consumers of that wine located in Texas. However, before the effective date of HB 1084, both Chapters 16 and 54 prohibited those permit holders from delivering more than three gallons of wine within any 30-day period to the same consumer in Texas.

HB 1084 modifies those limitations to instead allow those permit holders to deliver to the same consumer in this state up to nine gallons of wine during any calendar month, so long as the total amount of wine delivered to that consumer within any 12-month period does not exceed 36 gallons.

Impact: HB 1084 provides any UT System institutions or contractors that possess the winery permits addressed by HB 1084 with additional authority to deliver wine.

Therefore, those institutional offices that possess (or that manage contractors that possess) those types of winery permits should be informed of the changes implemented by HB 1084.

Effective: September 1, 2009

Scott A. Patterson

[HB 3413](#) by Thompson and Averitt

Relating to the sale of glassware and nonalcoholic beverages by certain wholesalers and distributors.

HB 3413 regulates the ability of alcoholic beverage wholesalers and distributors to sell glassware and non-alcoholic beverages to alcoholic beverage retailers.

Impact: The Regents' *Rules and Regulations* identify circumstances in which the use of alcoholic beverages may be permitted on property and in buildings owned or controlled by UT System or its institutions. As a result, those offices that control and manage the sale of alcoholic beverages should ensure that their operations are in compliance with HB 3413.

Effective: September 1, 2009

Scott A. Patterson

[SB 529](#) by Nelson and Truitt

Relating to the sale and use of certain alcoholic beverages manufactured by holders of a winery permit.

The law permits the holder of a winery permit to manufacture and import grape brandy if it is only used for fortifying purposes on the permit holder's licensed premises (subject to additional restrictions if the permit holder's licensed premises are in a dry area).

SB 529 permits a winery permit holder to use any type of fruit brandy (not just grape brandy) on the winery permit holder's permitted premises for fortifying purposes, regardless of whether the permit holder manufactured the brandy or imported or bought the brandy from another permit holder authorized to manufacture that brandy.

Impact: SB 529 provides any UT System institutions or contractors that possess the winery permits addressed by SB 529 with additional authority to use fruit brandy for fortifying purposes. Therefore, UT System or institutional offices that possess (or that manage contractors that possess) those types of winery permits should be informed of SB 529.

Effective: September 1, 2009

Scott A. Patterson

SB 711 by Nelson and Geren

Relating to creating a winery festival permit.

SB 711 permits the holder of a winery permit to obtain a separate permit to sell wine at a civic or wine festival, farmers' market, celebration, or similar event.

SB 711 subjects the winery festival permit to certain restrictions, however. For example, all of the provisions of the Alcoholic Beverage Code applicable to a winery permit holder that sells wine on its premises also apply to the sale of wine under a winery festival permit. A winery festival permit holder is also prohibited from selling wine under the permit for more than five days out of any 30-day period or for more than three consecutive days at the same location. Additionally, the permit holder must notify the Texas Alcoholic Beverage Commission of the dates and locations where it will offer wine for sale under the permit.

Impact: SB 711 authorizes any UT System institutions or contractors that possess a winery permit to additionally obtain a winery festival permit. Therefore, UT System or institutional offices that possess (or that manage contractors that possess) winery permits should be informed of SB 711.

Effective: September 1, 2009

Scott A. Patterson

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Employment

[HB 978](#) by Burnam, et al. and Watson

Relating to the employment rights of certain individuals with disabilities.

HB 978 amends Texas' disability anti-discrimination law to make it consistent with the recent amendments to the federal Americans with Disabilities Act Amendment Act, which prohibits discrimination against persons with disabilities.

Specifically, HB 978:

- Defines “auxiliary aids and services;”
- Expands the definition of “major life activity” to include the operation of major bodily functions, including the immune system, normal cell growth, digestive system, and organ functions;
- Defines “regarded as having an impairment” and explains it does not include minor impairments that are expected to last less than six months;
- Clarifies that the statute should be construed as broadly as possible;
- Clarifies that “disability” includes an impairment that is episodic or in remission that substantially limits a major life activity when active;
- Prohibits the consideration of mitigating measures (i.e. hearing aids, medication, mobility devices, learned behavior, etc.) when determining whether an impairment substantially limits a major life activity; and
- Clarifies that a person without a disability cannot sue claiming discrimination based on a lack of a disability.

Impact: HB 978 broadens the scope of potential claims being brought against the UT System institutions in state court. Institutions should already have reviewed their policies and webpages related to disability discrimination and should amend them if needed to ensure that language within the policy is consistent with the amended federal and state laws.

Effective: September 1, 2009

Esther L. Hajdar

[HB 1043](#) by Orr, et al. and Nelson

Relating to the creation of business opportunities for certain former foster children.

HB 1043 entitles an individual 25 years of age or younger who was under the permanent managing conservatorship of the Department of Family and Protective Services (DFPS) on the day preceding the individual's 18th birthday to a preference in employment with a state agency over other applicants for the same position who do not have a greater qualification. The provisions do not apply to the position of private secretary or deputy of an official or department or to an individual holding a strictly confidential relation to the employing officer. It also provides that in the case of conflict with federal law or limitations provided by a federal grant to a state agency, the federal provisions will control.

An individual entitled to an employment preference who is aggrieved by a decision of a state agency relating to hiring the individual, or relating to retaining the individual if the state agency reduces its workforce, may appeal the decision by filing a written complaint with the governing body of the state agency. The governing body must respond not later than the 15th business day after the date it receives the complaint. The governing body may render a different hiring decision if the governing body determines that the employment preference was not applied.

HB 1043 also adds an individual who was under the permanent managing conservatorship of DFPS on the day preceding the individual's 18th birthday to the list of individuals who are considered to be economically disadvantaged for purposes of local incentives under the Texas Enterprise Zone Act.

Impact: HB 1043 directly impacts UT System and its institutions. (It specifically includes institutions of higher education in its definition of state agencies to which it applies.) Human resources professionals should be alert to the fact that job applicants and existing employees facing a potential reduction in force who were in foster care immediately before their 18th birthday and who are 25 years of age or younger are entitled to the preferences established by this legislation. Job application forms should be adjusted accordingly. In addition, UT System and its institutions must formulate procedures for dealing with the complaint process set out in HB 1043 and should revise any existing publications that inform job applicants and current employees of their rights and remedies in this area. As an example, UT System Policy INT 111, Section 2.4(b), deals with similar hiring preferences currently available to veterans. Development officers dealing with enterprise zones should also take note that the list of economically disadvantaged individuals has been expanded to include the former foster children identified in HB 1043.

Effective: September 1, 2009

Terence L. Thompson

[HB 1637](#) by Chris Turner, et al. and Ellis

Relating to normal weekly hours of work under the shared work unemployment compensation program.

HB 1637 slightly changes the definition of a phrase in Texas' unemployment compensation laws. Those laws allow an employer considering employee layoffs to minimize the number of layoffs by implementing a shared work plan approved by the Texas Workforce Commission. To gain commission approval, such a plan must reduce some employees' "normal weekly hours of work" by between 10 percent and 40 percent. HB 1637 makes it clear that "normal weekly hours of work" means the number of hours a week an employee normally works or an average of 40 hours a week over a two-week period, whichever is less.

Impact: If an institution wishes to implement a shared work plan to avoid or minimize layoffs in a particular unit, it should obtain legal and drafting advice from the institution's legal counsel or the Office of General Counsel, and then must submit the plan to the Texas Workforce Commission for approval. Also, if an institution maintains policies that describe shared work plans, it should amend the policies to reflect the changed definition of "normal weekly hours of work."

Effective: May 19, 2009

Omar A. Syed

Compensation and Reimbursement

[HB 605](#) by Farabee/"Mando" Martinez and Estes

Relating to mileage reimbursement for state employees.

HB 605 adds the qualification that state employee mileage reimbursement be based on a reasonably safe route. Current law only requires the route to be cost-effective.

In determining the most cost-effective reasonably safe route, a state agency may consider the route that provides the shortest distance between the origin of travel and the final duty point, the quickest drive time, or the safest road conditions. There is no longer a presumption that the shortest route is the most cost-effective route.

HB 605 also provides that the number of miles traveled that are eligible for reimbursement may be determined by an employee's vehicle odometer reading or by a readily available electronic mapping service. The comptroller is no longer required to issue a mileage guide.

The above provisions apply only to the determination of reimbursable mileage for state employee travel occurring on or after January 1, 2010.

Finally, HB 605 amends the mileage reimbursement provisions for members of the legislature to state that a member may only receive mileage reimbursement for the most cost-effective route.

Impact: UT System travel offices may consider routes that are the shortest distance, the quickest drive time, or the safest road conditions for purposes of employee mileage reimbursement. They may also use an employee's odometer reading or an electronic mapping service to determine the number of miles traveled. Travel offices should change their procedures to reflect these new provisions.

Effective: September 1, 2009

Karen Lundquist

[HB 762](#) by Creighton and Eltife

Relating to filing a wage claim.

HB 762 allows for the filing of a wage claim with the Texas Employment Commission by fax (in addition to filing in person or by mail, as was previously permitted) or by whatever other means the commission might adopt.

Impact: This change in the law may impact current or former UT System or institution employees who wish to file a wage claim by possibly making it more convenient to do so (by fax), but it should have little if any impact on UT System or its institutions as employers. Institutions that provide information to employees about how these claims are to be filed should update this information to include the new filing methods approved by HB 762.

Effective: September 1, 2009

Terence L. Thompson

[HB 874](#) by Callegari and Lucio

Relating to the abolition of the Texas Incentive and Productivity Commission and the state employee incentive program.

HB 874 abolishes the Texas Incentive and Productivity Commission, a state agency that has been inoperative since 2005. The bill also abolishes the Productivity Bonus Program and the State Employee Incentive Program, which formerly rewarded state employees for submitting ideas used to save state agency funds.

Impact: Neither of the abolished programs has operated since 2005, so HB 874 will not impact recent practices at UT System institutions. In addition, HB 874 does not prevent an institution from adopting, or from continuing to implement, its own policies for issuing monetary awards to employees.

Effective: June 19, 2009

Omar A. Syed

[HB 1831](#) by Frank Corte, et al. and Carona

Relating to disaster preparedness and emergency management and to certain vehicles used in emergencies; providing a penalty.

HB 1831 makes numerous changes to Chapter 418 of the Government Code pertaining to emergency management. The definition of “disaster” is modified to add “extreme heat” to the list of occurrences that may require emergency action. The required training in emergency preparedness, response, and recovery is redirected to be mandatory for elected law enforcement officers, county judges, and appointed public officers of the state and political subdivisions whose duties involve management or supervision that include emergency management.

Amendments clarify that the governor’s emergency management council (council) will be composed of representatives (not the actual head) of the various organizations, including state agencies, and that those representatives, designated by the head of each entity selected, will assist the Governor’s Division of Emergency Management (division) in responding to major emergencies by identifying, mobilizing and deploying state resources. HB 1831 permits the establishment of a database of public facilities that may be commandeered by the governor to shelter individuals during a disaster as part of the state’s emergency management plan. It requires the division to develop an “annex” to the state emergency management plan that addresses initial response planning for providing population support supplies, equipment, and services during the first five days immediately following a disaster. The goals of these additional provisions in the state emergency plan are wide ranging and include maintaining operations of hospitals and other critical facilities; plans for the clearance of debris from major roadways; interagency coordination of disaster response efforts; development of prearranged contracts for food, water, and ice for disaster victims; methods for providing basic medical support for disaster victims, including medical supplies and pharmaceuticals; and, provisions to provide emergency or backup power to restore or continue operation of critical water and wastewater facilities following a disaster. The division is directed to develop these supplemental provisions of the state emergency plan in cooperation with a wide range of entities including volunteer groups, local governments, the emergency management council, health and medical facilities, FEMA, and private sector partners. The division is also authorized to direct, oversee, and approve a supplement to the state emergency management plan developed by the Department of State Health Services providing for health standards and operational requirements for short-term and long-term emergency shelters operated with state funds or receiving state assistance. The division is also directed to oversee and approve planning for emergency personnel surge capacity during disasters that is required of each regional planning agency established under Chapter 391, Local Government Code. Under this law, the Department of Agriculture and the Texas Animal Health Commission, in cooperation with the Division, are directed to develop an agriculture emergency response plan as an annex to the state emergency

management plan. The plan must include information relevant to an all-hazards approach to agricultural disaster management. The Department of Agriculture and the Texas Animal Health Commission are required to issue an annual report to the legislature that includes this emergency response plan.

HB 1831 expands the powers and duties of the division by directing it to require the integration of volunteer groups into emergency management plans and establish a liability awareness program for volunteers, including medical professionals. Under this law, the division is authorized to organize, train, and equip a group of disaster reservists to temporarily augment its staff. This cadre of reservists may be activated to support recovery operations after a disaster or major emergency. Certain laws relating to the state classification system, the procurement of professional and consulting services, and state purchasing, construction, HUB, and other related statutes, do not apply to a disaster reservist.

The division is required to develop a phased reentry plan, including a reentry credentialing process, for areas previously evacuated because of a disaster or threat of disaster. The reentry plan is to provide local emergency management directors with flexibility to make adjustments to the plan to accommodate varying circumstances. The division is directed to consult with affected parties in the development of the reentry credentialing process. The division is also authorized to request any state agency, political subdivision or interjurisdictional agency to perform a postdisaster evaluation, including the identification of areas for improvement, and issue a report of the evaluation.

This law establishes a Communications Coordination Group to facilitate interagency communications support and planning during an emergency. The Communications Coordination Group members are selected by the division. This law identifies twenty-three types of entities, including several specific state agencies, that are required to be represented on this committee.

Under existing law, an “emergency management director” is the presiding officer of the governing body of an incorporated city or a county, or the chief administrative officer of a joint board. These officials are authorized to exercise the authority granted to the governor on behalf of their political subdivision during emergency situations. HB 1831 clarifies that persons other than emergency management directors may not seize or use resources of a state or federal agency without prior authorization from the division or the agency responsible for those resources. HB 1831 also expands the current license portability provisions to include persons requested to perform work by state agencies under the Texas Statewide Mutual Aid System, not just local governmental entities. This means that under the new law, a person holding a license, certificate, permit, or other professional qualification who is requested to perform work by a state agency under the mutual aid system after an emergency or disaster is considered duly licensed or certified in the political subdivision in which the service is provided. HB 1831 also allows an agency of the state to request funding from the disaster contingency fund to purchase property insurance covering facilities of the state as required to qualify for federal disaster assistance funds.

HB 1831 authorizes the governor or a county judge or mayor of an area stricken or threatened by a disaster to compel persons to leave an area that is subject to an evacuation order. A county judge or mayor who issues such an order may authorize the use of reasonable force to remove persons from the area. A person who knowingly ignores a mandatory evacuation order may be civilly liable to a governmental entity or non-profit agency cooperating with a governmental entity for the person's rescue. The mandatory evacuation provisions do not apply to persons authorized to be in an evacuated area, including those persons acting in compliance with the phased reentry program.

HB 1831 directs the Department of State Health Services to establish a public education program relating to disaster and emergency preparedness under rules developed by the executive commissioner of the Health and Human Services Commission.

Entities responsible for the care of individuals with special needs are directed to develop and distribute information to the public regarding how to volunteer in connection with a disaster. The division is directed to provide information concerning how volunteers can be identified and trained to help all persons, including those with special needs and those in assisted living facilities. Licensed nursing homes and assisted living facilities must register with the Texas Information and Referral Network to assist the state in identifying persons needing assistance evacuating in a disaster or other emergency. These licensed facilities are also required to notify each resident's next of kin or guardian regarding how to register for evacuation assistance under the Texas Information and Referral Network. HB 1831 directs the division to issue a report to the legislature not later than 30 days after September 1, 2009, regarding the implementation of medical special needs plans in connection with Hurricane Ike, including identification, evacuation, transportation, shelter, care, and reentry during the period ending on the 30th day after the conclusion of the disaster. The Department of State Health Services must cooperate in the preparation of the report.

HB 1831 authorizes the governor to waive the waiting period for disaster unemployment assistance benefits under certain circumstances. Governmental entities with charge and control of a "critical governmental facility" must equip the facility with a "combined heating and power system" during construction or extensive renovation if the expected energy savings of the system exceed the expected costs. The term "critical governmental facility" includes those facilities owned by the state or a political subdivision that are continuously occupied, maintain peak operations for at least 6,000 hours each year, and have a peak electricity demand exceeding 500 kilowatts and includes hospitals, biological research facilities, hazardous waste storage facilities, communications or data centers, food preparation or storage facilities, water or wastewater facilities, police or fire protection facilities, command and control centers, shelter, and prisons or jails. The term "combined heating and power system" is basically defined as an on-site system that is capable of providing all of the electricity and thermal energy that the facility needs for at least a 14-day period. The Public Utility Commission (PUC) is authorized to require electric utilities (including co-ops and municipally owned), generation companies, and power marketers (companies) to sell electricity and provide interconnection services to other companies to meet customer demand if the company seeking to purchase is unable to meet its customer demand because of a natural disaster or other emergency. The PUC

must conduct a wide-ranging study of the capacity of electric companies to comply with such directives as authorized by HB 1831 and to issue a report that includes recommendations for the implementation of the changes in law. The PUC's study must be completed not later than June 1, 2010.

The Department of State Health Services (DSHS) must establish a public health extension service pilot program in Health Service Region 11 (South Texas) for the purpose of supporting local public health and medical infrastructure, promoting disease control and medical preparedness, and enhancing biosecurity. HB1831 provides additional, broad program objectives that DSHS may achieve in the development of this pilot program, and specifically provides that "the department may contract with the Texas A&M University System or the University of Texas System or both to implement or administer the program." The program is scheduled to expire on September 2, 2011. The department is directed to report to the governor, lieutenant governor, and speaker of the house of representatives on the program not later than December 1, 2010. The report is to include recommendations for continuing or expanding the program to other regions of the state.

HB 1831 also allows "emergency services personnel" to take compensatory time accrued during a disaster as time off for a period of 18 months after the week such time was accrued. The change in law also allows the administrative head of each state agency the discretion to pay the employee for all or part of the compensatory time. Such pay would be calculated at the employee's regular hourly salary rate. A state employee who fits the definition of emergency services personnel (firefighters, police, peace officers, emergency medical technicians, emergency management personnel, and others required to provide services to the public during emergency situations) is entitled to reimbursement of actual expenses of lodging when no rooms are available at the state rate.

The Supreme Court of Texas is authorized to modify or suspend procedures of conduct of any court proceedings affected by a disaster declared by the governor. These amendments also provide contingency authorization should the Supreme Court be unable to act due to a disaster.

HB 1831 also establishes a registry of persons providing school safety or security consulting services to a school district or institution of higher education. The term "school safety or security consulting services" is defined broadly. The registry is for informational purposes only.

Institutions of higher education are required to develop, adopt, and implement a multihazard emergency operations plan for use at the institution. The plan must address mitigation, preparedness, response, and recovery and must provide for employee training in responding to an emergency; mandatory drills for students, faculty and employees; measures to ensure coordination with DSHS, local emergency management agencies, law enforcement, health departments, and fire departments; and, implementation of the routine audit required by the new law. The safety and security audit must be conducted once every three years and should follow the procedures developed in consultation with

the division. The results of the audit must be reported to the institution's board of regents and the division. The new law anticipates an annual review of the established plan. The law restricts the documents concerning the plans that are subject to disclosure under the public information law.

HB 1831 establishes a new University of Houston Hurricane Center for Innovative Technology" at the University of Houston, and hosted by the university's College of Engineering. The purpose is to promote research, education, and training for the development of products and technologies to mitigate wind and structural damage in the built environment and offshore structures caused by hurricanes in the Gulf of Mexico and to develop protocols for the fast and efficient recovery of the public and private sectors, including utilities, hospitals, industry, and local communities following a hurricane.

Finally, HB 1831 requires public junior colleges to establish a multihazard emergency operations plan and conduct safety and security audits.

Impact: The primary, direct impact is the requirement for each UT System institution to establish a multihazard emergency operations plan and perform safety and security audits. Several of the short-term and long-term emergency planning mandates in HB 1831 relate specifically to the operation of hospitals, and UT health institutions will be directly affected by the outcome of those planning decisions. Similarly, the disaster reentry plan to be developed under HB 1831 will impact the institutions. Should the university police departments be called upon to enforce the reentry plans or the evacuation plans, the newly authorized use of reasonable force and civil liability standards in this bill are important to evaluate and implement. Changes in employee benefits, including the potential waiver of the waiting period for unemployment benefits, and the use and payment of compensatory time and travel reimbursement may have an operational impact. The new provisions relating to combined heating and power systems will impact certain future design and construction projects of UT System institutions.

Effective: September 1, 2009

Mark Gentle

[HB 2360](#) by Farias, et al. and West

Relating to the provision of information regarding employee eligibility for the federal earned income tax credit.

HB 2360 requires an employer to provide each of its employee's information on the general eligibility requirements for the federal earned income tax credit (EITC). The employer must provide the information by March 1 of each year, and may do so in person, electronically to the employee's last known e-mail address, through a flyer included as a payroll stuffer or its electronic equivalent, or by first-class mail to the employee's last known address. HB 2360 also authorizes the Texas Workforce Commission to adopt rules that impose more specific notice requirements on employers. Finally, HB 2360 directs the state comptroller to create and post on its website a sample

written notice and summary of required information that employers may provide to their employees to satisfy their obligations.

Impact: HB 2360 requires each UT System institution and System Administration to provide its employees information on the federal EITC. The bill defines the term “employee” very broadly to include any individual who is employed by an employer for compensation. If an institution has questions about whether it “employs” particular individuals, it should contact its legal affairs office or the Office of General Counsel for advice.

Because the required EITC information will be summarized appropriately by the state comptroller, an institution should simply provide the comptroller’s model notice to its employees. Finally, each institution must consider which of the four allowed methods offers it the most efficient means to distribute the required information.

Effective: September 1, 2009

Omar A. Syed

SB 741 by Nichols and Darby

Relating to jurisdiction over a wage claim filed after the deadline.

In the past, state law required a person to file a claim for unpaid wages with the Texas Workforce Commission (TWC) no later than 180 days after the wages became due. After the claim was filed, a TWC examiner would consider the merits of the claim. SB 741 makes the 180-day deadline jurisdictional. In other words, if the claimant files the wage claim after 180 days have passed, the examiner will no longer be authorized to consider the merits of the claim, and must instead dismiss it for lack of jurisdiction.

Impact: SB 741 does not require UT institutions to make any administrative changes. Practically, if an employee files a late claim for overdue wages after the effective date of this law, the TWC examiner must dismiss the claim without requiring the institution to respond. If the examiner fails to dismiss the claim, the institution should remind him or her of the provisions of SB 741. If the examiner still does not dismiss the claim, the institution should contact its legal affairs office or the Office of General Counsel for assistance.

Effective: September 1, 2009

Omar A. Syed

[SB 745](#) by Duncan and Solomans

Relating to state travel policies and procedures for the reimbursement or payment of travel expenses.

SB 745 authorizes a state agency's chief administrator to electronically communicate the required advance written approval for any travel related to official state business for which a reimbursement for travel expenses is claimed or for which an advance for travel expenses to be incurred is sought. It removes provisions that required a copy of the written approval to be submitted with a travel voucher to the comptroller of public accounts. It also modifies provisions relating to the supportive information and documentation that must be submitted with a travel voucher and the storage of these materials.

Impact: All UT System institutions are impacted by these revisions. Employees responsible for travel-related approvals and reimbursements are most affected and should be informed of the changes to prior practice. Relevant policies, procedures, and publications should conform to these changes.

Effective: September 1, 2009

Terence L. Thompson

[SB 1474](#) by Nichols and McReynolds

Relating to compensation for certain emergency services personnel.

SB 1474 allows FLSA-exempt emergency services personnel to take compensatory time off during the 18-month period following the end of the workweek in which they accrued compensatory time. SB 1474 also allows the head of the employee's state agency to instead pay the employee overtime at the employee's regular hourly rate for some or all of the compensatory time hours accrued during a declared disaster that occurred the preceding 18-month period. Any of these hours for which the employee is paid will reduce the employee's compensatory time balance by one hour. Finally, SB 1474 defines "emergency services personnel" to include police officers, other peace officers, EMTs, emergency management personnel, and others whose job requires them to provide services for the benefit of the general public during emergency situations.

Impact: First, SB 1474 requires each institution and System Administration to identify, to the extent possible, their employees who constitute "emergency services personnel." Next, SB 1474 requires each institution and System Administration to amend their Handbooks of Operating Procedures provisions and/or applicable internal policies regarding the FLSA and overtime payments to account for this new exception. In addition, SB 1474 requires System Administration to amend INT113 (FLSA - Overtime). SB 1474 may also require each institution and System Administration to devise new time accounting procedures to ensure that emergency services personnel are eligible to accrue compensatory time even if they are otherwise exempt from the FLSA's overtime provisions. Finally, each institution and System Administration may wish to develop

policies to determine the circumstances in which eligible emergency services personnel will be paid for their compensatory time accrued, rather than afforded compensatory time off.

Effective: September 1, 2009

Omar A. Syed

[SB 2298](#) by Watson and Farabee

Relating to compensation of certain state employees.

SB 2298 makes several changes to the manner in which employees are compensated for their service during natural disasters, declared emergencies, and other extraordinary circumstances.

First, SB 2298 authorizes an institution of higher education to offer a one-time merit payment to an employee if the institution's chief administrative officer determines in writing that the payment relates to the employee's performance during a natural disaster or other extraordinary circumstance. An institution may offer these rewards even if the employee has received another merit payment within the last six months. Notably, an institution may offer these rewards to current employees whom it has employed for a total of six months, even if those six months do not immediately precede the payment.

Second, SB 2298 authorizes, but does not require, a government employer to pay any employee (whether exempt or non-exempt under the Fair Labor Standards Act (FLSA)) for compensatory time the employee accrues when the employee totals more than 40 hours worked, holiday hours, and/or other paid leave hours in a workweek due to work related to a disaster or federally- or state-declared emergency. Before the employee may be paid for that compensatory time, approval must be obtained from the agency's administrative head.

Third, SB 2298 allows a state employee to accumulate state compensatory time off for work performed during a calendar week at the employee's personal residence if the employee obtains advance approval from the administrative head of the employee's agency.

Impact: SB 2298 requires each UT System institution and System Administration to amend their criteria for the granting of one-time merit increases. These amendments should be made to a Handbook of Operating Procedures provision or another applicable internal policy regarding the granting of those increases. When crafting these amendments, an institution should clarify whether an employee will be eligible for the increase even if the employee has not been employed for the immediately preceding six months, but rather, for a total of six months. The institution may also wish to describe the level or quantity of performance that will justify the granting of an increase in disaster or emergency situations.

In addition, each UT System institution and System Administration should consider whether to amend their Handbook of Operating Procedures provisions or applicable internal policies regarding the FLSA and overtime payments to account for the new authority to pay employees for overtime worked during a disaster or other emergency situation. If the answer is yes, SB 2298 may require each institution and System Administration to devise new accounting procedures to pay employees, or give them the choice to be paid, for compensatory time they accrue in these situations.

Finally, each UT System institution and System Administration should determine whether to allow employees to accrue state compensatory time for hours worked at the employee's personal residence. An institution that wishes to allow it should amend its Handbook of Operating Procedures provisions or internal policies regarding state compensatory time and telecommuting to permit employees to accrue state compensatory time with advance approval from the institution's president or designee.

Effective: June 19, 2009

Omar A. Syed

Health Benefits

[**HB 806**](#) by Gallego, et al. and Zaffirini

Relating to health benefit plan coverage for certain prosthetic devices, orthotic devices, and related services.

HB 806 requires health benefit plans, including the UT System self-funded health plan, UT SELECT, to include coverage for prosthetic and orthotic devices.

Impact: The Office of Employee Benefits must ensure that this coverage is included in the Health Select plan.

Effective: September 1, 2009

Barbara M. Holthaus

[**HB 1138**](#) by Shelton, et al. and Wendy Davis

Relating to information required on pharmacy benefit cards.

HB 1138 requires certain health benefit plans that also provide pharmacy coverage to provide pharmacy benefit ID cards containing specific information, including the member number of the enrollee, bank information for electronic billing, effective date of plan coverage, and anticipated expiration of the coverage. The bill specifically includes plans offered by state public employee plans, including the self-funded health plan for UT System employees (UT SELECT).

Impact: The Office of Employee Benefits must either include this information on the current UT SELECT ID card or issue a new card specifically for the pharmacy benefits portion of the UT SELECT health plan.

Effective: September 1, 2009

Barbara M. Holthaus

[HB 1290](#) by Oliveira, et al. and Lucio

Relating to health benefit plan coverage for bariatric surgery and for certain tests for the early detection of cardiovascular disease.

HB 1290 requires certain health benefit plans, including the self-funded employer health plan offered by UT System (UT SELECT) to allow benefits for Cardiac Computed Tomography (CCT) for Calcium Scoring and Ultrasonographic Measurement of Carotid Intimal-Medial Thickness (IMT) as an assessment of subclinical atherosclerosis for certain male enrollees between the ages of 45 and 76 and female enrollees between the ages of 55 and 76 to screen for potential coronary heart disease.

Impact: The Office of Employee Benefits must ensure that this coverage is provided under the UT SELECT health plan.

Effective: September 1, 2009

Barbara M. Holthaus

[HB 1342](#) by Menendez/Thompson and Harris

Relating to adoption of certain information technology.

HB 1342 requires certain health plans to use information technology (IT) to provide real-time, point-of-service claims eligibility information to health care providers regarding services the health care provider proposes to provide to an enrollee in the plan. Information available through the IT must include the enrollee/patient's estimated financial responsibility and any applicable co-pays, co-insurance, and deductibles for the proposed services. A health care provider, including a physician or a hospital, is required to use this IT no later than September 13, 2013. However, a physician or health care provider with less than five employees is not required to use the IT and health plans may not require use of the IT by such providers through a contract. The Texas Department of Insurance (TDI) must adopt rules requiring a health plan to permit waivers for other providers from the IT requirements based on hardship and other special circumstances.

A health plan may not directly charge a plan enrollee or a health provider a fee to cover the cost of complying with the IT requirements created by HB 1342. TDI must adopt rules under which a health plan can apply for a waiver from compliance due to undue hardship or other circumstances. Those waivers will not be available after January 1, 2012, and no waiver can extend past January 1, 2013.

HB 1342 also requires a health care provider, including a physician or a hospital, to refund the amount of any overpayment received by a patient for the amount owed by the patient on a claim within 30 days of the discovery of the overpayment unless the payment was made in connection with a managed care or preferred provider plan claim that is subject to the “clean claims requirements” of Texas Insurance Code Sections 843.350 or 1301.132.

Impact: A UT System institution that provides health care must return any overpayments made by patients for services not subject to the “clean claims act” within 30 days of its discovery of the overpayment. This may require immediate changes in its internal procedures and billing and other policies and practices.

UT System institutions with hospitals or physicians that contract as providers with health plans subject to HB 1342 are required to be able to use the IT provided by the contracting health plans by January 1, 2013. This may require changes in internal procedures and billing and other policies and practices before that date.

HB 1342 could also indirectly affect the UT System self-funded health plan if any of its third party administrators change their claims adjudication processes to comply with HB 1342.

Effective: May 30, 2009

Barbara M. Holthaus

[HB 2000](#) by McCall and Van de Putte

Relating to health benefit plan coverage for certain amino acid-based elemental formulas.

HB 2000 requires certain health benefit plans, including the self-funded employer health plan offered by UT System (UT SELECT), to provide coverage for amino-acid based elemental formulas when deemed medically necessary in writing by the enrollee’s treating physician. The coverage must be at least as favorable as coverage for any other drugs or medications allowed by the plan. The plan’s utilization review may review the prescription for medical necessity based upon the enrollee’s diagnosis.

Impact: The Office of Employee Benefits must ensure that this coverage is provided under the UT SELECT health plan.

Effective: September 1, 2009

Barbara M. Holthaus

SB 39 by Zaffirini, et al. and Zerwas

Relating to health benefit plan coverage for routine patient care costs for enrollees participating in certain clinical trials.

SB 39 requires health benefit plans regulated by the Texas Department of Insurance, including the UT System employee group insurance plan, and, as permitted by federal law, state Medicare programs, to cover the routine costs of all patient care costs for which benefits are ordinarily provided under the plan, regardless of whether the care is provided as part of an experimental clinical trial. The health plan is not required to cover any costs that the research institute conducting the trial would normally cover. The institute must agree to accept the reimbursement rates in place under the enrollee's health plan for covered services. The plan may impose its existing requirements for deductibles, co-payments, co-insurance, out-of-network, and out-of-state coverage on any covered services. A plan may not drop an enrollee from the plan solely due to the enrollee's participation in a clinical trial.

Impact: SB 39 impacts UT System. It could make it easier for UT System institutions to recruit research participants and lower their research costs. UT System currently voluntarily provides such coverage.

Effective: September 1, 2009

Barbara M. Holthaus

SB 704 by Nelson and Kolhkorst

Relating to disclosure of the prices charged to state agencies in connection with pharmacy benefit manager services.

Section 1 of SB 704 requires a state agency, including an institution of higher education, that enters into a contract with a pharmacy benefit manager (PBM) to disclose cost and pricing information relating to the contract to other state agencies that request the information. The receiving agency may not re-disclose the information outside of the agency or its agents.

Section 2 requires the Texas Department of Insurance (TDI) to conduct a study to evaluate how PBMs use prescription drug information to manage therapeutic drug interchange programs and other drug substitution recommendations. The report must be provided by August 1, 2010, to the executive branch and certain legislative oversight committees.

Section 3 requires the Employee Retirement System of Texas (ERS), the Teachers Retirement System of Texas (TRS), Texas A&M, and UT System to include specific terms in each of their contracts with a PBM that grants the system the right to:

- audit the PBM to verify costs using an independent auditor (the audit must include access to the PBM's information concerning the services and costs performed under the PBM contract);
- audit any PBM's mail order pharmacy owned by the PBM subcontractors, which must be conducted by a independent audit selected by the System; and
- define the information the PBM must provide to the plan concerning the audit of retail, mail order, and independent pharmacies providing services to the PBM under the contract.

Sections 4 and 5 require ERS and TRS to allow plan enrollees to obtain multiple-month supplies for prescriptions from community pharmacies. They also require the ERS and TRS health plans to reimburse contracting pharmacy benefit providers using a current, nationally recognized benchmark index regardless of whether the recognized drugs are dispensed via mail order or a community pharmacy. They also prohibit the plans from applying a different co-pay for multiple-month supplies for prescriptions obtained from retail pharmacies than is charged for multiple-month supplies for prescriptions obtained from mail-order pharmacies.

Impact: Section 1 of SB 704 impacts UT System's self-funded employer health plan. The UT System plan contracts with pharmacy benefit managers (PBMs) to administer the pharmacy benefits and services provided to participants in its self-funded employee health plan.

UT System has already amended its current Pharmacy Benefit Management (PBM) contract to contain each of the provisions required by Section 3 of SB 704. Therefore, Section 3 has no direct impact on UT System.

Sections 2 and 4 do not impact UT System.

Effective: September 1, 2009

Barbara M. Holthaus

State Employee Charitable Campaign

SB 1940 by Van de Putte, et al. and Ortiz, Jr.

Relating to the fund for veterans' assistance and to the establishment of pretrial veterans court programs.

SB 1940 makes minor revisions to existing law regarding the Texas Fund for Veterans' Assistance, including a clarification that money in the fund may be used to administer the fund, and authorizes the Texas Veterans Commission to solicit and accept gifts of many

varieties in order to promote the work of the commission and to participate in the establishment and operation of affiliated non-profits for the same purpose.

SB 1940 adds the Fund for Veterans' Assistance as an eligible charity entitled to participate in the state employee charitable campaign, to which state employees may make donations. It limits the use of such donations to the management of the fund itself.

SB 1940 also permits persons registering a motor vehicle in this state to make a voluntary contribution to the Fund, and directs county assessor-collectors to send such contributions to the comptroller to be deposited into the Fund's account.

Lastly, SB 1940 creates a veterans court program to provide an alternative track for the adjudication of criminal cases against veterans and active military personnel who suffer from a brain injury, mental illness or disorder (including post-traumatic stress disorder) which is related to their military service and which materially affected the criminal conduct at issue in the case.

Impact: SB 1940 permits employees of UT System or its institutions to make contributions to the Fund for Veteran's Assistance as part of the state employee charitable campaign.

Effective: June 19, 2009

Terence L. Thompson

SB 1941 by Shapiro and Morrison

Relating to the administration and operation of the state's programs for repaying or saving toward the costs of attending an institution of higher education.

SB 1941 relates to the administration and operation of the state's programs for prepaying or saving toward the costs of attending an institution of higher education and to the participation of state employees in those programs.

SB 1941 provides a sunset date of September 1, 2019, for the Texas tomorrow fund II plan, which is in line with the sunset date for the Prepaid Higher Education Tuition Board.

SB 1941 also amends the law providing for the Texas Save and Match program, which is a program under which money paid under a prepaid tuition contract may be matched with contributions and appropriations. SB 1941 provides that the Texas Save and Match program is considered an eligible charitable organization entitled to participate in a state employee charitable campaign, and state employees are entitled to authorize payroll deductions for contributions to the Texas Save and Match program as a charitable contribution. It provides that the program is entitled to participate in the state employee charitable campaign conducted during the autumn of 2009 without regard to any limitation on the time during which an organization must apply to participate in the campaign.

SB 1941 further amends the law providing for the Texas tomorrow fund II plan by adding career schools (a career school or college that offers a two-year associate degree) as institutions for which a purchaser may prepay the costs of a beneficiary's tuition and required fees, and by making conforming amendments to reflect this addition.

It authorizes the comptroller to designate the plan manager as the comptroller's authorized representative to pay expenditures or transfer funds to an institution or a career school, requires the annual report to the board to include the amount of the fund's assets in the comptroller's or plan manager's custody, requires the plan manager to provide a quarterly report to the comptroller of all funds distributed during the previous quarter, and authorizes the comptroller to require more frequent reports or additional information to ensure that the fund's assets are adequately protected.

Impact: The only provision in SB 1941 that directly impacts UT System is the provision allowing payroll deductions in the state employee charitable campaign for purposes of making contributions to the Save and Match program. Human resources offices and payroll offices should be aware of this provision and should make changes in their procedures accordingly. The other provisions affect the administration of the higher education savings plan and the Texas tomorrow fund II plan.

Effective: June 19, 2009

Karen Lundquist

Leave

[HB 1462](#) by Picket, et al. and Uresti

Relating to leave for certain state employees who volunteer or participate in training for Court Appointed Special Advocates.

HB 1462 authorizes a state employee to be granted leave not to exceed five hours each month to participate in mandatory training or perform volunteer services for Court Appointed Special Advocates (CASA) without a deduction in salary or loss of vacation time, sick leave, earned overtime credit, or state compensatory time.

Impact: HB 1462 applies to all state employers and their employees, including UT System and its institutions. Human resources professionals and managers at all levels should be made aware of this new law. Any existing policies or publications that list other events for which employees are authorized to request leave should be updated to include the provisions of this law related to CASA volunteers.

Effective: September 1, 2009

Terence L. Thompson

[SB 833](#) by Carona and Chris Turner/Vaught

Relating to the accrual of vacation and sick leave for certain state employees during a military leave of absence and to the eligibility of military service members to hold state office.

Section 1 of SB 833 allows an employee on an unpaid leave of absence due to military duty to continue to accrue vacation leave and sick leave. This provision took effect June 19, 2009.

Section 2 of SB 833 allows an officer or member of the state military forces to hold another compensated civil office. This provision takes effect January 1, 2010, contingent on voter approval of the constitutional amendment proposed by House Joint Resolution 127.

Impact: The provisions of Section 1 relate to all state employers, including UT System and its institutions. Before revision, the law did not allow employees on unpaid military leave to accrue vacation leave or sick leave; the new law does. Human resources professionals and managers at all levels should be made aware of this change, and current policies, procedures, and publications should be revised if necessary to conform to these new requirements.

Section 2 has no direct impact on UT System or its institutions, but would clarify that members of the state military forces are not disqualified from holding another civil office.

Effective: Section 1 took effect June 19, 2009; Section 2 takes effect January 1, 2010, but only if HJR 127 is approved by the voters

Terence L. Thompson

Job Training

[HB 1452](#) by Eissler, et al. and Van de Putte

Relating to participation in job training and employment assistance programs by veterans and other covered persons.

HB 1452 amends the Labor Code to align the definitions of “active military, naval, or air service,” “covered person,” and “veteran” with federal law for purposes of receiving priority of service in certain job training and employment assistance programs. The term “covered person” includes, among others, the spouse of a member of the armed forces who died while serving on active military, naval, or air service. HB 1452 entitles a covered person to priority in obtaining services or resources regarding job training and employment assistance programs and authorizes a covered person to take precedence in obtaining services or resources over persons who are not covered. It also requires a job training or employment assistance program or service that is funded wholly or partly with state money, in selecting applicants to receive training or assistance, to give priority of

service to a covered person who meets the minimum eligibility requirements to participate or enroll in the program or receive the service. HB 1452 further authorizes the Texas Veterans Commission to provide services to enhance the employment and training opportunities of veterans, covered persons, active duty service members, spouses of active duty service members, and members of the Texas National Guard and requires the commission to operate certain federally funded veteran job training and employment programs. These services must be provided by state employees. HB 1452 repeals Section 302.014 of the Labor Code, which dealt with many of these same matters.

Impact: Although HB 1452 impacts programs administered by the Texas Workforce Commission and the Texas Veterans Commission, it expressly applies to any job training or employment assistance program or service that is funded wholly or partly with state money, and thus it could impact job training and employment programs offered by other state-funded entities, including UT System and its institutions.

Effective: June 19, 2009

Terence L. Thompson

[HB 2169](#) by Chavez, et al. and Hinojosa

Relating to the establishment of additional job incentive programs by the Texas Workforce Commission using the skills development fund.

HB 2169 authorizes the Texas Workforce Commission by rule to establish and develop additional job incentive programs that use the skills development fund to create incentives for public community and technical colleges in partnership with one or more employers, including prospective employers who commit to establishing a place of business in Texas, to provide workforce training. It authorizes the commission to commit money to a prospective employer contingent on the employer's establishment of a place of business in Texas under such a program.

Impact: UT Brownsville--Texas Southmost College may wish to monitor development of the programs established by HB 2169, as well as the adoption of the Workforce Commission's rules to implement it.

Effective: June 19, 2009

Terence L. Thompson

Child Care

[SB 68](#) by Nelson and Darby, et al.

Relating to licensing and inspection requirements of the Department of Family and Protective Services for certain facilities and homes providing child care; providing penalties.

SB 68 revises the definition of various child-care facilities, adds definitions for certain child-care programs, and exempts additional child-care facilities, including before-school programs, from the Department of Family and Protective Services (DFPS) administered child-care facility licensing requirements. SB 68 exempts from child-care facility licensing requirements: before-school programs offered by certain accredited educational facilities that operate primarily for educational purposes for prekindergarten or above; child-care facilities that operate for less than three consecutive weeks and less than 40 days in a period of 12 months; and programs that provide direct instruction to a child in a single skill, talent, or ability if the program did not advertise that it provides child-care services, makes disclosures to parents and conducts required background checks for employees and volunteers. SB 68 permits the DFPS to recognize and treat differently the types of services provided by the varies kinds of child-care facilities when promulgating minimum standards.

SB 68 prohibits a person from interfering with a DFPS investigation of a child-care facility and requires child-care facilities to cooperate with the department, including providing access to premises and records, and allowing interviews with children and employees.

SB 68 also amends the requirements for criminal background checks and fingerprinting to include the requirement that each child-care facility submit to the DFPS the name of each prospective employee of the facility, and of each person at least 14 years of age, other than a client in care, who is counted in child-to-caregiver ratio or has unsupervised access to children in care at the facility. Under SB 68 it continues to be a criminal offense to knowingly fail to submit information required for criminal background checks or allow an individual who is precluded by a criminal background check from being present at the facility to remain on the premises while children are present. The DFPS may not issue a license, listing, registration, or certification before the fifth anniversary of the date on which the license, listing, registration, or certification is revoked or denied.

Impact: SB 68 impacts UT System institution charter schools that offer before and after school programs because the before and after-school programs are exempt from child-care facility licensing requirements if operated by an accredited educational facility including one accredited by the Southern Association of Colleges and Schools. UT System institutions that operate charter schools or any programs that involve instruction or care of school age children should review rules that will be adopted by the DFPS to verify that there is an exemption from the licensing requirements.

UT System institution operated day-care centers are impacted because they will be required to submit to the DFPS for criminal background checks and fingerprinting the

name of each prospective employee and each person at least 14 years of age, other than a client in care, who is counted in child-to-caregiver ratios or has unsupervised access to children in care. The directors of UT System institutions operating day-care centers should review rules that are adopted by the DFPS regarding criminal background checks as well as institutional criminal background check policies and procedures to ensure that all appropriate names and/or fingerprints are submitted for criminal background checks.

Effective: September 1, 2009

Priscilla A. Lozano

[SB 572](#) by Shapiro, et al. and Branch

Relating to transportation safety training requirements for certain child-care providers.

SB 572 requires an owner, operator or employee of a day-care center who transports a child whose chronological or developmental age is younger than nine to complete at least two hours of annual training on transportation safety.

Impact: SB 752 impacts UT System institution day-care or child-care centers to the extent that they transport children under the age (either chronological or developmental) of nine because they will be required to provide transportation training in accordance with Department of Family and Protective Services regulations to those employees. UT System institution child-care center directors should review transportation practices and the Department of Family and Protective Service rules, which are to be adopted not later than March 1, 2010, to ensure compliance.

Effective: September 1, 2009

Priscilla A. Lozano

Retirement

[HB 3347](#) by Truitt, et al. and Duncan

Relating to plan qualification provisions for and certain supplemental payments and health insurance deductions under the Teacher Retirement System of Texas.

HB 3347 makes three changes to the law governing the Teacher Retirement System of Texas (TRS):

- It updates the TRS pension plan to include provisions added by the Internal Revenue Code (IRC) by the Economic Growth & Tax Relief Reconciliation Act of 2001 (EGTRRA), the Pension Protection Act of 2006 (PPA) and the Heroes Earnings Assistance and Relief Tax Act of 2008 (HEROES);

- It allows retired public safety officers to deduct health insurance premiums from retirement annuities; and
- It allows a one-time retirement supplemental payment.

HEROES changes:

- Starting January 1, 2009, and to the extent required by the IRC, differential wage payments are included in the definition of member compensation for a member who is in active military duty and such member shall be treated as an active employee for such purposes.
- Starting January 1, 2007, the designated beneficiary of a TRS member who dies while on active military duty is entitled to any additional benefits under TRS had the member resumed employment before dying.

PPA and EGTRAA rollover changes:

- Rollover distributions of after tax money in a member's account are permitted on or after January 1, 2001 to an IRA, a 403(b) plan, or a defined contribution qualified plan and on or after January 1, 2007, to a defined benefit qualified plan.
- Eligible retirement plans which may receive rollover distributions from TRS, in addition to IRAs and qualified plans, now include Section 457(b) plans as of January 1, 2002, 403(b) plans as of January 1, 2002 and Roth IRAs as of January 1, 2008.
- Effective January 1, 2007, beneficiaries who are not the member, the member's spouse, or an alternate payee under a qualified domestic relation order (these people already were authorized to roll over benefits to an IRA or qualified plan) now have the right to roll over distributions to "inherited IRAs."

As authorized by PPA, certain public safety officers may have their health and long-term care insurance premiums up to \$3,000 paid on a pre-tax basis from the officer's TRS retirement or disability annuity. A public safety officer who participates in the Uniform Insurance Benefits Program may authorize TRS to deduct the qualified health insurance premium from his or her monthly service or disability retirement payment for delivery to the administrator of the Uniform Insurance Benefits Program. The deduction is not allowed if the TRS monthly annuity is less than the monthly qualified health insurance premium. Also, TRS may discontinue the opportunity for such deductions if payment of the qualified insurance premiums by deduction from the retirement plan annuity is no longer required for an eligible retiree to elect the gross income exclusion for IRC purposes.

A one-time supplemental payment of a retirement or death benefit shall be paid not later than January 2010. The supplement will be the lesser of the annuitant's December 2009 monthly annuity payment or \$500. To be eligible for the supplement, the annuitant must

be entitled to a regular annuity payment for December 2009, and the retirement (for a retiree annuitant), the death of the member (for a beneficiary annuitant), or the annuity payment (for an alternate payee annuitant) must have occurred or commenced on or before December 31, 2008.

The one-time supplement is contingent upon the issuance of an Attorney General opinion that such payments are constitutionally and statutorily permissible. If the Attorney General issues a negative opinion, the appropriation will be transferred to the TRS to increase the state contribution rate for the next biennium from 6.40 percent (to which it had been decreased from the current 6.58 percent) to 6.644 percent.

Impact: Since most UT System employees are members of TRS, the increased flexibility for rollover of funds from TRS, benefits for members (or their beneficiaries) who are on active military duty and the one-time retirement supplement will be beneficial to them. UT System's Office of Employee Benefits and corresponding departments at each institution should be aware of HB 3347.

Effective: September 1, 2009

Donald Jansen

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Ethics and Compliance

[HB 1720](#) by Bohac and Deuell

Relating to the use of public funds by a political subdivision for political advertising or communications that contain false information relating to a ballot measure; providing a criminal penalty.

HB 1720 prohibits an officer or employee of a political subdivision from spending public funds for a communication describing a measure (i.e. a ballot proposition) if the communication contains information that the officer or employee knows is false and that is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the measure.

It is an affirmative defense to prosecution or the imposition of a civil penalty for reasonable reliance on a court order or a written interpretation issued by a court of record, the attorney general, or the Texas Ethics Commission. On a written request of the governing body of a political subdivision that has ordered an election on a measure, the Ethics Commission is required to prepare an advance written advisory opinion as to whether a particular communication complies with this law. SB 2085 contains similar provisions.

Impact: HB 1720 impacts Texas Southmost College (TSC), a political subdivision. Although current law allows TSC in a measure election to spend public funds for communications that factually describe the purpose of the ballot proposition, HB 1720 makes it a Class A misdemeanor to knowingly provide false information. It also authorizes TSC to request a written opinion from the Texas Ethics Commission concerning communications issued by TSC about measure elections.

Effective: September 1, 2009

Karen Lundquist

[HB 4189](#) by Rose and Watson

Relating to the conduct of compliance programs by institutions of higher education and to the vaccination of students of institutions of higher education against bacterial meningitis.

HB 4189 requires certain students to provide a certificate evidencing that the student has been vaccinated against bacterial meningitis. HB 4189 applies to first-time students, including transfer students, of an institution of higher education who reside in, or have been accepted to reside in, an on-campus dormitory or housing facility at the institution. Pursuant to rules adopted by the Coordinating Board, a student must provide a certificate signed by a health practitioner evidencing that the student has been vaccinated against bacterial meningitis. A student is not required to comply with the vaccination requirements if the student provides an affidavit or a certificate signed by a licensed physician stating that the vaccination would be injurious to the health and well-being of the student or if the student presents an affidavit or certificate signed by the student

stating that he or she declines the vaccination for reasons of conscience, including a religious belief, except that the exemption for reasons of conscience does not apply during a public health emergency, terrorist attack, disaster, or extraordinary law enforcement emergency. The Coordinating Board is required to adopt rules for administering this vaccination requirement, including the date by which a student must have received the vaccination, which may not be later than the date the student moves into on-campus housing. The vaccination requirement applies only to first-time students enrolling in institutions of higher education on or after January 1, 2010.

HB 4189 also makes confidential information that directly or indirectly reveals the identity of an individual who makes a report to the compliance program office of an institution of higher education, sought guidance from the office, or participated in an investigation conducted under the compliance program. In addition, it makes confidential information that directly or indirectly reveals the identity of an individual who is alleged to have been involved in activities that are the subject of a compliance program report if, after completing its investigation, the compliance office determines the report to be unsubstantiated or without merit. The above provisions do not apply to information related to an individual who consents to disclosure. Finally, HB 4189 makes confidential information produced in a compliance program investigation if the release would interfere with an ongoing compliance investigation. Information that is made confidential or excepted under this section may be made available to a law enforcement agency or prosecutor for official purposes. "Compliance program" is defined broadly as a process to ensure compliance by the employees of an institution of higher education with applicable rules, laws, policies and regulations.

Impact: UT System institutions must create a process to notify first-time students who will be living in an on-campus dorm or housing facility of the bacterial meningitis vaccination requirement and to verify that the students have provided either: (1) documentation that they have been vaccinated for bacterial meningitis; or (2) documentation for an exception to the vaccination requirements due to health concerns or personal beliefs.

As for the compliance program investigation exception, UT System and its institutions must protect information that, if revealed, would interfere with an ongoing compliance program investigation and also must protect information that tends to reveal the identity of a person making a report to the compliance office, which may, in some instances, mean that the entirety of the report is confidential. In addition, information relating to the identity of an individual who, after investigation, is cleared of any participation in violating relevant rules, law, policies and regulations is confidential. Given the broad definition of compliance program, the institutions may be able keep confidential information that is the subject of an administrative investigation regardless of whether the investigation is carried out specifically by the compliance office.

Effective: June 19, 2009

Neera Chatterjee

[HJR 127](#) by Phil King/Chavez and Carona

Relating to proposing a constitutional amendment to allow an officer or enlisted member of the Texas State Guard or other state militia or military force to hold other civil offices.

HJR 127 proposes a constitutional amendment to allow an officer or enlisted member of the Texas State Guard or other active militia or military force organized under state law to hold other offices or positions of honor, trust, or profit under this state or the United States. Section 2 of HB 833 implements this amendment by providing that a position in or membership in the state military forces is not considered to be a civil office of emolument. That section takes effect if HJR 127 is approved by the voters.

Impact: HJR 127 does not directly impact UT System, but it may be relevant in analyzing dual office holding questions.

Effective: Upon approval by the voters at an election to be held November 3, 2009

Karen Lundquist

[SB 194](#) by Shapleigh and Donna Howard

Relating to a prohibition against certain activities by a person in the financial aid office of a public institution of higher education or of a career school or college.

SB 194 prohibits a person employed in the financial aid office of an institution of higher education from:

- owning stock or holding another ownership interest in a student loan lender, other than through ownership of shares in a mutual fund or similar investment vehicle in which the person does not exercise discretion regarding the investment of its assets; or
- soliciting or accepting any gift from a student loan lender.

“Student loan” means a loan for which the loan agreement requires that all or part of the loan proceeds be used to assist a person in attending an institution of higher education or other postsecondary institution. “Student loan lender” means a person whose primary business is making, brokering, arranging, or accepting applications for student loans, or a combination of those activities.

A person who violates one of the restrictions is subject to dismissal or other disciplinary action.

The same restrictions apply to a career school or college, except that the career school or college may not knowingly employ a person who violates one of the restrictions.

Impact: UT Austin has entered into an agreement with the Texas Attorney General concerning its relationship with student loan lenders, and all other UT System institutions

are voluntarily complying with the agreement. The agreement prohibits stock ownership in a manner substantially similar to the prohibition in SB 194. The agreement is stricter than SB 194 concerning gifts because it prohibits all officers and employees from accepting gifts from student loan lenders, not just employees in the financial aid office. Note that SB 194 does not define the term “gift.”

The newly enacted federal Higher Education Opportunity Act requires institutions of higher education to adopt a code of conduct prohibiting officers or employees who are employed in the financial aid office or who otherwise have responsibilities with respect to education loans from soliciting or accepting any gift from a student loan lender, and defines the term “gift.” It also prohibits an officer or employee employed in the financial aid office from accepting the opportunity to purchase stock from a student loan lender as compensation for any type of consulting arrangement or other contract to provide services to a lender.

Institutions are required to comply with the AG agreement unless compliance would cause the institution to break the law. Institutions are also required to comply with federal law, but may be subject to a stricter state law. Therefore, harmonizing the AG agreement, federal law, and state law, UT System institutions must comply with the following:

All officers and employees are prohibited from accepting gifts from student loan lenders as provided by the AG agreement; and

All persons employed in the financial aid office are prohibited from owning stock or holding another ownership interest in a student loan lender, other than through ownership of shares in a mutual fund or similar investment vehicle in which the person does not exercise discretion regarding the investment of its assets.

Effective: June 19, 2009

Karen Lundquist

[SB 828](#) by Whitmire and Madden

Relating to a determination of value for purposes of punishment of the offense of abuse of official capacity.

SB 828 amends a law in the Penal Code that prohibits the misuse of government resources by a public servant. The bill provides that if separate transactions that constitute misuse are conducted pursuant to one scheme or continuing course of conduct, the conduct may be considered as one offense and the value of the things misused in the transactions may be aggregated in determining the classification of the offense.

The value of the use of a thing of value may not exceed the fair market value of the thing at the time of the offense, or the cost of replacing the thing within a reasonable time after the offense if the fair market value of the thing cannot be ascertained.

Impact: All UT System officers and employees are covered by the Penal Code provision, which provides offenses ranging from a Class C misdemeanor if the value of the use of the thing misused is less than \$20, to a felony of the first degree if the value of the use of the thing misused is \$200,000 or more. SB 828 will make it easier to prosecute separate transactions conducted pursuant to one scheme or a continuing course of conduct.

Effective: September 1, 2009

Karen Lundquist

SB 833 by Carona and Chris Turner/Vaught

Relating to the accrual of vacation and sick leave for certain state employees during a military leave of absence and to the eligibility of military service members to hold state office.

Section 1 of SB 833 allows an employee on an unpaid leave of absence due to military duty to continue to accrue vacation leave and sick leave. This provision took effect June 19, 2009.

Section 2 of SB 833 allows an officer or member of the state military forces to hold another compensated civil office. This provision takes effect January 1, 2010, contingent on voter approval of the constitutional amendment proposed by House Joint Resolution 127.

Impact: The provisions of Section 1 relate to all state employers, including UT System and its institutions. Before revision, the law did not allow employees on unpaid military leave to accrue vacation leave or sick leave; the new law does. Human resources professionals and managers at all levels should be made aware of this change, and current policies, procedures, and publications should be revised if necessary to conform to these new requirements.

Section 2 has no direct impact on UT System or its institutions, but would clarify that members of the state military forces are not disqualified from holding another civil office.

Effective: Section 1 took effect June 19, 2009; Section 2 takes effect January 1, 2010, but only if HJR 127 is approved by the voters

Terence L. Thompson

SB 1003 by Deuell and Flynn

Relating to the continuation and functions of the Office of State-Federal Relations and the administrative attachment of that agency to the office of the governor.

SB 1003 provides that the Office of State-Federal Relations is administratively attached to the office of the governor.

The office retains most of its current general powers in its role as liaison from the state to the federal government, and is also required to:

- notify the governor, lieutenant governor, speaker, and certain standing legislative committees of federal activities relevant to the state and inform the Texas congressional delegation of state activities;
- conduct frequent conference calls with the lieutenant governor and speaker regarding state-federal relations and programs;
- respond to requests for information from the legislature, congress, and federal agencies;
- coordinate with the Legislative Budget Board regarding the effects of federal funding on the state budget; and
- report to, and on request appear before, the legislative standing committees with primary jurisdiction over intergovernmental affairs.

If the office elects to contract with federal-level government relations consultants, the office must adopt written procedures for those contracts as provided by SB 1003.

A state agency, including a “state college or university,” must report to the office on any contract between the agency and a federal-level government relations consultant. The report must be submitted within 30 days after the contract is executed and again not later than 30 days after the contract is terminated and must include the name of the consultant or consulting firm, the issue on which the consultant was hired to consult, and the amount of compensation paid or to be paid to the consultant. If the consultant subcontracts the work to another firm or individual, the state agency must report the subcontract to the office. If the contract was entered into before September 1, 2009, and was not terminated before that date, the agency must submit the report not later than September 30, 2009.

SB 1003 repeals a number of provisions. Of interest to UT System are the following:

- it repeals the requirement that a state agency identified by the LBB as receiving significant federal funding must develop a plan of state-federal coordination and submit the plan to the office and the LBB; and
- it repeals the requirement that agencies and institutions of higher education report to the office, the LBB, and the governor’s office concerning federal grant applications, awards, and waivers.

Impact: UT System will be required to report to the Office of State-Federal Relations any contracts between UT System and a federal-level government relations consultant. Additionally, the report to the office and the LBB concerning federal grants will no longer be required.

Effective: September 1, 2009

Karen Lundquist

SB 2085 by Wendy Davis and Hancock

Relating to the unlawful use of public funds for political advertising by a political subdivision.

SB 2085 prohibits an officer or employee of a political subdivision from knowingly spending public funds for political advertising.

It also provides an affirmative defense to prosecution or the imposition of a civil penalty for reasonable reliance on a court order or a written interpretation issued by a court of record, the attorney general, or the Texas Ethics Commission. On a written request of the governing body of a political subdivision that has ordered an election on a measure, the Ethics Commission is required to prepare an advance written advisory opinion as to whether a particular communication relating to a measure complies with this law. HB 1720 contains similar provisions.

Impact: SB 2085 impacts Texas Southmost College (TSC), a political subdivision. It provides defenses to prosecution or the imposition of a civil penalty and authorizes TSC to request a written opinion from the Texas Ethics Commission concerning communications issued by TSC about measure elections.

Effective: September 1, 2009

Karen Lundquist

Public Information and State Records

HB 1830 by Frank Corte/Edwards and Ellis

Relating to information technology security practices of state agencies.

Open Meetings/Public Information. HB 1830 makes the following changes to the open meetings law and the public information law related to information technology security:

- HB 1830 makes the Department of Information Resources (DIR) exempt from any requirement to conduct an open meeting pursuant to the open meetings law in which the following topics are deliberated: (1) security assessments or deployments relating to information resources technology; (2) network security information; or (3) the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.

- HB 1830 provides that confidential information concerning network security that the Texas Computer Network Security System provides may only be released to certain state officials is additionally exempt from disclosure under the public information law.
- HB 1830 expands the public information law's designation of security assessments of Texas governmental body or state contractor data processing operations or technologies as "confidential information" that is exempt from disclosure under the public information law so that such an exemption includes assessments of: (1) system interfaces; (2) both sensitive and critical information electronically stored by a governmental body or a state contractor; and (3) the vulnerability of such operations or technologies to inappropriate use. However, HB 1830 further modifies the public information law to permit governmental bodies to disclose any such confidential information to a bidder if the governmental body determines that the disclosure is necessary for the bidder to provide an accurate bid.

Impact: UT System and its institutions must implement these provisions in processing requests under the public information law.

Information Security Reports. HB 1830 also revises Chapter 2054 of the Government Code to extend the authority of the information resources manager of a state agency to prepare reports (and executive summaries of those reports) that assess the extent to which the agency's computing resources are vulnerable to unauthorized access or harm. It requires an electronic copy of the report to be provided to the agency's executive director. The reports may include an assessment of computer system interfaces and the extent that information electronically stored by the state agency or its contractors is vulnerable to inappropriate use. A state agency must create a separate, publically-available summary of a vulnerability report that does not contain information that might compromise the security of the computer systems of that state agency or of that agency's contractors.

Impact: These changes require UT System and its institutions to implement the extended authority and duty to perform vulnerability assessments of, as well as reports on, the security of the computer systems of the institution and its contractors.

Procurement Certification for Network Hardware and Software. Finally, HB 1830 authorizes DIR to adopt rules by September 1, 2010, that will require state agencies (including university systems and institutions of higher education) to include in contracts for the procurement of network hardware and software a certification from the vendor that the equipment and software have undergone independent certification testing for known and relevant vulnerabilities.

Impact: This change requires UT System and its institutions to modify their information technology procurement processes to ensure that the certification is obtained when network hardware and software are procured. Therefore, the information

technology, information security, procurement, and legal offices at UT System and its institutions should be notified of this change.

Effective: September 1, 2009

Scott A. Patterson

[HB 3544](#) by Lucio III and Fraser

Relating to the standards, methods, and procedures used by governmental bodies in taking certain actions and managing certain information, including standards, methods, and procedures relating to electronic notices by the Texas Commission on Environmental Quality, electronically stored information provided by a governmental body, confidentiality of e-mail addresses provided to a governmental body, and determinations regarding whether property is pollution control property for ad valorem tax purposes.

HB 3544 is an omnibus bill relating to electronic notices by the Texas Commission on Environmental Quality (TCEQ), electronically stored information provided by a governmental body, confidentiality of e-mail addresses, and determinations relating to whether property is pollution control property for purposes of ad valorem taxes.

Sections 1 and 2 provide that TCEQ may use electronic means to transmit notices, orders, and decisions issued or sent by it.

Sections 3 through 6 amend the provisions in the Tax Code that entitle an individual to an exemption from taxation on property owned by the individual that is used wholly or partly for the control of air, water or land pollution.

Section 7 provides that e-mail addresses provided to a governmental body for the purpose of receiving orders or decisions from the governmental body are not confidential. Further, e-mail addresses provided to a governmental body for the purpose of providing public comment on or receiving notices related to an application for a license as defined by Section 2001.003, Government Code, are not confidential.

Section 8 provides that if a governmental body is unable to comply with a public information request to produce public information in a requested medium, the governmental body shall provide a copy of the information in another medium that is acceptable to the requestor. This applies only to requests received by the governmental body on or after September 1, 2009.

Impact: UT System and its institutions should be aware that the TCEQ may use electronic means to communicate its notices, decisions, and orders.

With regard to e-mail addresses provided to a governmental body, the institutions must be aware that additional categories of e-mail addresses are subject to disclosure under the public information law. Finally, if the institutions cannot comply with a request to produce public information in the format desired by the requestor, the institutions must

provide a copy in another medium that is acceptable to the requestor and may not merely provide a paper copy.

Effective September 1, 2009

Neera Chatterjee

[HB 3756](#) by Donna Howard and Ellis

Relating to the Texas State Library and Archives Commission.

HB 3756 amends the law relating to state libraries and archives as follows:

- HB 3756 authorizes the Texas State Library and Archives Commission (TSLAC) to provide library services to persons with disabilities in cooperation with the federal government.
- HB 3756 repeals the TSLAC's authority to adopt a state plan for constructing county, municipal, and other public libraries. Instead, HB 3756 authorizes the TSLAC to have a plan to address improving library services consistent with federal goals, including a procedure by which any library may apply for money under the plan.
- HB 3756 changes the name of the program that makes grants to fund public library programs to promote reading from the "new millennium reading program" to the "Texas Reads program."
- HB 3756 revises the Library Systems Act, specifically addressing the statutory requirements placed on library systems, centers, boards, councils, grants, and research fees.
- HB 3756 revises the statutory requirements for the preservation and management of local government records.
- HB 3756 amends the requirements placed on state agencies for the preservation and management of state records and other historical resources by expanding:
 - (1) the definition of state records to include any recorded information created or received by a Texas government official in the conduct of official business, including officials from periods in which Texas was a province, colony, republic, or state; and
 - (2) the ability of state agencies and the TSLAC to demand the return of state records or archival state records from private possession.
- HB 3756 expands the TexShare Library Consortium to all types of libraries, and makes available the Consortium's group purchasing agreements and grants.

- HB 3756 amends the statutory requirements placed on county libraries and librarians.

Impact: All libraries, archives, and records management offices at UT System and its institutions should be informed of the changes implemented by HB 3756. Specifically, they should be aware of the changes regarding the preservation and management of state records and other historical resources.

Effective: September 1, 2009

Scott A. Patterson

SB 671 by Shapleigh and Gallego/Oliveira

Relating to information requested by a member, committee, or agency of the legislature under the public information law.

SB 671 provides that if a governmental body requires a member, committee, or agency of the legislature to sign a confidentiality agreement in order to access confidential information, the individual, committee, or agency of the legislature may seek a ruling from the attorney general as to whether the information subject to the confidentiality agreement is confidential under law. A confidentiality agreement is void to the extent that the agreement covers information that is determined by the attorney general to not be confidential under law. The attorney general is required to adopt rules to establish procedures and deadlines for receiving information necessary to decide the matter. Once the attorney general issues its written ruling, the requestor or governmental body may appeal the decision to a Travis County district court. Note that SB 1182 contains an identical provision, effective September 1, 2010.

Impact: Neither UT System nor its institutions will be able to rely on a confidentiality agreement with a member, committee, or agency of the legislature to keep information confidential that would not otherwise be confidential by law.

Effective: September 1, 2010

Neera Chatterjee

SB 1068 by Wentworth and Gallego

Relating to allowing a governmental body to redact certain personal information under the public information law without the necessity of requesting a decision from the attorney general and allowing information about a public officer or public employee to be withheld if disclosure would pose a substantial risk of physical harm.

SB 1068 allows a governmental body to redact, without seeking a ruling from the attorney general, home addresses, home telephone numbers, and family information relating to former and current employees, assuming that the employees made a timely election to keep that information confidential, as well as information relating to peace

officers, county jailers, and security officers, regardless of whether they made a timely election. If a governmental body redacts this information without seeking a ruling from the attorney general, it must provide to the requestor, on a form prescribed by the attorney general, a description of the redacted information, a citation to the relevant section of the public information law, and instructions explaining that the requestor may seek a decision from the attorney general as to whether the redacted information is excepted from disclosure. If a requestor wishes to seek a ruling from the attorney general relating to personal information of current and former employees of a governmental body, the attorney general is required to issue its ruling within 45 business days. Under SB 1068, there is also a similar provision for information maintained by a family violence shelter or sexual assault program.

SB 1068 also adds an exception under the public information law by excepting from disclosure information that relates to an employee or officer of a governmental body if, under the specific circumstances, the release of that information would subject the individual to a substantial threat of physical harm.

Impact: UT System and its institutions can now redact personal information about their employees without seeking a ruling from the attorney general but will have to provide a written explanation to requestors, on a form prescribed by the attorney general, explaining what has been redacted and that they can request a ruling from the attorney general. The form is available on the attorney general's website. The institutions should change their public information policies and procedures to reflect this change enacted by SB 1068. In addition, the new exception to the public information law has the potential to be helpful in situations in which, for example, faculty researchers at UT System institutions are threatened by various requestors or organizations.

Effective: June 4, 2009

Neera Chatterjee

[**SB 1182**](#) by Wentworth and Ortiz, Jr.

Relating to public information and open government.

SB 1182 is an omnibus bill primarily relating to public information.

SB 1182 adds an exception under the public information law for information relating to a biological agent or toxin identified or listed as a select agent under federal law. Information about the specific location of the select agent, personal identifying information of a person whose name appears in documentation relating to the chain of custody of select agents, and the identity of individuals authorized to possess or use a select agent are excepted from disclosure. Neither information relating to the identity of the select agents present in a particular facility nor the identity of a faculty member or employee whose name appears or will appear in published research are excepted from disclosure under this new section. This exception applies to a request for public information that was made before, on, or after September 1, 2009. In addition, the exception applies to information that, as of September 1, 2009, had not been disclosed,

was the subject of a request for information made before that date, and was information that the attorney general determined before that date to be subject to disclosure.

SB 1182 provides that if a governmental body requires a member, committee, or agency of the legislature to sign a confidentiality agreement in order to access confidential information, the individual, committee, or agency of the legislature may seek a ruling from the attorney general as to whether the information subject to the confidentiality agreement is confidential under law. A confidentiality agreement is void to the extent that the agreement covers information that is determined by the attorney general to not be confidential under law. The attorney general is required to adopt rules to establish procedures and deadlines for receiving information necessary to decide the matter. Once the attorney general issues its written ruling, the requestor or governmental body may appeal the decision to a Travis County district court. This provision does not take effect until September 1, 2010. Note that SB 671, effective September 1, 2010, contains an identical provision.

SB 1182 also affects the civil enforcement provisions under the public information law. Under Section 552.324, Government Code, only a governmental body, and not the officer for public information, may file suit against the attorney general seeking declaratory relief from compliance with a decision issued by the attorney general. This suit must be filed in Travis County district court. Under Section 552.353(b)(3), a public information officer has an affirmative defense to prosecution for criminal negligence if: (1) the governmental body or public information officer files a petition for declaratory judgment within ten days after the receipt of the ruling from the attorney general; and (2) the matter is pending. Where a governmental body files suit seeking declaratory relief under Section 552.324, the court may assess costs of litigation and reasonable attorney fees, and in so doing, the court must consider the actions of the governmental body as a whole and not only those of the public information officer for the governmental body.

Note that there are other provisions in SB 1182 that relate to the governing board of municipalities and employees of hospital districts and that do not impact UT System or its institutions.

Impact: The exception under the public information law relating to select agents impacts the University of Texas Medical Branch at Galveston.

With regard to confidentiality agreements, neither UT System nor its institutions will be able to rely on a confidentiality agreement with a member, committee, or agency of the legislature to keep information confidential that would not otherwise be confidential by law.

Finally, the only relief UT System and its institutions may seek after receiving a ruling from the attorney general is the filing of a suit for declaratory relief.

Effective: September 1, 2009

Neera Chatterjee

SB 1629 by Wentworth and Rose

Relating to the persons exempted from the required prepayment of the personnel costs incurred by a governmental body in responding to the requests from a requestor under the public information law that require large amounts of personnel time.

SB 1629 provides that for certain categories of requestors, a governmental body may not use the provision in the public information law that allows a governmental body to establish a limit on the amount of time its personnel spends producing public information to a requestor without recovering costs attributable to the personnel time. In addition to the existing categories of requestors who are not subject to this time limitation, SB 1629 extends the list to include requestors who seek information for:

- newspapers of general circulation that are published on the Internet by a news medium engaged in disseminating news to the public; and
- magazines that are published at least once per week or on the Internet by a news medium engaged in disseminating news to the public.

Impact: UT System and its institutions will be further limited in their ability to use the provision that allows them to establish limits on the amount of personnel time they spend in producing public information to a requestor. The institutions should change their public information policies and procedures to reflect the changes enacted by SB 1629.

Effective: September 1, 2009

Neera Chatterjee

Student Representatives

SB 1729 by West and Alonzo

Relating to the terms of student members of certain Texas Higher Education Coordinating Board advisory committees.

SB 1729 provides that the term of a student representative on a Coordinating Board advisory committee may not be less than two years. By August 1 of each odd-numbered year, the Coordinating Board must provide to each institution of higher education a list of available positions for student representatives on board advisory committees. The president of each institution must establish a nomination process for the available positions by September 1 of each odd-numbered year, and must forward the applications of the nominees selected by president by the following December 1. The Coordinating Board must then make appointments by the following February 1.

SB 1729 applies only to the term of a student member appointed on or after June 19, 2009.

Impact: UT System institutions that nominate students for service on a Coordinating Board advisory committee should change their procedures so that the nomination occurs in the fall of odd-numbered years.

Effective: June 19, 2009

Karen Lundquist

Law Enforcement and Security

[HB 618](#) by Frank Corte and Wentworth

Relating to privileged parking for certain veterans and military award recipients.

HB 618 exempts a person from paying parking meter fees if the person has “Legion of Valor” license plates that identify the person as a recipient of the Air Force Cross or Distinguished Service Cross, the Army Distinguished Service Cross, the Navy Cross, or the Medal of Honor. HB 618 exempts a person from parking meter fees if the person has “Legion of Merit” license plates that identify the person as a recipient of the Legion of Merit medal.

Impact: Each UT System institution that has parking meters on its property should make its parking services employees aware of the new exemption, and should provide photographs of the exempt license plates to the employees responsible for enforcing parking meter restrictions on institution property. If an institution uses a website or other publication to describe its parking policies and fee exemptions, it may also wish to mention these new exemptions.

Effective: June 19, 2009

Omar A. Syed

[HB 1659](#) by Phil King and Dan Patrick

Relating to creating an exception to the offense of unlawful installation of a tracking device.

It is a crime (class A misdemeanor) to knowingly install a mechanical or electronic tracking device on the car of another person. However, HB 1659 makes it clear that this criminal law does not apply to a peace officer who installs a tracking device to gather information for a law enforcement agency, to further a criminal investigation, or to comply with a court order.

Impact: In certain instances, an institution police officer may wish to attach a tracking device to a person's car. HB 1659 makes it explicit that, as long as the officer does so to gather information for law enforcement purposes, the officer will not later face criminal prosecution for that act. When they authorize and train officers to install such devices, institutional police departments should inform the officers that they are immune from criminal prosecution under these circumstances. If the topic of tracking devices is taught in the UT System Police Academy, its instructors should also inform their cadet classes of this development.

Effective: September 1, 2009

Omar A. Syed

[HB 1960](#) by Maldonado, et al. and Lucio

Relating to the payment for an appearance as a witness for certain peace officers and firefighters.

HB 1960 requires a municipality to pay a firefighter or peace officer when it compels him or her to testify as a witness in an administrative proceeding involving the municipality. The payment is required as long as the testimony is required, occurs on the firefighter's/officer's time off, and is made in his or her capacity as a firefighter/officer.

Impact: On rare occasions, an institutional police officer may be subpoenaed to testify in an administrative proceeding, such as a municipal police officer discipline hearing or civil service commission hearing. In these situations, HB 1960 requires the municipality to pay the officer if the testimony occurs on the officer's time off and in his or her professional capacity. The law does not require the institution to offer the officer additional compensation for that time or to otherwise involve itself in the administrative proceeding. Therefore, institutions need not make any administrative or policy changes in response to HB 1960.

Effective: June 19, 2009

Omar A. Syed

[HB 2020](#) by Weber, et al. and Mike Jackson

Relating to parking privileges for veterans with disabilities.

HB 2020 authorizes a vehicle to be parked for an unlimited period in a parking space or area designated for the disabled if the vehicle displays license plates issued by another state of the United States indicating that the owner or operator of the vehicle is a disabled veteran of the US armed forces.

Impact: Parking enforcement personnel on campuses need to be aware of this change to avoid erroneously ticketing vehicles displaying out of state disabled veteran license plates.

Effective: September 1, 2009

Edwin Smith

[HB 2068](#) by Elkins and Hegar

Relating to an identification card for certain retired peace officers.

On request by an honorably retired peace officer who holds a certificate of firearms proficiency, HB 2068 requires the officer's former state or local law enforcement agency to provide him or her with an identification card verifying his or her honorable retirement from the agency.

Impact: HB 2068 requires UT System's Office of Director of Police and institutional police departments to issue the identification cards to honorably retired officers on request. In the past, the law permitted, but did not require, law enforcement agencies to issue the certificates. Because HB 2068 is mandatory, each institution should ensure that its police department is made aware of the need to honor these requests from its qualifying retirees.

Effective: June 19, 2009

Omar A. Syed

[HB 2347](#) by Thibaut/Guillen and Whitmire

Relating to tuition and fee exemptions at public institutions of higher education for certain peace officers enrolled in criminal justice or law enforcement course work and for certain educational aides.

HB 2347 requires the governing board of an institution of higher education to exempt from the payment of tuition and laboratory fees charged for a criminal justice or law enforcement course or courses an undergraduate student who is employed as a peace officer by this state or by a political subdivision, who enrolls in a criminal justice or law enforcement-related degree program, is making satisfactory academic progress toward the student's degree as determined by the institution, and applies for the exemption at least one week before the last date of the institution's regular registration period for the applicable semester or other term.

However, a student may not receive a peace officer exemption for any course if the student has previously attempted a number of semester credit hours for courses taken at any institution of higher education while classified as a resident student in excess of the maximum number of those hours specified by Section 61.0595(a), Education Code, as eligible for formula funding.

Additionally, the governing board may not provide peace officer exemptions to students enrolled in a specific class in a number that exceeds 20 percent of the maximum student enrollment designated by the institution for that class.

The Coordinating Board is required to adopt rules governing the granting or denial of an exemption, including rules relating to the determination of eligibility, and a uniform listing of degree programs covered by the exemption. (This language is identical to the language in HB 2013 relating to exemptions for firefighters.)

If the legislature does not specifically appropriate funds to an institution of higher education in a amount sufficient to pay the institution's costs under this law for a semester, the governing board shall report to the Senate Finance Committee and the House Appropriations Committee the cost to the institution of complying with this law for that semester. This applies to the firefighters exemption as well as the peace officers exemption.

The above provisions take effect January 1, 2011, and apply beginning with tuition and laboratory fees charged for the 2011 fall semester.

HB 2347 also amends the law that authorizes tuition and fee exemptions for educational aides. It requires the institution of higher education at which a person seeking an exemption is enrolled, as opposed to the Coordinating Board, to certify the person's eligibility to receive the exemption. As soon as practicable after receiving an application for certification, the institution must make the eligibility determination and give notice to the applicant and to the school district employing the applicant as an educational aide. This applies to an exemption from tuition and fees granted beginning with the 2009 fall semester, and is identical to SB 1798, which takes effect June 19, 2009.

Impact: HB 2347 requires UT System institutions to provide a tuition and laboratory fee exemption for peace officers of certain political subdivisions who enroll in certain courses. Under the Regents' *Rules and Regulations*, Rule 40401, the Board of Regents has delegated its authority to grant tuition and fee exemptions to the presidents of the institutions. UT System institutions should make any necessary changes to catalogs, publications, and websites to reflect the new exemption.

HB 2347 also requires UT System institutions to determine an educational aide's eligibility to receive a tuition and fee exemption and to notify the aide as well as the school district employing the aide.

Effective: The provisions relating to exemptions for educational aides take effect June 19, 2009. The provisions relating to exemptions for peace officers and firefighters take effect January 1, 2011.

Karen Lundquist

[HB 2580](#) by Frost and Deuell

Relating to the establishment of a peace officer employment opportunity Internet website by the Texas Workforce Commission.

HB 2580 requires the Texas Workforce Commission (TWC) to develop a website that advertises state/local peace officer job openings and allows applicants and law

enforcement agencies to exchange information about those openings. The website must verify whether and to what level an applicant holds a current license with the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE), and must also indicate whether the license has ever been revoked or suspended.

If a lack of funding prevents the TWC from developing the website, HB 2580 requires it to execute a memorandum of understanding with TCLEOSE to integrate a peace officer job matching database into the TWC's existing Labor Exchange System.

Finally, HB 2580 is not mandatory because the legislature did not appropriate any funds to implement it.

Impact: Because the Legislature did not appropriate any funds to implement HB 2580, it will have no instant effect on UT System institutions. If and when funds become available, the job matching website will help institutional police departments more readily advertise lateral job openings and recruit peace officers for those opportunities. Of course, police departments must still submit their job openings for public posting and application on the appropriate institutional website.

Effective: June 19, 2009

Omar A. Syed

[HB 2664](#) by Ritter and Hegar

Relating to creating a defense to prosecution for the offense of unlawful carrying of a handgun by a license holder on the premises of certain businesses.

Currently, state law states that licensed handgun holders may not carry handguns in certain businesses (i.e. bars and hospitals) and that those facilities must have signs at the entrances that state that handguns are prohibited on the premises. HB 2664 creates a defense to prosecution for the offense of unlawful carrying of a handgun by a license holder on those premises if the premise failed to have the required signs posted.

Impact: Failure to have the signs properly posted would hinder an institution's ability to ensure that individuals who brought handguns into certain facilities were effectively prosecuted. Therefore, any entities at UT System institutions that meet the following definitions should ensure that they post the signs:

- a hospital licensed under Chapter 241, Health and Safety Code; or
- a business that has a permit or license issued under Chapter 25, 28, 32, 69, or 74, Alcoholic Beverage Code, and that derives 51 percent or more of its income from the sale of alcoholic beverages for on-premises consumption.

However, a business that has a food and beverage certificate issued under the Alcoholic Beverage Code would not have to post a notice of the prohibition.

Effective: September 1, 2009

Esther L. Hajdar

HB 2799 by Driver and Hegar

Relating to the responsibilities of a person who qualifies for a peace officer license but has not yet been appointed as a peace officer.

Under existing law, a person must meet certain prerequisites to be licensed as a peace officer in Texas, including completion of required training, passage of the peace officer licensing exam, demonstration of firearms proficiency, demonstration of satisfactory psychological and emotional health, and lack of drug dependency and illegal drug use.

According to HB 2799, a person who meets these requirements but has not yet received a peace officer license bears the same regulatory reporting responsibilities as a licensee who already has been appointed as a peace officer. Currently, these responsibilities include the duty to inform the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) of his or her arrest, of a charge or indictment for certain criminal behavior, of a final disposition of such a matter, of a name change, of a change in permanent mailing address, and of any military discharges that are less than honorable or general.

In addition, HB 2799 allows TCLEOSE to deem an otherwise-eligible person ineligible for a license based on events that occur after he or she meets the requirements for a license, but before a license is issued.

Impact: HB 2799 directly affects recent graduates of the UT System Police Academy who have passed the peace officer licensing examination and satisfied the other prerequisites for a license. In the past, these graduates arguably did not have to comply with the reporting requirements until they received their licenses. Now, each institutional police department should more closely oversee the conduct and reporting compliance of its recent Academy graduates. If the departments fail to do so, they may face unexpected staffing issues if these graduates later conduct themselves in a way that causes TCLEOSE to deny their licenses.

Effective: September 1, 2009

Omar A. Syed

HB 3186 by McCall and Duncan

Relating to the collection and use of biometric identifiers.

HB 3186 clarifies that Section 503.001(c), Business & Commerce Code, which limits the redisclosure of biometric identifiers such as an iris scan, fingerprints, etc., applies only to biometric identifiers that were obtained for commercial purposes. It adds provisions that limit the redisclosure of an individual's biometric identifier with consent only in the

event of an individual's disappearance or death. It permits redisclosure of an identifier for law enforcement purposes only if the law enforcement agency requesting the identifier obtains a warrant. It further requires the destruction of an identifier within one year of the date after which the purpose for which the identifier was originally collected has ceased to exist, unless its retention is otherwise required by law. If the identifier was collected by an employer for security purposes, the purpose for collecting the identifier is presumed to cease upon termination of the employment.

Impact: UT System institutions that collect biometric identifiers from employees for security purposes must destroy them within one year after the termination of the employee's employment unless the institution can establish that applicable law requires retention for a longer period of time or there is some other legitimate purpose for retaining the identifier.

An individual or department involved in research at a UT System institution that involves the acquisition of a biometric identifier and subsequently wishes to disclose such identifiers to a third party should be aware of this law, particularly if the research could be construed as being for a "commercial purpose."

Effective: September 1, 2009

Barbara M. Holthaus

[HB 3389](#) by Harper-Brown/Merritt and Deuell

Relating to the continuation and functions of the Texas Commission on Law Enforcement Officer Standards and Education; providing civil and administrative penalties.

HB 3389 reauthorizes the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) through 2021. In addition, HB 3389 contains numerous provisions of interest to UT System institutions' police departments.

First, HB 3389 removes the requirement that a law enforcement agency keep records in written form of the money it receives from TCLEOSE and spends on officer training.

Second, HB 3389 requires TCLEOSE to create a system for law enforcement agencies and training providers to submit required forms, data, and other documents to TCLEOSE electronically and to require agencies and individuals to use the system whenever they submit such information.

Third, HB 3389 requires TCLEOSE to adopt a rule identifying the criminal convictions and sentences of deferred adjudication/community supervision that allow it to take action against a peace officer's license.

Fourth, HB 3389 allows TCLEOSE to audit every law enforcement agency at least once every five years to determine if the agency properly maintains records about the age, education, physical standards, citizenship, experience, competence and reliability, and

physical and mental condition of each person on whose behalf it has applied for a peace officer license.

Fifth, HB 3389 directs TCLEOSE to make its process of investigating complaints against licensees more transparent and detailed. Among other things, the bill requires TCLEOSE to adopt rules that more carefully detail the procedure it uses to investigate complaints. HB 3389 also permits a licensee to obtain information about a complaint filed with TCLEOSE against him or her, including a complete copy of the complaint file.

Sixth, HB 3389 requires TCLEOSE to create a system and criteria for placing an officer training provider on at-risk probationary status.

Seventh, HB 3389 removes the requirement that a person complete at least 12 hours of higher education coursework with at least a 2.0 GPA before enrolling in officer training.

Eighth, HB 3389 requires that, at least once every two years, peace officers complete a training program that covers recent changes to Texas and federal law relating to peace officers.

Ninth, HB 3389 removes the requirement that, at least once every four years, a law enforcement agency provide its officers a course regarding civil rights, racial sensitivity, and cultural diversity. HB 3389 replaces this with a requirement that each agency provide the training to its officers who hold only a basic proficiency certificate, and also train those officers on de-escalation and crisis intervention techniques to use when interacting with mentally impaired persons.

Tenth, HB 3389 requires an officer who seeks an intermediate proficiency certificate to complete a training course on investigative topics related to child abuse/neglect, family violence, sexual assault, sex offender characteristics, and crime victim rights. The officer also must complete a TCLEOSE-developed training program on civil rights, racial sensitivity, and cultural diversity.

Eleventh, HB 3389 permits an agency to file an electronic, rather than a written, request with TCLEOSE for a licensee's employment termination reports before hiring him or her as an officer.

Twelfth, HB 3389 removes TCLEOSE as a party to State Office of Administrative Hearings proceedings begun by an officer who challenges the contents of his or her F-5 form, which a law enforcement agency submits to TCLEOSE to document the reasons for the officer's separation from employment.

Thirteenth, HB 3389 authorizes TCLEOSE to take action against a peace officer's license if he or she fails to properly report racial profiling data relating to motor vehicle stops in which a citation is issued, arrests resulting from those stops, and pedestrian stops in which a person is detained but not arrested.

Fourteenth, under HB 3389, each law enforcement agency must include in its racial profiling policy a requirement that an officer report whether the officer knew an individual's race or ethnicity before detaining him or her.

Fifteenth, HB 3389 requires each law enforcement agency's chief administrator to submit an annual report to TCLEOSE that details certain racial profiling information collected during his or her officers' traffic stops. If a chief intentionally fails to file the report, HB 3389 authorizes TCLEOSE to institute disciplinary action against him or her.

Sixteenth, HB 3389 requires every peace officer who conducts a traffic stop to write a report physically describing the car's driver, including the driver's gender and known or observed race or ethnicity; identifying the initial reason for the stop; stating whether the officer conducted a search as a result of the stop, and if so, whether the person detained consented to the search; stating whether contraband or other evidence was uncovered during the search and describing any such evidence uncovered; identifying the legal basis for the search, including the plain view doctrine, probable cause or reasonable suspicion, or search pursuant to lawful arrest or the towing of the car; stating whether the officer arrested anyone from the stop and search, and identifying whether the arrest was based on a violation of the Penal Code, a traffic law, or an outstanding warrant, and identifying the offense charged; identifying the street address where the stop occurred; and stating whether the officer issued a written warning or citation as a result of the stop.

Seventeenth, HB 3389 requires each department to compile the racial profiling information created by its officers from traffic stops, and to have its chief administrator submit the information in a yearly report to TCLEOSE. The report must also compare the agency's number of traffic stops of persons recognized as racial minorities with the number of stops of persons not recognized as racial minorities. The report must also describe the dispositions of stops, categorizing them by the race or ethnicity of the person stopped, and including any searches conducted during the stops. Finally, the report must relate information about each complaint of racial profiling filed against an officer of the department. If TCLEOSE finds that the agency's chief administrator has intentionally failed to file the required report, it may take action against his or her peace officer license. In that situation, HB 3389 also renders the chief administrator liable to pay a \$1,000 civil penalty for each violation.

Finally, HB 3389 exempts individual officers from collecting racial data on traffic stops, and exempts chief administrators from submitting the required racial profiling report to TCLEOSE if, during the calendar year covered by the required report:

- each police vehicle regularly used by officers who work for the department is equipped with a video camera and transmitter-operated equipment, and each motorcycle similarly used is equipped with transmitter-operated equipment; and
- each traffic stop capable of being recorded by video and audio together, or audio equipment alone, is recorded by those means.

Impact: HB 3389 creates space savings by removing the need for institutional police departments to store and submit most required reports in paper form, instead allowing them to use approved electronic means. HB 3389 also expands the pool of persons whom departments can recruit for the System Police Academy by removing the requirement that prospective officers complete 12 hours of higher education. For that matter, it makes the process of employment screening faster and easier by allowing departments to electronically submit requests for applicants' past employment termination reports. ODOP should update its policies to reflect all of these relaxed requirements.

On the other hand, HB 3389 requires departments to more rigorously document the fact, disposition, and racial/ethnic characteristics of each traffic stop conducted by an officer, unless the departments have already equipped and faithfully use video and audio equipment to record traffic stops. In addition, HB 3389 imposes new training requirements on all departments, and also on officers who apply for intermediate proficiency certificates. In the end, ODOP's Training Coordinator and each department's training officers will be challenged to rigorously implement and document these changes to the training requirements, particularly because TCLEOSE will now be required to audit each department's records at least once every five years, rather than on an irregular or complaint-driven basis. These changes to training requirements and racial profiling reporting obligations should therefore be reflected in revised department and ODOP policies.

Effective: September 1, 2009

Omar A. Syed

SB 418 by Carona and Moody, et al.

Relating to the compilation, maintenance and release of information in a criminal street gang intelligence database by law enforcement agencies and criminal justice agencies.

SB 418 requires law enforcement agencies in cities of 50,000 or more or counties of 100,000 or more to compile and maintain in a local or regional intelligence database information relating to criminal street gangs. SB 418 permits each agency to compile and maintain the information on paper, by computer, or in any other useful manner. SB 418 also requires each agency to send its compiled information to the Department of Public Safety (DPS). Finally, SB 418 requires persons who enter information into the database to receive appropriate training from the DPS at least once every two years.

Impact: Because each institutional police department is a "law enforcement agency" that sits in a city of 50,000 or more or, in the case of UT Pan American, in a county of 100,000 or more, SB 418 will require each department to compile, maintain, and submit to DPS the requisite criminal street gang information. In addition, if it has not already done so, each department should designate a person or persons who will enter the required information into the appropriate database. Those persons must then complete

the DPS-mandated training to acquaint themselves with the database and with applicable federal restrictions on its use.

Effective: September 1, 2009

Omar A. Syed

SB 1303 by Seliger and Phil King

Relating to the requirement that certain state and local governmental entities designate a firearms proficiency officer and require weapons proficiency.

For some time, a law enforcement agency that employs at least two peace officers has been required to designate a firearms proficiency officer to whom each other officer must demonstrate his or her weapons proficiency at least once a year. SB 1303 now requires a law enforcement agency to designate a firearms proficiency officer even if the agency employs only one officer.

Impact: SB 1303 does not require UT institutions to make any administrative changes. Each institution and System Administration already employ two or more officers, and thus have already been complying with the requirement to designate a firearms proficiency officer.

Effective: September 1, 2009

Omar A. Syed

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SB 1 Higher Education Summary

The Eighty-first Legislature, 2009, appropriated \$12.6 billion in General Revenue to support all of higher education, including amounts estimated for employee benefits, for 2010-11. This represents an increase of \$1.2 billion in General Revenue or 10.2 percent over 2008-09.

For the University of Texas General Academic Institutions, Health-related Institutions, and System Administration, Senate Bill 1 includes \$3.5 billion in General Revenue appropriations for 2010-11, an increase of \$257.1 million or 7.9 percent compared to 2008-09. General Revenue appropriations total \$1.6 billion for the nine UT General Academic Institutions; \$1.9 billion for the six UT Health-related Institutions; and \$17.1 million for the UT System Administration.

Included in the overall increase of \$257.1 million for the UT institutions are the following amounts:

- \$165.1 million in additional formula funding for the UT General Academic and Health-related Institutions;
- \$13.9 million in formula hold harmless for the General Academic Institutions;
- \$5 million for a new Special Item for UT Arlington;
- An increase of \$3.3 million for the Research Development Fund that benefits the UT System General Academic Institutions (with the exception of UT Austin);
- \$15.7 million increase for the new Research University Development Fund (previously known as the Texas Competitive Knowledge Fund) for UT Austin;
- \$20.5 million increase in mission specific support formula funding to support UT MD Anderson and UT HSC Tyler; and
- An increase of \$10.1 million for Graduate Medical Education that benefits the UT System Health-related Institutions.

A reconciliation of the 2010-11 changes in General Revenue for the UT Institutions and System Administration by item of appropriation is provided at the end of this section in the spreadsheet titled *The University of Texas System, 2010-11 General Revenue Appropriations, Senate Bill 1 Reconciliation*.

The operating fund increases (net of Tuition Revenue Bond [TRB] debt service) of \$257.1 million include General Academic Institutions' increases totaling \$95.6 million, or 6.4 percent, Health-related Institutions' increases totaling \$196.7 million, or 12.2 percent, and UT System Administration increases totaling \$2.4 million, or 16.6 percent. A comparison of Operating General Revenue appropriations for each UT Institution and System Administration is included in the spreadsheet titled *The University of Texas System, Senate Bill 1, 81st Legislature, 2010-11 General Appropriations Act* at the end of this section. These spreadsheets also include supplemental General Revenue Appropriations made to Higher Education Institutions through House Bill 4586.

General Revenue appropriations for Higher Education Group Insurance (HEGI) contributions for the UT Institutions total \$348.7 million for the biennium, an increase of \$44 million, or 14.4 percent. A comparison of HEGI General Revenue contributions for each UT Institution and System Administration is included in the spreadsheet titled *The University of Texas System, Senate Bill 1, 81st Legislature, 2010-11 General Appropriations Act, Higher Education Group Insurance – 2008-09 Biennium vs. 2010-11 Biennium* at the end of this section.

Two additional spreadsheets provided at the end of this section present the General Revenue funding levels for all 35 General Academic Institutions and nine Health-related Institutions in Texas. These spreadsheets are titled *State of Texas General Academic Institutions* and *State of Texas Health-related Institutions, 2010-11 General Revenue Appropriations, Senate Bill 1*. These spreadsheets also include supplemental General Revenue Appropriations made to Higher Education Institutions through House Bill 4586.

In addition to General Revenue, the Eighty-first Legislature appropriated \$326.9 million in federal stimulus funds to Higher Education, which was made available for state appropriation by virtue of the American Recovery and Reinvestment Act (ARRA). Of this amount, \$227 million is used to make reductions to General Revenue appropriations to agencies and institutions of Higher Education. The remaining \$99.9 million provides new funding for various Special Items in Higher Education.

GENERAL ACADEMIC INSTITUTIONS

Total General Revenue funding for the General Academic Institutions, System Offices, Two-year Lamar State Colleges, and Texas State Technical Colleges totals \$4.9 billion for 2010-11, an increase of \$294 million over 2008-09. Funding increases are made up primarily of formula funding, new or increased Special Items, and increased funding for the Research University Development Fund (previously known as the Texas Competitive Knowledge Fund).

Formula Funding

General Revenue funding for the General Academic Institutions', formulas totals \$3.2 billion for 2010-11, and includes the following increases:

- An increase of \$178.6 million for Instruction & Operations to fund weighted student enrollment growth of 5.0 percent.
- An increase of \$63.6 million was added to the Instruction and Operations Formula. An amount equal to each institution's resulting formula increase is then deducted from its Excellence strategy first and then its Institutional Enhancement strategy. This reallocation of General Revenue funding does not negatively affect each institution's appropriation in 2010-11.
- An increase of \$15.8 million for Infrastructure Support.

Several significant formula funding issues that were addressed in either the Legislative Budget Board version of SB 1 or in the Conference Committee Report include:

- The Small Institution Supplement was modified to incorporate a phase-out approach. Institutions exceeding a headcount of 5,000 will have their annual appropriation of \$750,000 gradually reduced until it is completely eliminated once an institutions headcount of 10,000 is reached.
- The Instruction & Operations Formula funds are allocated using the cost-based formula matrix, which was fully implemented for 2010-11 (with no hold harmless built into the matrix). Funds are allocated based on semester credit hours from the summer 2008, fall 2008, and spring 2009 semesters.
- SB 1 provides \$81 million in federal stimulus funds through the American Recovery and Reinvestment Act (ARRA), which will be offset by an equal reduction to General Revenue appropriations made to General Academic Institutions.

Nine UT General Academic Institutions receive formula increases that total \$72.9million in General Revenue or 6.9 percent, not including formula hold harmless funding or funds moved from an institution's Excellence or Institutional Enhancement strategies:

- \$15.5 million, or 11.7 percent, for UT Arlington
- \$6.2 million, or 1.4 percent, for UT Austin
- \$16.2 million, or 14.8 percent, for UT Dallas
- \$12.1 million, or 12.3 percent, for UT El Paso
- \$6.3 million, or 7.5 percent, for UT Pan American
- \$3.5 million, or 15.9 percent, for UT Brownsville
- \$1.0 million, or 6.2 percent, for UT Permian Basin
- \$10.0 million, or 7.8 percent, for UT San Antonio
- \$2.1 million, or 6.8 percent, for UT Tyler

Formula Hold Harmless

Institutions that were negatively impacted by formula funding changes due to enrollment declines, changes in the formula funding matrix, or changes in infrastructure support needs are appropriated formula hold harmless. Formula hold harmless in the amount of \$45.9 million is provided for all General Academic Institutions, except for Texas Women's University, Two-year Lamar State Colleges, and Texas State Technical Colleges to ensure each institution receives a 4.0 percent increase over its 2008-09 formula funding levels, including the \$33.7 million in hold-harmless funding provided to institutions in 2008-09. The hold-harmless funding is calculated without the \$63.7 million of Excellence and Institutional Enhancement Funding that was reallocated into the Instruction and Operations Formula.

Two UT institutions receive formula hold harmless appropriations for 2010-11:

- \$2.8 million for UT Arlington
- \$11.1 million for UT Austin

New or Additional Funding for Special Items

SB 1 adds \$25 million for new or increased Special Items for the UT General Academic Institutions. All Special Items, except for UT Arlington, are appropriated to the institutions directly in their bill pattern or in Article XII, Special Provisions, Section 25.

Direct appropriations to UT General Academic Institutions for Special Items total \$3.7 million and include:

- \$550,000 was transferred from the Texas Legislative Council to UT San Antonio to support the operations of the Texas State Data Center.
- An additional \$45,000 to UT Pan American for the Center for Entrepreneurship and Economic Development (Center). The Center is a revenue-neutral appropriation.
- An additional \$25,000 to UT Permian Basin for the Small Business Development Centers (SBDC). The SBDC is a revenue-neutral appropriation.
- An additional \$689,298 to UT San Antonio for the Small Business Development Centers (SBDC). The SBDC is a revenue-neutral appropriation.
- \$2.4 million to UT San Antonio for the Rural Development Initiative South-West Border Network Small Business Development Center. The Center is a revenue-neutral appropriation.

Special Items appropriated in Article XII, Special Provisions, Section 25, total \$99.9 million for all of higher education and are funded from federal stimulus funds. Of this amount, \$16.4 million is appropriated to the following UT General Academic Institutions:

- UT Austin: \$420,000 for the Law School Clinical Program
- UT Dallas: \$6 million for Middle School Brain Years
- UT Dallas; \$462,500 for Academic Bridge
- UT Dallas: \$5 million for the Center for Values in Medicine, Science and Technology
- UT San Antonio: \$4 million for the Life Sciences Institute
- UT San Antonio: \$500,000 for the P-16 Council

New funding for a Special Item was also appropriated for use by UT Arlington. The Texas Higher Education Coordinating Board was appropriated \$5 million that is to be transferred to UT Arlington for its Regional Nursing Education Center as part of the Legislature’s attempt to address the nursing shortage.

In addition, the Conference Committee transferred the funds from each institution’s Excellence strategy and moved the funds into its Institutional Enhancement strategy. This reallocation funding does not negatively affect each institution’s appropriation.

Research University Development Fund (previously known as the Texas Competitive Knowledge Fund)

HB 51 (HB 51, 81st Legislature, Regular Session, 2009) replaces the Texas Competitive Knowledge Fund (TCKF) with the newly created Research University Development Fund (RUDF). In addition to the four institutions that currently are part of the RUDF (UT Austin, Texas A&M-College Station, the University of Houston, and Texas Tech University), HB 51 allows for the expansion of the fund to include institutions that are designated as an emerging research university by the Texas Higher Education Coordinating Board (THECB). Presently there are seven emerging research institutions: UT Arlington, UT Dallas, UT El Paso, UT San Antonio, University of Houston (already included in the RUDF), University of North Texas, and Texas Tech University (already included in the RUDF).

While all the emerging research institutions are eligible for funding through the RUDF, SB 1 only appropriates funds to the four institutions that make up the TCKF: UT Austin, Texas A&M-College Station, the University of Houston, and Texas Tech University. For 2010-11, \$126 million was appropriated to the RUDF, an increase of \$33 million over 2008-09. The existing (2008-09) appropriations and the new RUDF allocations for the four institutions are as follows:

	2008-09	2010-11	Increase
UT Austin	\$39.4 million	\$55.1 million	\$15.7 million
Texas A&M	\$40.5 million	\$56.1 million	\$15.6 million
Univ. of Houston	\$ 8.2 million	\$9.1 million	\$900,000
Texas Tech	\$ 5.1 million	\$5.9 million	\$800,000
Total	\$93.2 million	\$126.2 million	\$33 million

Funds are allocated from the RUDF to the four institutions based on the three-year average of total research expenditures for each institution, as reported to the Texas Higher Education Coordinating Board (THECB) for fiscal years 2006, 2007, and 2008, compared to the three-year average for all four institutions combined. A threshold of \$50 million in total research expenditures is established for 2010-11 before an institution can receive funds from the RUDF.

Research Development Fund

The Research Development Fund (RDF) is funded at \$80.9 million for 2010-11. UT institutions are appropriated \$37.3 million from the RDF for 2010-11, an increase of \$3.3 million over 2008-09:

- UT Arlington \$6.9 million, an increase of \$540,000
- UT Dallas \$11.3 million, an increase of \$1.4 million
- UT El Paso \$8.5 million, an increase of \$110,000
- UT Pan Am \$1.5 million, an increase of \$170,000
- UT Brownsville \$1.3 million, a decrease of \$45,000
- UT Permian Basin \$500,000, an increase of \$90,000
- UT San Antonio \$6.8 million, an increase of \$840,000
- UT Tyler \$460,000, an increase of \$220,000

Higher Education Performance Incentive Initiative

The Higher Education Performance Incentive Initiative, created by the 81st Texas Legislature, is an incentive funding program to reward students and public institutions of higher education that achieve institutional outcomes that are aligned with the state and regional priorities. The Legislature appropriated \$100 million to the THECB in FY2009, which allocated \$80 million to general academic teaching institutions for the improvements in teaching and educational excellence and \$20 million for scholarships for Top 10 percent high school graduates enrolled in state four-year and two-year institutions.

For 2010-11, the Legislature separated the Higher Education Performance Incentive Initiative into two separate programs, the Higher Education Performance Incentive Initiative and the Top Ten Percent Scholarship program. For the Higher Education Performance Incentive Initiative, the same base level of funding of \$80 million was maintained to be allocated among the general academic teaching institutions in 2010-11. The Legislature provides \$80 million in federal stimulus funds, which will be offset by an equal reduction to General Revenue appropriations made to the THECB.

The Legislature appropriated \$54 million for the Top Ten Percent Scholarship program in 2010-11, an increase of \$34 million over 2008-09 for scholarships for Top 10 percent high school graduates.

National Research Universities

HB 51 (HB 51, 81st Legislature, Regular Session, 2009) creates the Texas Research Incentive Program (TRIP) as a method to provide funding to support the emerging research institutions in

developing and maintaining programs of the highest tier. The institutions that have been designated as emerging research institutions include: UT Arlington, UT Dallas, UT El Paso, UT San Antonio, University of Houston, University of North Texas, and Texas Tech University.

For 2010-11, \$50 million in additional General Revenue is appropriated to the THECB to provide matching funds to the emerging research institutions that receive gifts or endowments from private sources for the purpose of enhancing research activities at the institutions.

HB 51 also creates the National Research University Fund (NRUF) as a new source of funds to support the emerging research universities' efforts in achieving national prominence as major research universities. An institution is eligible to receive funding from the NRUF if the institution meets the following criteria:

- An institution is designated as an emerging research university by the THECB
- In the two fiscal years preceding the State fiscal biennium, the institution expended at least \$45 million in restricted research funds; and

The institution satisfies at least four of the following criteria:

- The value of the institution's endowment funds is at least \$400 million;
- The institution awards at least 200 Doctor of Philosophy degrees during each of the two academic years preceding the State fiscal biennium;
- The entering freshman class of the institution for each of the two academic years demonstrated high academic achievement, as determined by the THECB;
- The institution is designated as a member of the Association of Research Libraries or has a Phi Beta Kappa chapter or has received an equivalent recognition of research capabilities and scholarly attainment, as determined by the THECB;
- The faculty of the institution for each of the two academic years was of high quality, as determined by the THECB; and
- The institution has demonstrated a commitment to high quality graduate education, as determined by the THECB.

Funds are to be allocated to the NRUF, if an amendment to Article VII of the Texas Constitution is passed by the voters at an election to be held on November 3, 2009. The amendment proposed in HJR1 4 (HJR 14, 81st Legislature, Regular Session, 2009) creates a dedicated and independent funding source for the NRUF by using the investment earnings of an existing but rededicated Permanent Higher Education Fund corpus (i.e., the Permanent Higher Education Fund would become the corpus for the NRUF).

HEALTH-RELATED INSTITUTIONS

Total General Revenue funding for the nine public Health-related Institutions plus the Baylor College of Medicine is \$2.7 billion for the 2010-11 biennium, an increase of \$281.4 million over 2008-09. Funding increases are made up primarily of formula funding, hospital operations, and new or increased Special Items.

Formula Funding

HB 1 includes the following formula funding increases for the Health-related Institutions:

- An increase of \$100.3 million for Instruction & Operations to fund weighted student enrollment growth of 9.1 percent.
- An increase of \$4.7 million for Research Enhancement.
- An increase of \$19.9 million for Infrastructure Support.
- An increase of \$16.3 million for Graduate Medical Education (GME).

GME appropriations for 2008-09 and 2010-11 are shown in the table below.

Graduate Medical Education	2008-09	2010-11	\$ Increase	% Increase
	Biennium	Biennium		
	\$ in Millions	\$ in Millions	\$ in Millions	
UT Southwestern	\$13.2	\$17.0	\$3.8	28.3%
UT Medical Branch at Galveston	6.8	9.0	2.2	32.8%
UT Health Science Center (HSC) at Houston	8.6	10.5	1.9	21.8%
UT HSC at San Antonio	7.5	9.3	1.7	23.2%
UT M.D. Anderson Cancer Center	1.2	1.7	0.5	40.2%
UT HSC at Tyler	0.3	0.3	0	18.1%
Texas A&M HSC	5.4	6.7	1.4	25.5%
University of North Texas HSC	1.6	2.1	0.6	34.8%
Texas Tech University HSC	5.3	7.1	1.8	33.8%
TOTAL, Health Related Institutions	\$49.9	\$63.8	\$13.9	27.8%

Graduate Medical Education	2008-09 Biennium	2010-11 Biennium	\$ Increase	% Increase
	\$ in Millions	\$ in Millions	\$ in Millions	
Baylor College of Medicine (BCM)	12.8	15.3	2.4	19.0%
Total, including BCM	\$62.7	\$79.1	\$16.3	26.0%
<hr/>				
GME Annual Formula Rate (\$ per Resident):	\$5,634	\$6,653	\$1,019	18.1%

Note: Totals may not sum due to rounding.

- Formula funding for the Baylor College of Medicine, including GME, is appropriated via funds trusted to the THECB.
- An increase of \$15.5 million to fund the Cancer Center Operations Formula at UT M.D. Anderson Cancer Center.
- An increase of \$5.0 million to fund the Chest Disease Center Operations Formula at UT HSC at Tyler.

Several significant formula funding issues that were addressed in either the Legislative Budget Board version of SB 1 or in the Conference Committee Report include:

- The Legislative Budget Board (LBB) recommends an increase of \$60.8 million to the Instruction and Operations Formula to fund weighted student growth of 8.0 percent in the LBB's introduced bill, which is consistent with how enrollment growth is funded for the General Academic Institutions. This is the first time weighted student growth is funded in an introduced bill, which is a General Appropriations Bill draft the LBB submits at the beginning of each session as required by statute (Section 322.008(a), Government Code).
- The Legislative Budget Board (LBB) recommends an increase of \$3.7 million to the Graduate Medical Education Formula to fund medical resident growth of 5.8 percent in the LBB's introduced bill, which is consistent with how resident growth was funded in the prior biennium.
- An increase of \$2.5 million was added to the Instruction and Operations Formula to fund the small campus supplement for UT HSC Houston's Public Health Austin Campus and Texas Tech HSC's School of Pharmacy Abilene Campus.

- An increase of \$0.2 million was added to the Infrastructure Support Formula to fund the multi-campus adjustment for Texas Tech HSC's School of Pharmacy Abilene Campus.
- SB 1 provides \$51 million in federal stimulus funds through the American Recovery and Reinvestment Act (ARRA), which will be offset by an equal reduction to General Revenue appropriations made to Health-related Institutions.

Six UT Health-related Institutions receive formula increases that total \$99.7 million:

- \$7.8 million, or 4.0 percent, for UT Southwestern Medical Center at Dallas
- \$12.5 million, or 7.8 percent, for UT Medical Branch at Galveston
- \$21.6 million, or 9.5 percent, for UT HSC at Houston
- \$28.2 million, or 14.1 percent, for UT HSC at San Antonio
- \$24.8 million, or 8.7 percent, for UT MD Anderson
- \$4.9 million, or 9.2 percent, for UT HSC at Tyler

New or Additional Funding for Special Items

SB 1 includes \$33 million in increased funding for Special Items at the UT Health-related Institutions. All Special Items are funded from federal stimulus funds and are appropriated to institutions in Article XII, Special Provisions, Section 25.

- UT Southwestern Medical Center at Dallas: \$8 million for the Institute for Genetic & Molecular Disease
- UT HSC Houston: \$5 million for the Heart Institute – Adult Stem Cell Program
- UT HSC Houston: \$9.5 million for Improving Public Health in Texas Communities
- UT HSC San Antonio: \$6.5 million for the Regional Academic Health Center
- UT HSC San Antonio: \$4 million for the Life Sciences Institute

Additional Operating Funds for Health-related Institutions

SB 1 appropriates additional funds that support the operations of the UT Health-related Institutions. All operating funds, except the funds for hospital operations at UT Medical Branch at Galveston, are appropriated to external entities.

The only direct appropriation to a UT Health-related Institution is the additional \$97 million appropriated to UT Medical Branch at Galveston for hospital operations.

Additional operating funds appropriated elsewhere in SB 1 that are available to UT Health-related Institutions include:

- An increase of \$92.6 million appropriated to the Department of Criminal Justice for Correctional Managed Healthcare at UT Medical Branch at Galveston and Texas Tech Health Sciences Center. Of this amount, UT Medical Branch at Galveston will receive approximately \$72 million for rising inmate health care costs.
- An increase of \$8.5 million appropriated to the Department of State Health Services for UT HSC Houston to operate the Harris County Psychiatric Center.
- \$450 million in General Obligation bond proceeds are appropriated to the Cancer Prevention and Research Institute of Texas for the purpose of awarding cancer prevention and research grants.
- An increase of \$94 million is appropriated to the Office of the Governor for the Emerging Technology Fund.
- An increase of \$47.1 million is appropriated to the Department of State Health Services for trauma facilities and EMS activities

Tuition Revenue Bonds

The Eighty-first Legislature authorized UT Medical Branch at Galveston to issue \$150 million in Tuition Revenue Bonds (HB 51, 81st Legislature, Regular Session, 2009) to aid the institution in its recovery from the damage resulting from Hurricane Ike. However, the legislature did not provide a General Revenue appropriation for Tuition Revenue Bond debt service for the issuance of the Tuition Revenue Bonds authorized by HB 51.

HIGHER EDUCATION FUND

Funding for the Higher Education Fund (HEF) was maintained at a total of \$525 million for the biennium pursuant to Section 62.021, Education Code (HB 3001, 79th Legislature, Regular Session, 2005). However, due to an error in the methodology used to distribute HEF to institutions, the Legislature revised the amounts each institution would be allocated for fiscal years 2009 through 2011.

UT Brownsville and UT Pan American are the only two institutions within the UT System that are eligible for HEF appropriations. For fiscal years 2009 and 2010, each institution shall receive the following amounts:

- UT Pan American \$26.4 million, an increase of \$600,000 over the amounts appropriated for 2008-09
- UT Brownsville \$ 8.6 million, an increase of \$200,000 over the amounts appropriated for 2008-09

For fiscal year 2011 each institution will receive the following amounts:

- UT Pan American \$12.3 million, a decrease of \$700,000 over the amount appropriated for 2010
- UT Brownsville \$ 5.1 million, an increase of \$800,000 over the amount appropriated for 2010

TEXAS HIGHER EDUCATION COORDINATING BOARD

SB 1 appropriates a total of \$1.7 billion in All Funds to the Texas Higher Education Coordinating Board (THECB), of which over 88 percent are trusted funds for programs to Close the Gaps. The major funding increases to these trusted programs at THECB are outlined below.

Of the total appropriation to THECB for 2010-11, \$1.4 billion is General Revenue Funds, an increase of \$387.6 million compared to 2008-09.

Affordability - Student Financial Aid

SB 1 appropriates an additional \$210.9 million in General Revenue for the Student Financial Aid Strategy at THECB, for a total appropriation of \$1 billion in All Funds for the biennium. The following five financial aid programs are combined into one Student Financial Aid Strategy, and the amounts appropriated for each program are outlined in THECB Rider 29, Student Financial Aid Programs:

- An increase of \$185.9 million for TEXAS Grants, for a total appropriation of \$614.3 million for the biennium.
- An increase of \$35 million for the B-on-Time Student Loan Program, for a total appropriation of \$112 million for the biennium.
- Funding for College Work Study is maintained at the 2008-09 level of \$15 million for the biennium.
- An increase of \$10 million for Texas Educational Opportunity Grants, for a total appropriation of \$24 million for the biennium.
- Funding for Tuition Equalization Grants (TEG) is maintained at the 2008-09 level of \$211.7 million for the biennium.

In addition to the five programs outlined above, additional financial aid programs receive increased appropriations as follows:

- An additional \$2.5 million in General Revenue is appropriated for the Teach for Texas Loan Repayment Program, for a total appropriation of \$11.5 million for 2010-11.

- \$3.9 million is appropriated for the Fifth-Year Accounting Students Program, including \$2.6 million in unexpended balances. This program is funded from a fee collected for the issuance or renewal of a Certified Public Accounting license.
- An additional \$34 million in General Revenue is appropriated for the Top 10 Percent Scholarship program, for a total appropriation of \$54 million for 2010-11.

Research Programs

Funding for the Advanced Research Program (ARP) is maintained at the 2008-09 level of \$16.7 million for the biennium. Some guidance on how funds shall be allocated by THECB is provided in Rider 11, Research Programs:

- The rider specifies that no more than 70 percent of the ARP funds shall be designated for The University of Texas and Texas A&M University Systems in the 2010-11 biennium.
- Up to \$750,000 each fiscal year can be expended on research grants that provide Texas high school math and science teachers an experience in a research lab.

Health Programs

- A \$5.7 million increase for formula funding is appropriated for the Baylor College of Medicine, including an increase of \$2.4 million for GME. A total of \$98.6 million is appropriated to Baylor College of Medicine for the biennium.
- A \$3.8 million increase is appropriated for the Family Practice Residency Program, for a total of \$21.2 million for the biennium.
- A \$5 million increase is appropriated for the Joint Admission Medical Program, for a total of \$10.6 million for the biennium.
- \$24.1 million is appropriated for the Physician's Education Loan Repayment Program, an increase of \$22.6 million for 2010-11. \$22 million of this program is funded from revenue on a tax imposed on certain tobacco products (HB 2154, 81st Legislature, Regular Session, 2009).
- A \$35 million increase is appropriated for the Professional Nursing Shortage Reduction Program, for a total of \$49.7 million for the biennium. Guidance on how funds shall be allocated by THECB is provided in Rider 35, Professional Nursing Shortage Reduction Program:
 - \$14.7 million shall be distributed to institutions based on increases in nursing students graduating.
 - \$30 million is distributed to institutions to fund a new program to increase nursing faculty at all institutions.

- \$5 million is allocated to UT Arlington for the Regional Nursing Education Center for the purpose of establishing a simulation learning facility.
- A \$2.9 million increase is appropriated for the Alzheimer’s Disease Centers, for a total of \$6.9 million for the biennium.
- \$5 million in General Revenue is appropriated for the biennium for the Hospital-Based Nursing Education Partnership Grant Program.

Participation Programs

- \$5 million in General Revenue is appropriated for the biennium for the Developmental Education Program. THECB Rider 50, Developmental Education, provides information on this program.
- \$3.5 million in General Revenue is appropriated for the biennium for New Community College Campus Funding. THECB Rider 54, New Campus Funding for Community Colleges, provides information on the campuses that can qualify for new funding.
- \$3.5 million in General Revenue is appropriated for the biennium for General Academic Institution Enrollment Growth. THECB Rider 57, Enrollment Growth Funding for General Academic Institutions, provides information on how the funding shall be distributed to the institutions.
- \$10 million in General Revenue is appropriated for the biennium for Adult Basic Education Community College Grants. THECB Rider 56, Adult Basic Education Community College Grants, provides information on the program.
- \$2.3 million in General Revenue is appropriated for the biennium for Alternative Teaching Programs at Community Colleges. THECB Rider 58, Alternative Teaching Certification, provides information on the program.

PUBLIC COMMUNITY AND JUNIOR COLLEGES

SB 1 appropriates \$1.9 billion in General Revenue Funds for the Public Community Colleges, an increase of \$141.9 million over 2008-09.

Increased funding includes \$118.5 million in enhanced formula funding, \$15.2 million for formula hold harmless to maintain all community colleges at 100 percent of their 2008-09 formula funding levels, and \$6 million in Small Institution Supplement funding.

New or Additional Funding

SB 1 adds \$3.25 million for new or increased operations or Special Items for the community colleges. All funds are appropriated to the community colleges directly in their bill pattern or in Article XII, Special Provisions, Section 25.

Direct appropriations to community colleges total \$1.3 million and include:

- \$700,000 to Howard College – Southwest Collegiate Institute for the Deaf to enhance general operational support and fund one-time infrastructure related items.
- An additional \$300,000 to Dallas Community College for the Small Business Development Centers (SBDC). The SBDC is a revenue-neutral appropriation.
- An additional \$300,000 to Dallas Community College for the StarLink Program.

Special Items appropriated in Article XII, Special Provisions, Section 25, total \$99.9 million for all of higher education and are funded from federal stimulus funds. Of this amount, \$1.9 million is appropriated to the following community colleges:

- Blinn College: \$100,000 for the Starr of Texas
- Costal Bend Community College: \$500,000 for the Mobile Simulation Lab
- Temple College: \$805,000 for the Eastern Williamson County Higher Education Center
- Vernon Community College: \$500,000 for Workforce Training Development

TEXAS A&M SERVICE AGENCIES

SB 1 appropriates \$319.3 million in General Revenue Funds for the Texas A&M service agencies, an increase of \$4 million over 2008-09. The increase in General Revenue was due to the following:

- A net decrease of \$6.1 million due to one-time reimbursements related to wildfire response made in 2008–09 by the Texas Forest Service.
- An increase of \$1.5 million for transportation studies at the Texas Transportation Institute.
- An increase of \$4.5 million at Texas AgriLife Research for research capacity and for the program delivery system and rural community economic development.
- An increase of \$3.1 million across all Texas A&M system agencies to annualize salaries, increase formula funding, which is tied to the infrastructure rate paid to Texas A&M University, and provide diagnostic testing.
- \$1 million increase for the Nuclear Power Institute at the Texas Engineering Experiment Station.

Article XII, Special Provisions, Section 25, appropriates \$4 million in federal stimulus funds to the Texas Engineering Experiment Station for the Nuclear Power Institute.

HIGHER EDUCATION EMPLOYEES GROUP INSURANCE

Total appropriations for Higher Education Employees Group Health Insurance (HEGI) are \$1.1 billion in General Revenue for 2010-11, an increase of \$172 million. The increase in appropriations funds rate increases of 6.5 percent in 2010 and 6.8 percent in 2011 for all higher education institutions.

For 2010-11, HEGI is funded at the following state contribution levels:

- 95 percent of the Employee Retirement System level for institutions in The University of Texas System and Texas A&M University System.
 - A total of \$348.7 million is appropriated for HEGI contributions to the 15 UT institutions and System Administration (including UT Brownsville/Texas Southmost College). This represents an increase of \$44 million over 2008-09.
- 97.5 percent of the Employee Retirement System (ERS) level for ERS institutions (includes all other General Academic and Health-related Institutions that are not part of The University of Texas or Texas A&M University Systems).
- 83.5 percent of the Employee Retirement System level for Community Colleges. Although Community Colleges are funded at a lower contribution rate than all other higher education institutions, benefits proportionality has not been applied to Community Colleges in the same way as to all other institutions of higher education.

TEACHERS RETIREMENT SYSTEM (TRS)

The total appropriation for the Teachers Retirement System (TRS) is \$4 billion for 2008-09, an increase of \$243.2 million. \$190.2 million is appropriated to provide a state retirement contribution rate of 6.4 percent to reflect an assumed payroll growth in public education of 5.0 percent annually in 2010-11 and payroll growth of 7.0 percent annually in higher education in 2010-11. Current law prohibits the state contribution rate for retirement from being less than that of active members, which is currently 6.4 percent.

\$45.8 million is appropriated to provide the required state contribution of 1.0 percent of payroll to reflect an assumed 5.0 percent annual payroll growth in public education. TRS projects that funding provided through the state statutory 1.0 percent contribution together with the fund balance projected for 2009 will be sufficient to fund plan costs under the current benefit structure for 2010-11.

In Article IX, Section 17.13, One-Time Payment, TRS is allocated an additional \$120.5 million in General Revenue funds for 2010–11 for the purpose of providing a one-time payment to eligible members equivalent to their monthly benefit, not to exceed \$500. This one-time payment is contingent upon an attorney general’s opinion allowing it. Absent an attorney general’s opinion allowing it, the funding is to be transferred to TRS and used to increase the state contribution rate from 6.4 percent to 6.644 percent.

OPTIONAL RETIREMENT PROGRAM

SB 1 appropriates an increase of \$9.1 million to maintain a 6.4 percent state contribution rate and reflects assumed growth in covered payroll of 3.0 percent. The total appropriation for ORP is \$294.7 million for 2010-11.

Governor's Veto Proclamation on SB 1

The Governor's Veto Proclamation on SB 1 vetoes a total of \$288.9 million in All Funds, of which \$97.2 million is General Revenue, across all state agencies and higher education. Of the total amount vetoed, only \$1.3 million is vetoed from amounts appropriated for higher education.

The governor vetoed the contingency appropriations of \$1.3 million to the Texas Higher Education Coordinating Board (THECB) for the creation of a student loan repayment program for certain correctional officers, speech pathologists and audiologists. There were no other vetoes of any exceptional items or other line item appropriations to institutions of higher education.

In addition to the amount vetoed from the THECB, the following amounts were vetoed from other areas:

- \$1.7 million was vetoed from the Department of State Health Services related to the licensing of independent freestanding emergency rooms and urgent care clinics.
- \$13.6 million net reduction from the Texas Department of Criminal Justice (TDCJ) for the release of certain inmates who complete a rehabilitation tier program in TDCJ.
- \$18 million from the Texas Residential Construction Commission for the continuation of the Commission, which was sunset.
- \$281.5 million in Article IX contingency appropriations for bills that did not pass or the governor vetoed.

**The University of Texas System
Senate Bill 1, 81st Legislature
General Appropriations Act
Higher Education Group Insurance – 2008-09 Biennium vs. 2010-11 Biennium**

	2008-09 Biennium	FY 2010	FY 2011	2010-11 Biennium	Increase (Decrease)	Percent Change
The Univ of Texas at Arlington	\$ 17,430,634	10,785,681	11,519,107	22,304,788	4,874,154	28.0%
The Univ of Texas at Austin	53,280,446	25,676,486	27,422,487	53,098,973	(181,473)	-0.3%
The Univ of Texas at Dallas	11,053,798	6,351,368	6,783,261	13,134,629	2,080,831	18.8%
The Univ of Texas at El Paso	17,574,754	10,228,867	10,924,430	21,153,297	3,578,543	20.4%
The Univ of Texas - Pan American	11,021,328	6,763,497	7,223,415	13,986,912	2,965,584	26.9%
The Univ of Texas at Brownsville	9,150,606	5,056,834	5,400,699	10,457,533	1,306,927	14.3%
The Univ of Texas of the Permian Basin	2,772,098	1,686,919	1,801,629	3,488,548	716,450	25.8%
The Univ of Texas at San Antonio	16,609,070	9,939,493	10,615,378	20,554,871	3,945,801	23.8%
The Univ of Texas at Tyler	5,299,626	3,059,898	3,267,971	6,327,869	1,028,243	19.4%
Subtotal	<u>144,192,360</u>	<u>79,549,043</u>	<u>84,958,377</u>	<u>164,507,420</u>	<u>20,315,060</u>	<u>14.1%</u>
UT Southwestern Medical Center at Dallas	18,411,442	12,586,197	13,442,058	26,028,255	7,616,813	41.4%
UT Medical Branch at Galveston	68,901,130	39,327,198	42,001,448	81,328,646	12,427,516	18.0%
UT Health Science Center at Houston	22,748,960	12,490,841	13,340,219	25,831,060	3,082,100	13.5%
UT Health Science Center at San Antonio	31,217,198	15,557,455	16,615,362	32,172,817	955,619	3.1%
UT M.D. Anderson Cancer Center	13,590,388	6,497,666	6,939,507	13,437,173	(153,215)	-1.1%
UT Health Center at Tyler	5,503,522	2,549,138	2,722,480	5,271,618	(231,904)	-4.2%
Subtotal	<u>160,372,640</u>	<u>89,008,495</u>	<u>95,061,074</u>	<u>184,069,569</u>	<u>23,696,929</u>	<u>14.8%</u>
UT System Administration	<u>111,268</u>	<u>45,874</u>	<u>48,993</u>	<u>94,867</u>	<u>(16,401)</u>	<u>-14.7%</u>
TOTAL	\$ <u>304,676,268</u>	<u>168,603,412</u>	<u>180,068,444</u>	<u>348,671,856</u>	<u>43,995,588</u>	<u>14.4%</u>

The University of Texas System
Senate Bill 1, 81st Legislature
2010-2011 General Revenue Appropriations (Excluding Tuition Revenue Bond GR)¹

Institution	2008-09 Biennium			2010-11 Biennium				Biennial Change		HB 4586 Supplemental Appropriations
	GR Appropriations	TRB Debt Service	Operating GR Appropriations (less TRB)	GR Appropriations	TRB Debt Service	Article XII Federal Stimulus Special Items	Operating GR Appropriations (less TRB)	\$ Increase (Decrease)	% Increase (Decrease)	
The University of Texas at Arlington ²	183,579,045	(19,502,101)	164,076,944	189,860,102	(19,429,859)	-	170,430,243	6,353,299	3.87%	-
The University of Texas at Austin	538,764,493	(29,721,062)	509,043,431	571,661,017	(29,605,809)	420,000	542,475,208	33,431,777	6.57%	9,902,630
The University of Texas at Dallas	137,957,612	(7,998,432)	129,959,180	155,146,155	(7,585,949)	11,462,500	159,022,706	29,063,526	22.36%	-
The University of Texas at El Paso	148,437,963	(18,415,388)	130,022,575	159,244,244	(17,054,271)	-	142,189,973	12,167,398	9.36%	-
The University of Texas - Pan American	122,524,655	(15,206,914)	107,317,741	129,006,898	(15,165,932)	-	113,840,966	6,523,225	6.08%	102,258
The University of Texas at Brownsville	51,435,869	(13,081,599)	38,354,270	54,922,857	(13,092,243)	-	41,830,614	3,476,344	9.06%	1,200,000
The University of Texas of the Permian Basin	56,950,505	(20,758,612)	36,191,893	56,394,193	(19,074,185)	-	37,320,008	1,128,115	3.12%	-
The University of Texas at San Antonio	190,959,243	(26,575,802)	164,383,441	203,817,067	(24,964,958)	4,500,000	183,352,109	18,968,668	11.54%	-
The University of Texas at Tyler	60,163,178	(12,405,738)	47,757,440	61,354,011	(11,567,416)	-	49,786,595	2,029,155	4.25%	1,300,000
Total - General Academics	1,490,772,563	(163,665,648)	1,327,106,915	1,581,406,544	(157,540,622)	16,382,500	1,440,248,422	113,141,507	8.53%	12,504,888
UT Southwestern Medical Center at Dallas	297,612,887	(25,973,567)	271,639,320	304,340,633	(24,880,707)	8,000,000	287,459,926	15,820,606	5.82%	0
UT Medical Branch at Galveston ^{3,4}	457,749,136	(13,074,006)	444,675,130	566,532,697	(12,370,338)	0	554,162,359	109,487,229	24.62%	150,000,000
UT Health Science Center at Houston ⁵	289,200,560	(27,464,979)	261,735,581	310,694,866	(27,389,269)	14,500,000	297,805,597	36,070,016	13.78%	1,000,000
UT Health Science Center at San Antonio	282,662,529	(22,655,827)	260,006,702	308,824,503	(20,635,169)	10,500,000	298,689,334	38,682,632	14.88%	-
UT M.D. Anderson Cancer Center	305,461,019	(13,064,640)	292,396,379	329,830,055	(12,672,884)	0	317,157,171	24,760,792	8.47%	3,725,995
UT Health Science Center at Tyler	69,813,338	(5,431,588)	64,381,750	74,722,422	(5,422,188)	0	69,300,234	4,918,484	7.64%	1,461,557
Total - Health-Related Institutions	1,702,499,469	(107,664,607)	1,594,834,862	1,894,945,176	(103,370,555)	33,000,000	1,824,574,621	229,739,759	14.41%	156,187,552
UT System Administration ⁶	14,643,988	(13,081,200)	1,562,788	17,077,250	(13,077,250)	0	4,000,000	2,437,212	155.95%	0
GRAND TOTAL⁷	3,207,916,020	(284,411,455)	2,923,504,565	3,493,428,970	(273,988,427)	49,382,500	3,268,823,043	345,318,478	11.81%	168,692,440

1. General Revenue appropriations include Federal Funds from the American Recovery and Reinvestment Act.
2. UT Arlington's appropriation does not include \$5 million to be transferred from the Texas Higher Education Coordinating Board for the Regional Nursing Education Center.
3. Amounts shown for UTMB at Galveston do not include General Revenue funds appropriated in SB 1 or HB 4586 for Correctional Managed Care, which are appropriated to the Texas Department of Criminal Justice.
4. Amounts shown for UTMB at Galveston do not include General Revenue appropriation of \$500,000 for group insurance in HB 4586. This funding was reduced from Texas Tech Health Science Center's group insurance appropriation.
5. Amounts shown for UTHSC at Houston do not include \$6 million in HB 4586 from Fund 5111 (General Revenue - Dedicated) for uncompensated care.
6. UT System Administration includes debt service appropriation for UT Dallas Natural Sciences and Engineering Research Lab. General Revenue increase of \$2.4 million is contingent upon UT System Administration decreasing the amount of Available university Funds (AUF) being used for System Office operations by a like amount.
7. Amounts shown do not include Higher Education Group Insurance Contributions.

**The University of Texas System
 HB 4586 Supplemental General Revenue Appropriations
 81st Legislature, Regular Session**

Institution	Bill Section	Two Years from Effective Date of Act?	GR Appropriations	Appropriation Description
The University of Texas at Austin	59	Yes	9,902,630	08-09 hold harmless. \$700,000 must be used for Marine Science Institute National Estuarian Research Reserve
The University of Texas - Pan American	55	Yes	102,258	Damages or disruptions caused by natural disasters during the 08-09 biennium
The University of Texas at Brownsville	55	Yes	1,200,000	Damages or disruptions caused by natural disasters during the 08-09 biennium
The University of Texas at Tyler	99	Yes	1,300,000	Faculty Salaries and operations at the Palestine Campus
UT Medical Branch at Galveston ^{1,2}	55	Yes	150,000,000	Matching Funds for FEMA qualifying projects. Balance may be expended with prior LBB approval.
UT Health Science Center at Houston ³	55	Yes	1,000,000	Damages and disruptions caused by natural disasters occurring during the 08-09 biennium
UT M.D. Anderson Cancer Center	55	Yes	1,725,995	Damages and disruptions caused by natural disasters occurring during the 08-09 biennium
UT M.D. Anderson Cancer Center	81	Yes	2,000,000	Uncompensated care for Hurricane Ike patients
UT Health Science Center at Tyler	55	Yes	1,461,557	Damages and disruptions caused by natural disasters occurring during the 08-09 biennium
 GRAND TOTAL			 <u>168,692,440</u>	

1. Amounts shown for UTMB at Galveston do not include General Revenue appropriation of \$500,000 for group insurance. This funding was reduced from Texas Tech Health Science Center's group insurance appropriation.
2. Amounts shown for UTMB at Galveston do not include General Revenue funds appropriated for Correctional Managed Care, which are appropriated to the Texas Department of Criminal Justice.
3. Amounts shown for UTHSC at Houston do not include \$6 million through HB 4586 from Fund 5111 (General Revenue-Dedicated) for uncompensated care.

**State of Texas General Academic Institutions
2010-11 General Revenue Appropriations (Excluding Tuition Revenue Bond GR)
Conference Committee Substitute for Senate Bill 1
(Does Not Include Higher Education Group Insurance Contributions)**

CCSB 1 vs. Introduced Bill (House Version)

Institution	LBB Introduced Bill (House Version)			Conference Committee Substitute for Senate Bill 1				Change	
	GR Appropriations	TRB Debt Service	GR Appropriations (less TRB)	GR Appropriations*	TRB Debt Service	Article XII Federal Stimulus Special Items	GR Appropriations (less TRB)	\$ Increase (Decrease)	% Increase (Decrease)
The University of Texas at Arlington**	181,979,413	(19,429,859)	162,549,554	189,860,102	(19,429,859)	-	170,430,243	7,880,689	4.85%
The University of Texas at Austin	541,345,849	(29,605,809)	511,740,040	571,661,017	(29,605,809)	420,000	542,475,208	30,735,168	6.01%
The University of Texas at Dallas	148,613,202	(7,585,949)	141,027,253	155,146,155	(7,585,949)	11,462,500	159,022,706	17,995,453	12.76%
The University of Texas at El Paso	155,516,950	(17,054,271)	138,462,679	159,244,244	(17,054,271)	-	142,189,973	3,727,294	2.69%
The University of Texas - Pan American	124,509,228	(15,165,932)	109,343,296	129,006,898	(15,165,932)	-	113,840,966	4,497,670	4.11%
The University of Texas at Brownsville	52,735,903	(13,092,243)	39,643,660	54,922,857	(13,092,243)	-	41,830,614	2,186,954	5.52%
The University of Texas of the Permian Basin	56,150,316	(19,074,185)	37,076,131	56,394,193	(19,074,185)	-	37,320,008	243,877	0.66%
The University of Texas at San Antonio	195,084,640	(24,964,958)	170,119,682	203,817,067	(24,964,958)	4,500,000	183,352,109	13,232,427	7.78%
The University of Texas at Tyler	59,705,215	(11,567,416)	48,137,799	61,354,011	(11,567,416)	-	49,786,595	1,648,796	3.43%
Texas A&M University	507,120,734	(13,545,776)	493,574,958	530,054,677	(13,545,776)	-	516,508,901	22,933,943	4.65%
Texas A&M University at Galveston	32,426,072	(8,632,703)	23,793,369	33,560,877	(8,632,703)	-	24,928,174	1,134,805	4.77%
Prairie View A&M University	103,209,674	(12,762,705)	90,446,969	109,581,509	(12,762,705)	-	96,818,804	6,371,835	7.04%
Tarleton State University	83,883,700	(11,382,281)	72,501,419	93,307,332	(11,382,281)	-	81,925,051	9,423,632	13.00%
Texas A&M University - Corpus Christi	90,521,101	(17,164,638)	73,356,463	100,363,514	(17,164,638)	-	83,198,876	9,842,413	13.42%
Texas A&M University - Kingsville	78,587,986	(6,167,469)	72,420,517	88,245,713	(6,167,469)	-	82,078,244	9,657,727	13.34%
Texas A&M International University	66,491,241	(21,258,115)	45,233,126	69,505,429	(21,258,115)	-	48,247,314	3,014,188	6.66%
West Texas A&M University	59,771,556	(8,156,830)	51,614,726	61,863,831	(8,156,830)	-	53,707,001	2,092,275	4.05%
Texas A&M University - Commerce	68,581,115	(6,370,716)	62,210,399	73,334,395	(6,370,716)	1,000,000	67,963,679	5,753,280	9.25%
Texas A&M University - Texarkana	31,961,931	(14,506,987)	17,454,944	32,402,954	(14,506,987)	6,000,000	23,895,967	6,441,023	36.90%
University of Houston	323,789,213	(23,294,492)	300,494,721	334,424,214	(23,294,492)	3,000,000	314,129,722	13,635,001	4.54%
University of Houston - Clear Lake	61,395,947	(6,405,282)	54,990,665	63,862,296	(6,405,282)	-	57,457,014	2,466,349	4.49%
University of Houston - Downtown	59,846,597	(12,476,636)	47,369,961	60,627,521	(12,476,636)	250,000	48,400,885	1,030,924	2.18%
University of Houston - Victoria	32,464,266	(8,306,739)	24,157,527	34,522,958	(8,306,739)	-	26,216,219	2,058,692	8.52%
Midwestern State University	38,053,848	(4,302,985)	33,750,863	39,861,421	(4,302,985)	220,000	35,778,436	2,027,573	6.01%
University of North Texas	212,963,009	(19,798,476)	193,164,533	217,871,278	(19,798,476)	2,150,000	200,222,802	7,058,269	3.65%
Stephen F. Austin University	88,348,729	(9,493,162)	78,855,567	91,360,935	(9,493,162)	-	81,867,773	3,012,206	3.82%
Texas Southern University	119,226,944	(21,255,611)	97,971,333	122,177,625	(21,255,613)	-	100,922,012	2,950,679	3.01%
Texas Tech University	278,661,107	(20,763,761)	257,897,346	282,001,990	(20,763,761)	4,000,000	265,238,229	7,340,883	2.85%
Texas Woman's University	99,898,350	(8,848,685)	91,049,665	110,637,945	(8,848,685)	-	101,789,260	10,739,595	11.80%
Angelo State University	50,886,892	(8,248,881)	42,638,011	51,763,186	(8,248,881)	2,000,000	45,514,305	2,876,294	6.75%
Lamar University	78,577,596	(5,186,338)	73,391,258	86,688,835	(5,186,338)	2,500,000	84,002,497	10,611,239	14.46%
Sam Houston State University	92,534,267	(5,702,919)	86,831,348	92,798,196	(5,702,919)	4,000,000	91,095,277	4,263,929	4.91%
Texas State University - San Marcos	177,561,800	(23,451,854)	154,109,946	183,182,143	(23,451,854)	1,000,000	160,730,289	6,620,343	4.30%
Sul Ross State University	29,039,286	(5,504,787)	23,534,499	30,723,508	(5,504,787)	-	25,218,721	1,684,222	7.16%
Sul Ross State University - Rio Grande	10,417,314	-	10,417,314	11,482,143	-	-	11,482,143	1,064,829	10.22%
GRAND TOTAL	4,391,860,991	(460,529,450)	3,931,331,541	4,587,612,969	(460,529,452)	42,502,500	4,169,586,017	238,254,476	6.06%
Recap:									
University of Texas System	1,515,640,716	(157,540,622)	1,358,100,094	1,581,406,544	(157,540,622)	16,382,500	1,440,248,422	82,148,328	6.05%
Texas A&M University System	1,122,555,110	(119,948,220)	1,002,606,890	1,192,220,231	(119,948,220)	7,000,000	1,079,272,011	76,665,121	7.65%
University of Houston System	477,496,023	(50,483,149)	427,012,874	493,436,989	(50,483,149)	3,250,000	446,203,840	19,190,966	4.49%
Midwestern State University	38,053,848	(4,302,985)	33,750,863	39,861,421	(4,302,985)	220,000	35,778,436	2,027,573	6.01%
University of North Texas	212,963,009	(19,798,476)	193,164,533	217,871,278	(19,798,476)	2,150,000	200,222,802	7,058,269	3.65%
Stephen F. Austin University	88,348,729	(9,493,162)	78,855,567	91,360,935	(9,493,162)	-	81,867,773	3,012,206	3.82%
Texas Southern University	119,226,944	(21,255,611)	97,971,333	122,177,625	(21,255,613)	-	100,922,012	2,950,679	3.01%
Texas Tech University System (Incl. Angelo State)	329,547,999	(29,012,642)	300,535,357	333,765,176	(29,012,642)	6,000,000	310,752,534	10,217,177	3.40%
Texas Woman's University	99,898,350	(8,848,685)	91,049,665	110,637,945	(8,848,685)	-	101,789,260	10,739,595	11.80%
Texas State University System	388,130,263	(39,845,898)	348,284,365	404,874,825	(39,845,898)	7,500,000	372,528,927	24,244,562	6.96%
	4,391,860,991	(460,529,450)	3,931,331,541	4,587,612,969	(460,529,452)	42,502,500	4,169,586,017	238,254,476	6.06%

* GR Appropriations includes funds from the American Recovery and Reinvestment Act.

** UT Arlington's appropriation does not include \$5 million to be transferred from THECB for the Regional Nursing Education Center.

**State of Texas General Academic Institutions
2010-11 General Revenue Appropriations
Senate Bill 1**

Institution	2008-09 Biennium	2010-11 Biennium		Biennial Change		HB 4586 Supplemental Appropriations	
	GR Appropriations	Base GR Appropriations ¹	Article XII Federal Stimulus Special Items	Total GR Appropriations	\$ Increase (Decrease)		% Increase (Decrease)
The University of Texas at Arlington ²	183,579,045	189,860,102	-	189,860,102	6,281,057	3.42%	-
The University of Texas at Austin	538,764,493	571,661,017	420,000	572,081,017	33,316,524	6.18%	9,902,630
The University of Texas at Dallas	137,957,612	155,146,155	11,462,500	166,608,655	28,651,043	20.77%	-
The University of Texas at El Paso	148,437,963	159,244,244	-	159,244,244	10,806,281	7.28%	-
The University of Texas - Pan American	122,524,655	129,006,898	-	129,006,898	6,482,243	5.29%	102,258
The University of Texas at Brownsville	51,435,869	54,922,857	-	54,922,857	3,486,988	6.78%	1,200,000
The University of Texas of the Permian Basin	56,950,505	56,394,193	-	56,394,193	(556,312)	-0.98%	-
The University of Texas at San Antonio	190,959,243	203,817,067	4,500,000	208,317,067	17,357,824	9.09%	-
The University of Texas at Tyler	60,163,178	61,354,011	-	61,354,011	1,190,833	1.98%	1,300,000
Texas A&M University	488,216,320	530,054,677	-	530,054,677	41,838,357	8.57%	-
Texas A&M University at Galveston	32,258,912	33,560,877	-	33,560,877	1,301,965	4.04%	6,200,000
Prairie View A&M University	108,144,366	109,581,509	-	109,581,509	1,437,143	1.33%	488,864
Tarleton State University	81,287,147	93,307,332	-	93,307,332	12,020,185	14.79%	-
Texas A&M University - Corpus Christi	95,846,689	100,363,514	-	100,363,514	4,516,825	4.71%	-
Texas A&M University - Kingsville	79,861,101	88,245,713	-	88,245,713	8,384,612	10.50%	-
Texas A&M International University	78,894,302	69,505,429	-	69,505,429	(9,388,873)	-11.90%	2,000,000
West Texas A&M University	60,273,214	61,863,831	-	61,863,831	1,590,617	2.64%	-
Texas A&M University - Commerce	66,623,023	73,334,395	1,000,000	74,334,395	7,711,372	11.57%	-
Texas A&M University - Texarkana	32,884,077	32,402,954	6,000,000	38,402,954	5,518,877	16.78%	-
University of Houston	313,409,771	334,424,214	3,000,000	337,424,214	24,014,443	7.66%	4,245,244
University of Houston - Clear Lake	58,273,576	63,862,296	-	63,862,296	5,588,720	9.59%	-
University of Houston - Downtown	57,310,514	60,627,521	-	60,627,521	3,317,007	5.78%	-
University of Houston - Victoria	32,154,460	34,522,958	-	34,522,958	2,368,498	7.37%	-
Midwestern State University	37,712,059	39,861,421	220,000	40,081,421	2,369,362	6.28%	-
University of North Texas	211,385,670	217,871,278	2,150,000	220,021,278	8,635,608	4.09%	-
Stephen F. Austin University	86,812,953	91,360,935	-	91,360,935	4,547,982	5.24%	-
Texas Southern University	128,508,078	122,177,625	-	122,177,625	(6,330,453)	-4.93%	15,950,000
Texas Tech University	274,992,766	282,001,990	4,000,000	286,001,990	11,009,224	4.00%	-
Texas Woman's University	112,060,337	110,637,945	-	110,637,945	(1,422,392)	-1.27%	-
Angelo State University	50,389,855	51,763,186	2,000,000	53,763,186	3,373,331	6.69%	-
Lamar University	67,454,400	86,688,835	2,500,000	89,188,835	21,734,435	32.22%	2,803,561
Sam Houston State University	88,815,525	92,798,196	4,000,000	96,798,196	7,982,671	8.99%	-
Texas State University - San Marcos	174,302,954	183,182,143	1,000,000	184,182,143	9,879,189	5.67%	617,224
Sul Ross State University	30,201,655	30,723,508	-	30,723,508	521,853	1.73%	-
Sul Ross State University - Rio Grande	10,751,798	11,482,143	-	11,482,143	730,345	6.79%	-
GRAND TOTAL	4,349,598,085	4,587,612,969	42,502,500	4,630,115,469	280,517,384	6.45%	44,809,781
Recap:							
University of Texas System	1,490,772,563	1,581,406,544	16,382,500	1,597,789,044	107,016,481	7.18%	12,504,888
Texas A&M University System	1,124,289,151	1,192,220,231	7,000,000	1,199,220,231	74,931,080	6.66%	8,688,864
University of Houston System	461,148,321	493,436,989	3,250,000	496,686,989	35,538,668	7.71%	4,245,244
Midwestern State University	37,712,059	39,861,421	220,000	40,081,421	2,369,362	6.28%	-
University of North Texas	211,385,670	217,871,278	2,150,000	220,021,278	8,635,608	4.09%	-
Stephen F. Austin University	86,812,953	91,360,935	-	91,360,935	4,547,982	5.24%	-
Texas Southern University	128,508,078	122,177,625	-	122,177,625	(6,330,453)	-4.93%	15,950,000
Texas Tech University System (Incl. Angelo State)	325,382,621	333,765,176	6,000,000	339,765,176	14,382,555	4.42%	-
Texas Woman's University	112,060,337	110,637,945	-	110,637,945	(1,422,392)	-1.27%	-
Texas State University System	371,526,332	404,874,825	7,500,000	412,374,825	40,848,493	10.99%	3,420,785
	4,349,598,085	4,587,612,969	42,502,500	4,630,115,469	280,517,384	6.45%	44,809,781

1. GR Appropriations includes funds from the American Recovery and Reinvestment Act.
2. UT Arlington's appropriation does not include \$5 million to be transferred from THECB for the Regional Nursing Education Center.

The following were significant sources of funding included in the GAA which did not continue.

They are included in the FY 2008-09 base calculated above.

- Texas A&M University - Summer School (GAA) - \$3,000,000
- Prairie View A&M - Office of Civil Rights Priority Plan (GAA) - \$518,216
- Texas Southern Univ. - Office of Civil Rights Priority Plan (GAA) - \$6,250,000
- Tx State San Marcos - Nursing Pgm Start-up (GAA) - \$2,000,000

The following were appropriations reported in the Legislative Budget Estimate that were not considered part of the base appropriation in the FY2008-09 GAA and are excluded from the base:

- Prairie View A&M - Office of Civil Rights Priority Plan UB from FY 2007 (GAA) - \$5,053,237
- Univ. of Houston - Hurricane Katrina Expenses (HB 15) - \$2,550,000
- Univ. of Houston - RS Computing Serv (Art IX, Sec 8.03a 79th Leg) - \$74,000
- Texas Southern Univ. - Deferred Maintenance (HB 15) - \$13,645,120
- Texas Southern Univ. - Office of Civil Rights Priority Plan UB from FY 2007 (GAA) - \$610,114
- Sam Houston State - Tx Forensic Science Commission (HB 15) - \$45,000

**State of Texas General Academic Institutions
HB 4586 Supplemental General Revenue Appropriations
81st Legislature, Regular Session**

Institution	Bill Section	Two Years from Effective Date of Act?	GR Appropriations	Appropriation Description
The University of Texas at Austin	59	Yes	9,902,630	08-09 hold harmless. \$700,000 must be used for Marine Science Institute National Estuarian Research Reserve
The University of Texas - Pan American	55	Yes	102,258	Damages or disruptions caused by natural disasters during the 08-09 biennium
The University of Texas at Brownsville	55	Yes	1,200,000	Damages or disruptions caused by natural disasters during the 08-09 biennium
The University of Texas at Tyler	99	Yes	1,300,000	Faculty Salaries and operations at the Palestine Campus
Texas A&M University at Galveston	55	Yes	6,200,000	Damages or disruptions caused by natural disasters during the 08-09 biennium
Prairie View A&M University	55	Yes	488,864	Damages or disruptions caused by natural disasters during the 08-09 biennium
Texas A&M International University	92	No	2,000,000	Outreach and Enrollment. \$1 m appropriated for FY 10, \$1 million for 9/1/10 through 2 yrs from date of act.
University of Houston	21 & 22	Yes	4,245,244	08-09 Wind Energy Sp Item reduced. Reappropriated for National Large Wind Turbine Research & Testing Facility
Texas Southern University	9	Yes	3,729,808	TRB Appropriation Reduced from 08-09 and reappropriated for damages caused by natural disasters
Texas Southern University	10	Yes	2,350,000	Administrative Operation Expenses
Texas Southern University	55	Yes	9,720,192	Damages or disruptions caused by natural disasters during the 08-09 biennium
Texas Southern University	70	Yes	150,000	Mickey Leland and Barbara Jordan papers preservation and display
Lamar University	55	Yes	2,803,561	Damages or disruptions caused by natural disasters during the 08-09 biennium
Texas State University - San Marcos	96	No	617,224	Contingent - HB 1831 passed. Tx School Safety Ctr. \$308,612 for FY 10, \$308,612 for 9/1/10 through 2 yrs from date of act.
 GRAND TOTAL			 <u><u>44,809,781</u></u>	

State of Texas General Academic Institutions
2010-11 General Revenue Appropriations (Excluding Tuition Revenue Bond GR)
Conference Committee Substitute for Senate Bill 1
(Does Not Include Higher Education Group Insurance Contributions)

CCSB 1 vs. Introduced Bill (House Version)

Institution	LBB Introduced Bill (House Version)			Conference Committee Substitute for Senate Bill 1				Change	
	GR Appropriations	TRB Debt Service	GR Appropriations (less TRB)	GR Appropriations*	TRB Debt Service	Article XII Federal Stimulus Special Items	GR Appropriations (less TRB)	\$ Increase (Decrease)	% Increase (Decrease)
The University of Texas at Arlington**	181,979,413	(19,429,859)	162,549,554	189,860,102	(19,429,859)	-	170,430,243	7,880,689	4.85%
The University of Texas at Austin	541,345,849	(29,605,809)	511,740,040	571,661,017	(29,605,809)	420,000	542,475,208	30,735,168	6.01%
The University of Texas at Dallas	148,613,202	(7,585,949)	141,027,253	155,146,155	(7,585,949)	11,462,500	159,022,706	17,995,453	12.76%
The University of Texas at El Paso	155,516,950	(17,054,271)	138,462,679	159,244,244	(17,054,271)	-	142,189,973	3,727,294	2.69%
The University of Texas - Pan American	124,509,228	(15,165,932)	109,343,296	129,006,898	(15,165,932)	-	113,840,966	4,497,670	4.11%
The University of Texas at Brownsville	52,735,903	(13,092,243)	39,643,660	54,922,857	(13,092,243)	-	41,830,614	2,186,954	5.52%
The University of Texas of the Permian Basin	56,150,316	(19,074,185)	37,076,131	56,394,193	(19,074,185)	-	37,320,008	243,877	0.66%
The University of Texas at San Antonio	195,084,640	(24,964,958)	170,119,682	203,817,067	(24,964,958)	4,500,000	183,352,109	13,232,427	7.78%
The University of Texas at Tyler	59,705,215	(11,567,416)	48,137,799	61,354,011	(11,567,416)	-	49,786,595	1,648,796	3.43%
Texas A&M University	507,120,734	(13,545,776)	493,574,958	530,054,677	(13,545,776)	-	516,508,901	22,933,943	4.65%
Texas A&M University at Galveston	32,426,072	(8,632,703)	23,793,369	33,560,877	(8,632,703)	-	24,928,174	1,134,805	4.77%
Prairie View A&M University	103,209,674	(12,762,705)	90,446,969	109,581,509	(12,762,705)	-	96,818,804	6,371,835	7.04%
Tarleton State University	83,883,700	(11,382,281)	72,501,419	93,307,332	(11,382,281)	-	81,925,051	9,423,632	13.00%
Texas A&M University - Corpus Christi	90,521,101	(17,164,638)	73,356,463	100,363,514	(17,164,638)	-	83,198,876	9,842,413	13.42%
Texas A&M University - Kingsville	78,587,986	(6,167,469)	72,420,517	88,245,713	(6,167,469)	-	82,078,244	9,657,727	13.34%
Texas A&M International University	66,491,241	(21,258,115)	45,233,126	69,505,429	(21,258,115)	-	48,247,314	3,014,188	6.66%
West Texas A&M University	59,771,556	(8,156,830)	51,614,726	61,863,831	(8,156,830)	-	53,707,001	2,092,275	4.05%
Texas A&M University - Commerce	68,581,115	(6,370,716)	62,210,399	73,334,395	(6,370,716)	1,000,000	67,963,679	5,753,280	9.25%
Texas A&M University - Texarkana	31,961,931	(14,506,987)	17,454,944	32,402,954	(14,506,987)	6,000,000	23,895,967	6,441,023	36.90%
University of Houston	323,789,213	(23,294,492)	300,494,721	334,424,214	(23,294,492)	3,000,000	314,129,722	13,635,001	4.54%
University of Houston - Clear Lake	61,395,947	(6,405,282)	54,990,665	63,862,296	(6,405,282)	-	57,457,014	2,466,349	4.49%
University of Houston - Downtown	59,846,597	(12,476,636)	47,369,961	60,627,521	(12,476,636)	250,000	48,400,885	1,030,924	2.18%
University of Houston - Victoria	32,464,266	(8,306,739)	24,157,527	34,522,958	(8,306,739)	-	26,216,219	2,058,692	8.52%
Midwestern State University	38,053,848	(4,302,985)	33,750,863	39,861,421	(4,302,985)	220,000	35,778,436	2,027,573	6.01%
University of North Texas	212,963,009	(19,798,476)	193,164,533	217,871,278	(19,798,476)	2,150,000	200,222,802	7,058,269	3.65%
Stephen F. Austin University	88,348,729	(9,493,162)	78,855,567	91,360,935	(9,493,162)	-	81,867,773	3,012,206	3.82%
Texas Southern University	119,226,944	(21,255,611)	97,971,333	122,177,625	(21,255,613)	-	100,922,012	2,950,679	3.01%
Texas Tech University	278,661,107	(20,763,761)	257,897,346	282,001,990	(20,763,761)	4,000,000	265,238,229	7,340,883	2.85%
Texas Woman's University	99,898,350	(8,848,685)	91,049,665	110,637,945	(8,848,685)	-	101,789,260	10,739,595	11.80%
Angelo State University	50,886,892	(8,248,881)	42,638,011	51,763,186	(8,248,881)	2,000,000	45,514,305	2,876,294	6.75%
Lamar University	78,577,596	(5,186,338)	73,391,258	86,688,835	(5,186,338)	2,500,000	84,002,497	10,611,239	14.46%
Sam Houston State University	92,534,267	(5,702,919)	86,831,348	92,798,196	(5,702,919)	4,000,000	91,095,277	4,263,929	4.91%
Texas State University - San Marcos	177,561,800	(23,451,854)	154,109,946	183,182,143	(23,451,854)	1,000,000	160,730,289	6,620,343	4.30%
Sul Ross State University	29,039,286	(5,504,787)	23,534,499	30,723,508	(5,504,787)	-	25,218,721	1,684,222	7.16%
Sul Ross State University - Rio Grande	10,417,314	-	10,417,314	11,482,143	-	-	11,482,143	1,064,829	10.22%
GRAND TOTAL	4,391,860,991	(460,529,450)	3,931,331,541	4,587,612,969	(460,529,452)	42,502,500	4,169,586,017	238,254,476	6.06%
Recap:									
University of Texas System	1,515,640,716	(157,540,622)	1,358,100,094	1,581,406,544	(157,540,622)	16,382,500	1,440,248,422	82,148,328	6.05%
Texas A&M University System	1,122,555,110	(119,948,220)	1,002,606,890	1,192,220,231	(119,948,220)	7,000,000	1,079,272,011	76,665,121	7.65%
University of Houston System	477,496,023	(50,483,149)	427,012,874	493,436,989	(50,483,149)	3,250,000	446,203,840	19,190,966	4.49%
Midwestern State University	38,053,848	(4,302,985)	33,750,863	39,861,421	(4,302,985)	220,000	35,778,436	2,027,573	6.01%
University of North Texas	212,963,009	(19,798,476)	193,164,533	217,871,278	(19,798,476)	2,150,000	200,222,802	7,058,269	3.65%
Stephen F. Austin University	88,348,729	(9,493,162)	78,855,567	91,360,935	(9,493,162)	-	81,867,773	3,012,206	3.82%
Texas Southern University	119,226,944	(21,255,611)	97,971,333	122,177,625	(21,255,613)	-	100,922,012	2,950,679	3.01%
Texas Tech University System (Incl. Angelo State)	329,547,999	(29,012,642)	300,535,357	333,765,176	(29,012,642)	6,000,000	310,752,534	10,217,177	3.40%
Texas Woman's University	99,898,350	(8,848,685)	91,049,665	110,637,945	(8,848,685)	-	101,789,260	10,739,595	11.80%
Texas State University System	388,130,263	(39,845,898)	348,284,365	404,874,825	(39,845,898)	7,500,000	372,528,927	24,244,562	6.96%
	4,391,860,991	(460,529,450)	3,931,331,541	4,587,612,969	(460,529,452)	42,502,500	4,169,586,017	238,254,476	6.06%

* GR Appropriations includes funds from the American Recovery and Reinvestment Act.

** UT Arlington's appropriation does not include \$5 million to be transferred from THECB for the Regional Nursing Education Center.

**State of Texas Health-Related Institutions
2010-11 General Revenue Appropriations
Senate Bill 1**

Institution	2008-09 Biennium	2010-11 Biennium			Biennial Change		HB 4586 Supplemental Appropriations
	GR Appropriations	Base GR Appropriations ¹	Article XII Federal Stimulus Special Items	Total GR Appropriations	\$ Increase (Decrease)	% Increase (Decrease)	
UT Southwestern Medical Center at Dallas	297,612,887	304,340,633	8,000,000	312,340,633	14,727,746	4.95%	-
UT Medical Branch at Galveston ^{2,3}	457,749,136	566,532,697	0	566,532,697	108,783,561	23.76%	150,000,000
UT Health Science Center at Houston ⁴	289,200,560	310,694,866	14,500,000	325,194,866	35,994,306	12.45%	1,000,000
UT Health Science Center at San Antonio	282,662,529	308,824,503	10,500,000	319,324,503	36,661,974	12.97%	-
UT M.D. Anderson Cancer Center	305,461,019	329,830,055	0	329,830,055	24,369,036	7.98%	3,725,995
UT Health Science Center at Tyler	69,813,338	74,722,422	0	74,722,422	4,909,084	7.03%	1,461,557
TAMU System Health Science Center	185,590,682	215,683,003	9,000,000	224,683,003	39,092,321	21.06%	-
UNT Health Science Center at Fort Worth	112,774,108	125,104,975	0	125,104,975	12,330,867	10.93%	2,000,000
Texas Tech Univ Health Science Center	287,368,453	325,746,161	4,000,000	329,746,161	42,377,708	14.75%	-
GRAND TOTAL	2,288,232,712	2,561,479,315	46,000,000	2,607,479,315	319,246,603	13.95%	158,187,552
Recap:							
The University of Texas System	1,702,499,469	1,894,945,176	33,000,000	1,927,945,176	225,445,707	13.24%	156,187,552
TAMU System Health Science Center	185,590,682	215,683,003	9,000,000	224,683,003	39,092,321	21.06%	-
UNT Health Science Center at Fort Worth	112,774,108	125,104,975	-	125,104,975	12,330,867	10.93%	2,000,000
Texas Tech Univ Health Science Center	287,368,453	325,746,161	4,000,000	329,746,161	42,377,708	14.75%	-
	2,288,232,712	2,561,479,315	46,000,000	2,607,479,315	319,246,603	15.01%	158,187,552

1. General Revenue appropriations include Federal Funds from the American Recovery and Reinvestment Act.

2. Amounts shown for UTMB at Galveston do not include General Revenue appropriation of \$500,000 for group insurance. This funding was reduced from Texas Tech Health Science Center's group insurance appropriation.

3. Amounts shown for UTMB at Galveston do not include General Revenue funds appropriated for Correctional Managed Care, which are appropriated to the Texas Department of Criminal Justice.

4. Amounts shown for UTHSC at Houston do not include \$6 million through HB 4586 from Fund 5111 (General Revenue-Dedicated) for uncompensated care.

**State of Texas Health-Related Institutions
 HB 4586 Supplemental General Revenue Appropriations
 81st Legislature, Regular Session**

Institution	Bill Section	Two Years from Effective Date of Act?	GR Appropriations	Appropriation Description
UT Southwestern Medical Center at Dallas			-	
UT Medical Branch at Galveston ^{1,2}	55	Yes	150,000,000	Matching Funds for FEMA qualifying projects. Balance may be expended with prior LBB approval.
UT Health Science Center at Houston ³	55	Yes	1,000,000	Damages and disruptions caused by natural disasters occurring during the 08-09 biennium
UT Health Science Center at San Antonio			-	
UT M.D. Anderson Cancer Center	55	Yes	1,725,995	Damages and disruptions caused by natural disasters occurring during the 08-09 biennium
UT M.D. Anderson Cancer Center	81	Yes	2,000,000	Uncompensated care for Hurricane Ike patients
UT Health Science Center at Tyler	55	Yes	1,461,557	Damages and disruptions caused by natural disasters occurring during the 08-09 biennium
TAMU System Health Science Center			-	
UNT Health Science Center at Fort Worth	82	Yes	2,000,000	Uncompensated care
Texas Tech Univ Health Science Center			-	

1. Amounts shown for UTMB at Galveston do not include General Revenue appropriation of \$500,000 for group insurance. This funding was reduced from Texas Tech Health Science Center's group insurance appropriation.
2. Amounts shown for UTMB at Galveston do not include General Revenue funds appropriated for Correctional Managed Care, which are appropriated to the Texas Department of Criminal Justice.
3. Amounts shown for UTHSC at Houston do not include \$6 million through HB 4586 from Fund 5111 (General Revenue-Dedicated) for uncompensated care.

State of Texas Health-Related Institutions
2010-11 General Revenue Appropriations (Excluding Tuition Revenue Bond GR)
Conference Committee Substitute for Senate Bill 1
(Does Not Include Higher Education Group Insurance Contributions)

CCSB 1 vs. LBB Introduced

Institution	LBB Introduced Bill - House and Senate			Conference Committee Substitute				Biennial Change	
	GR Appropriations	TRB Debt Service	GR Appropriations (less TRB)	GR Appropriations*	TRB Debt Service	Article XII Federal Stimulus Special Items	GR Appropriations (less TRB)	\$ Increase (Decrease)	% Increase (Decrease)
UT Southwestern Medical Center at Dallas	295,252,942	(24,880,707)	270,372,235	304,340,633	(24,880,707)	8,000,000	287,459,926	17,087,691	6.32%
UT Medical Branch at Galveston	462,311,081	(12,370,338)	449,940,743	566,532,697	(12,370,338)	0	554,162,359	104,221,616	23.16%
UT Health Science Center at Houston	300,236,610	(27,389,269)	272,847,341	310,694,866	(27,389,269)	14,500,000	297,805,597	24,958,256	9.15%
UT Health Science Center at San Antonio	295,820,836	(20,635,169)	275,185,667	308,824,503	(20,635,169)	10,500,000	298,689,334	23,503,667	8.54%
UT M.D. Anderson Cancer Center	312,596,677	(12,672,884)	299,923,793	329,830,055	(12,672,884)	0	317,157,171	17,233,378	5.75%
UT Health Science Center at Tyler	69,698,444	(5,422,188)	64,276,256	74,722,422	(5,422,188)	0	69,300,234	5,023,978	7.82%
TAMU System Health Science Center	205,977,196	(10,921,619)	195,055,577	215,683,003	(10,921,619)	9,000,000	213,761,384	18,705,807	9.59%
UNT Health Science Center at Fort Worth	120,895,799	(16,379,266)	104,516,533	125,104,975	(16,379,266)	0	108,725,709	4,209,176	4.03%
Texas Tech Univ Health Science Center	309,770,614	(26,371,816)	283,398,798	325,746,161	(26,371,816)	4,000,000	303,374,345	19,975,547	7.05%
GRAND TOTAL	2,372,560,199	(157,043,256)	2,215,516,943	2,561,479,315	(157,043,256)	46,000,000	2,450,436,059	234,919,116	10.60%
Recap:									
The University of Texas System	1,735,916,590	(103,370,555)	1,632,546,035	1,894,945,176	(103,370,555)	33,000,000	1,824,574,621	192,028,586	11.76%
TAMU System Health Science Center	205,977,196	(10,921,619)	195,055,577	215,683,003	(10,921,619)	9,000,000	213,761,384	18,705,807	9.59%
UNT Health Science Center at Fort Worth	120,895,799	(16,379,266)	104,516,533	125,104,975	(16,379,266)	-	108,725,709	4,209,176	4.03%
Texas Tech Univ Health Science Center	309,770,614	(26,371,816)	283,398,798	325,746,161	(26,371,816)	4,000,000	303,374,345	19,975,547	7.05%
	2,372,560,199	(157,043,256)	2,215,516,943	2,561,479,315	(157,043,256)	46,000,000	2,450,436,059	234,919,116	10.60%

Notes:

* GR Appropriations includes funds from the American Recovery and Reinvestment Act.

**The University of Texas System
2010-11 General Revenue Appropriations
SB 1 and HB 4586 Reconciliation**

	2008-09 General Revenue Base	Increases/(Decreases) Adopted by Conference Committee							Bill Pattern, Rider Appropriations, & HB 15			Total General Revenue Including Federal Stimulus & HB 4586 Supplemental Appropriations		
		Formula Funding	Formula Hold Harmless	Texas Competitive Knowledge Fund	Capital Equity & Excellence / Institutional Enhancement	New Funding for Operations and Special Items ¹	Research Development Fund	TRB Debt Service	2010-11 General Revenue	Art XII Federal Stimulus Special Items ²	HB 4586 Supplemental Appropriations	2010-11 Total GR (includes Art XII & HB 4586)	Total GR Biennial Inc / (Dec)	Total GR % Change
UT Arlington	\$ 183,579,045	\$ 18,795,548	\$ (9,687,676)	\$ -	\$ (3,296,017)	\$ 5,000,000	\$ 541,444	\$ (72,242)	\$ 194,860,102	\$ -	\$ -	\$ 194,860,102	\$ 11,281,057	6.15%
UT Austin	538,764,493	14,738,820	11,082,172	15,680,132	(8,489,347)	-	-	(115,253)	571,661,017	420,000	9,902,630	581,983,647	\$ 43,219,154	8.02%
UT Dallas	137,957,612	18,840,079	-	-	(2,628,881)	-	1,389,828	(412,483)	155,146,155	11,462,500	-	166,608,655	\$ 28,651,043	20.77%
UT El Paso	148,437,963	14,357,361	-	-	(2,302,193)	-	-	112,230	159,244,244	-	-	159,244,244	\$ 10,806,281	7.28%
UT Pan American	122,524,655	8,231,679	-	-	(1,923,976)	44,540	170,982	(40,982)	129,006,898	-	102,258	129,109,156	\$ 6,584,501	5.37%
UT Brownsville	51,435,869	3,984,842	-	-	(463,642)	-	(44,856)	10,644	54,922,857	-	1,200,000	56,122,857	\$ 4,686,988	9.11%
UT Permian Basin	56,950,505	1,353,049	-	-	(343,872)	25,446	93,492	(1,684,427)	56,394,193	-	-	56,394,193	\$ (556,312)	-0.98%
UT San Antonio	190,959,243	12,981,597	-	-	(3,026,585)	3,671,346	842,310	(1,610,844)	203,817,067	4,500,000	-	208,317,067	\$ 17,357,824	9.09%
UT Tyler	60,163,178	2,743,691	(264,524)	-	(666,988)	-	216,976	(838,322)	61,354,011	-	1,300,000	62,654,011	\$ 2,490,833	4.14%
Total, UT Academics	\$ 4,902,772,563	\$ 96,026,666	\$ 1,129,972	\$ 15,680,132	\$ (23,141,501)	\$ 8,741,332	\$ 3,322,406	\$ (6,125,026)	\$1,586,406,544	\$ 16,382,500	\$ 12,504,888	\$ 1,615,293,932	\$ 124,521,369	8.35%
UTSWMC Dallas	\$ 297,612,887	\$ 7,820,605	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (1,092,860)	\$ 304,340,633	\$ 8,000,000	\$ -	\$ 312,340,633	\$ 14,727,746	4.95%
UTMB Galveston ^{3,4}	457,749,136	12,487,230	-	-	-	97,000,000	-	(703,668)	566,532,697	-	150,000,000	\$ 716,532,697	\$ 258,783,561	56.53%
UTHSC Houston ⁵	289,200,560	21,570,016	-	-	-	-	-	(75,710)	310,694,866	14,500,000	1,000,000	\$ 326,194,866	\$ 36,994,306	12.79%
UTHSC San Antonio	282,662,529	28,182,633	-	-	-	-	-	(2,020,658)	308,824,503	10,500,000	-	\$ 319,324,503	\$ 36,661,974	12.97%
UT MD Anderson	305,461,019	24,760,790	-	-	-	-	-	(391,756)	329,830,055	-	3,725,995	\$ 333,556,050	\$ 28,095,031	9.20%
UT HC Tyler	69,813,338	4,918,485	-	-	-	-	-	(9,400)	74,722,422	-	1,461,557	\$ 76,183,979	\$ 6,370,641	9.13%
Total, UT Healths	\$1,702,499,469	\$ 99,739,759	\$ -	\$ -	\$ -	\$ 13,000,000	\$ -	\$ (4,294,052)	\$1,894,945,176	\$ 33,000,000	\$ 156,187,552	\$ 2,084,132,728	\$ 381,633,259	22.42%
UT System Admin. ⁶	\$ 14,643,988	\$ -	\$ -	\$ -	\$ -	\$ 2,437,212	\$ -	\$ (3,950)	\$ 17,077,250	\$ -	\$ -	\$ 17,077,250	\$ 2,433,262	16.62%
TOTAL, UT SYSTEM⁷	\$3,207,916,020	\$195,766,426	\$ 1,129,972	\$ 15,680,132	\$ (23,141,501)	\$ 24,178,544	\$ 3,322,406	\$ (10,423,028)	\$3,498,428,970	\$ 49,382,500	\$ 168,692,440	\$ 3,716,503,910	\$ 508,587,890	15.85%

Notes:

- All new funding for institutional operations and Special Items, except UT Arlington's appropriations of \$5 million for the Regional Nursing Education Center which is to be transferred from the Texas Higher Education Coordinating Board, are reflected in each institution's bill pattern.
- Appropriations include Federal Funds from the American Recovery and Reinvestment Act.
- Amounts shown for UTMB at Galveston do not include General Revenue funds appropriated in SB 1 or HB 4586 for Correctional Managed Care, which are appropriated to the Texas Department of Criminal Justice.
- Amounts shown for UTMB at Galveston do not include General Revenue appropriation of \$500,000 for group insurance in HB 4586. This funding was reduced from Texas Tech Health Science Center's group insurance appropriation.
- Amounts shown for UTHSC at Houston do not include \$6 million in HB 4586 from Fund 5111 (General Revenue - Dedicated) for uncompensated care.
- UT System Administration includes debt service appropriation for UT Dallas Natural Sciences and Engineering Research Lab. General Revenue increase of \$2.4 million is contingent upon UT System Administration decreasing the amount of Available university Funds (AUF) being used for System Office operations by a like amount.
- Amounts shown do not include Higher Education Group Insurance Contributions.

HB 4586 Summary

HB 4586, the supplemental appropriation bill, appropriates \$431.5 million for institutions of higher education. UT System Institutions receive supplemental appropriations that total \$175.2 million are shown in the table below.

Institution	Appropriation ¹	Appropriation Description
UT Medical Branch at Galveston	150,000,000	Matching funds for FEMA qualifying projects, due to damages and disruptions caused by natural disasters occurring during the 08-09 biennium.
UT Medical Branch at Galveston	500,000	Additional contributions made to higher education group insurance made on behalf of 47 full-time equivalent positions transferred from the Texas Tech HSC to the institution.
UT HSC Houston	1,000,000	Damages and disruptions caused by natural disasters occurring during the 08-09 biennium
UT HSC Houston	6,000,000	Uncompensated care for Hurricane Ike patients
UT M.D. Anderson Cancer Center	1,725,995	Damages and disruptions caused by natural disasters occurring during the 08-09 biennium
UT M.D. Anderson Cancer Center	2,000,000	Uncompensated care for Hurricane Ike patients
UT HSC Tyler	1,461,557	Damages and disruptions caused by natural disasters occurring during the 08-09 biennium
UT Austin	9,902,630	The 2008-09 formula hold harmless amounts. \$700,000 must be used for Marine Science Institute National Estuarine Research Reserve.
UT Pan American	102,258	Damages and disruptions caused by natural disasters occurring during the 08-09 biennium
UT Brownsville	1,200,000	Damages and disruptions caused by natural disasters occurring during the 08-09

Institution	Appropriation ¹	Appropriation Description
		biennium
UT Tyler	1,300,000	Faculty Salaries and operations at the Palestine Campus

¹ All supplemental appropriations made to UT System institutions are from the General Revenue Fund, except for the \$6 million appropriated to UT HSC Houston for uncompensated care. This appropriation is funded from a General Revenue-Dedicated account, Designated Trauma and EMS Facility, which is funded through court fines for individuals convicted of traffic related offenses and driver responsibility program surcharges.

HB 4586 appropriates funds for a single compensation payment to State employees. The section, Appropriation for a Single Retention Payment for Work Performed by State Employees, does not apply to institutions of higher education except for employees of Texas A&M service agencies. State agency employees, who have been continuously employed from March 31, 2009 through August 1, 2009, shall receive a single employee retention compensation payment in the amount of \$800 in August 2009. \$42.2 million in General Revenue and \$88.3 million in All Funds is appropriated for the compensation payment.

Summary of SB 1 Reporting Requirements

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U.T. System Office or Institution Responsible	New or Existing Reporting Requirement
Office of the Attorney General (OAG)	6-D. Debt Collections	I-8	OAG	The OAG shall maintain a centralized recordkeeping system for accounting for various institutional certification of delinquent taxes, judgments, and other debts owed the state. The accounting should distinguish by type of tax, judgment, or other debt, and provide for: when the debt was certified by an institution for collection by the OAG; when it was collected or disposed of, and such other information as the Legislative Budget Board, Governor, or the Comptroller of Public Accounts may require. The OAG shall submit semi-annual reports detailing by institution the amount of each debt, when the debt was certified, and when and in what amount, it was collected or disposed of.	Semi-annual	Legislative Budget Board (LBB) and Governor	U.T. System General Institutions and Health-related Institutions	Existing
Historical Commission	12. Acquisition of Historical Artifacts	I-57	The Historical Commission	The Commission shall coordinate the purchase or acquisition of the historical artifacts with institutions involved in historic preservation programs reflective of racial, ethnic, and cultural diversity throughout the state. The Historical Commission must also report on the status of acquisitions.	within 30 days after acquisition	LBB and Governor	U.T. System General Academic Institutions and Health-related Institutions	Existing
Library and Archives Commission	7. Report of Reports	I-68	Library and Archives Commission	The Library and Archives Commission, with the assistance of all institutions of higher education, shall prepare a complete and detailed written report indexing all statutorily required reports and providing detail about the preparing institution, title of report, legal authority, due date, recipient, and a brief description. The report shall provide indexes by (1) preparing institution, (2) title of report, and (3) report recipient, and the detail section shall be arranged by preparing agency. This report shall include an assessment from each	January 1, 2011	LBB, Governor, and the Public	Office of Academic Affairs and Office of Health Affairs	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U.T. System Office or Institution Responsible	New or Existing Reporting Requirement
				receiving institution for each statutorily required report affirming or denying its continued usefulness to that institution.				
State Office of Risk Management (SORM)	4. Insurable State Asset Study	I-74	SORM	SORM, with the assistance of all institutions of higher education, shall prepare a proposal recommending a statewide strategy for ensuring that state assets are adequately insured. The proposal shall comment on the advisability of various insurance options, including self-insurance, privately placed insurance, and stop-loss insurance.	January 1, 2011	LBB and the Public	Office of Risk Management	New
Department of State Health Services (DSHS)	43-C. State Owned Multicategorical Teaching Hospital Account Subsection c	II-63	The University of Texas Medical Branch at Galveston (UTMB)	Upon presentation of information supporting UTMB's claim, DSHS shall reimburse UTMB for the health care services provided to indigent patients from the Account established for this purpose. This reimbursement shall be made monthly upon the submission to DSHS of a statement of the care provided by UTMB to indigent patients, according to the terms set out in subsection (b). The State Auditor's Office (SAO) may periodically review the statements submitted to DSHS for reimbursement from the Account, as well as the disbursement therefrom, to verify compliance with the criteria established herein.	Monthly	DSHS	UTMB	Existing
Optional Retirement Program (ORP)	2. State Contribution to Optional Retirement Program	III-38	Institutions of Higher Education	Institutions of higher education are required to provide estimates of state contributions required for payment to the Comptroller of Public Accounts (Comptroller), and the Comptroller shall allocate the state contributions to institutions pursuant to Government Code 830.202.	None specified	Comptroller	Office of the Controller	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U.T. System Office or Institution Responsible	New or Existing Reporting Requirement
Higher Education Employees Group Insurance Contributions (HEGI)	2. The University of Texas System Group Health Insurance Contributions	III-42	The University of Texas System (U.T. System)	The U.T. System shall report detailing all group health insurance plans offered to system employees and retirees including the benefit schedule, premium amounts, and employee/retiree contributions.	September, 15 of each year	LBB, Governor, and Comptroller	Office of Employee Benefits	Existing
HEGI	6-B. Appropriations Transfers	III-43	U.T. System	The U.T. System shall file a report detailing transfers of funds from one component of the system to another at the discretion of the chief administrative officer.	December 1 of each year	LBB, Governor, and Comptroller	Office of the Controller	Existing
Texas Higher Education Coordinating Board (THECB)	10. Tuition Equalization Grants	III-49	Institutions of Higher Education	Independent Colleges and Universities shall provide annual reports regarding the diversity of their student body, faculty, executive committee, and governing boards.	October 1 of each year for headcount enrollment; October 15 all other required information	THECB	Office of Institutional Studies and Policy Analysis	New
THECB	11. Research Programs	III-50	Institutions of Higher Education	Institutions receiving transfers of funds under this Advanced Research Program shall report to the THECB in accordance with the provisions of Education Code § 142.005.	None specified	LBB and Governor	U.T. System General Academic Institutions and Health-related Institutions	Existing
THECB	16. Retention of Economically Disadvantaged Students	III-51	THECB	The THECB shall include in the college comparison web profile the percentage of economically disadvantaged freshman retained at public institutions of higher education as defined by the LBB and the Governor.	None specified	LBB	Office of Institutional Studies and Policy Analysis	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U.T. System Office or Institution Responsible	New or Existing Reporting Requirement
THECB	18. Disparity Study for Institutions of Higher Education	III-51	THECB	<p>Authorizes the THECB to continue a disparity study pursuant to the study conducted in 1998-99. The Texas Education Agency (TEA) and each institution of higher education may cooperate with the THECB to continue the disparity study.</p> <p>The THECB shall report graduation and persistence rates, for each public General Academic Institution. For each institution, the report shall include:</p> <p>a. Six-year graduation rate (same institution): Percent of first-time full-time students who earned a baccalaureate or higher degree at the same institution within 6 years of becoming a first-time student.</p>	None specified	THECB	Office of Institutional Studies and Policy Analysis	Existing
THECB	24. Graduation and Persistence Rates	III-52	THECB	<p>b. Six-year graduation rate (another institution): Percent of first-time full-time students who earned a baccalaureate or higher degree within 6 years of becoming a first-time entering full-time student.</p> <p>c. Six-year persistence rate (same institution) - percent of students who have not earned a baccalaureate or higher degree, but are still enrolled in the same Texas public General Academic Institutions six years after becoming a full-time student at that institution.</p> <p>d. Six-year persistence rate (another institution) - percent of students who have not earned a baccalaureate or higher degree, but are still enrolled in a Texas public General Academic Institutions six years after becoming a full-time student at another Texas public higher education</p>	September 1, 2010.	Governor and Legislature	Office of Institutional Studies and Policy Analysis	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U.T. System Office or Institution Responsible	New or Existing Reporting Requirement
				institution.				
				e. Composite graduation and persistence rate - sum of the graduation and persistence rates in subsections (a) through (d) above.				
THECB	34. African American Museum Internship	III-55	THECB	The THECB may contract with an institution of higher education to provide for an internship at the African American Museum in Dallas. The THECB may require periodic submission of data and reports to assess the overall performance of the program. The THECB is required to report concerning the effectiveness of the program.	October 1, 2010	LBB and Governor	U.T. System General Academic Institutions	Existing
THECB	35-F. Professional Nursing Shortage Reduction Program	III-55	THECB	All institutions receiving funds under the Professional Nursing Shortage Reduction Program shall submit to the THECB a detailed accounting of funds received, obligated or expended.	None specified	THECB	U.T. System General Academic Institutions and Health-related Institutions	New

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U.T. System Office or Institution Responsible	New or Existing Reporting Requirement
THECB	45. Align Adult Basic Education and Postsecondary Education	III-57	THECB	The THECB shall coordinate with TEA to develop and implement an immediate and long-range coordinated action plan to align Adult Basic Education and postsecondary education. These action plans shall address, outreach and advising, assessment, curriculum, and instruction, persistence interventions, state-level accountability systems to monitor performance, service-provider-level performance measures and program evaluation, standards to enhance data quality and sharing among state agencies and service-providers, needs assessment of students and service-providers to identify other structural issues and barriers, grants to maximize effective use of limited General Revenue Funds.	January 31, 2010	House Committee on Higher Education, House Appropriations Committee, Senate Education Committee, Senate Finance Committee, Governor, Texas Workforce Commission, and LBB	Office of Academic Affairs	Existing
THECB	48. Annual Financial Aid Report	III-58	THECB	The THECB and TEA shall prepare a report that summarizes performance, evaluates outcomes, and recommends changes to improve outcomes and the components of the action plan.	September 1 of each calendar year	LBB	Office of Academic Affairs	Existing
THECB	51. Cost Matrix Study	III-59	THECB	The THECB shall conduct a cost study to validate the relative weights contained in the matrix in Section 29 (1) of the Special Provisions Relating Only to Institutions of Higher Education. The study should provide an "all funds" analysis of the Health-related Institutions' costs. The study should also address the differences between funding for nursing, pharmacy, allied health or any other overlapping disciplines between the General	September 1, 2010	LBB and Governor	U.T. System Health-related Institutions and Office of Health Affairs	New

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U.T. System Office or Institution Responsible	New or Existing Reporting Requirement
				Academic Institution matrix and the Health-related Institution matrix.				
THECB	58. Alternative Teaching Certification	III-60	THECB	The THECB shall allocate the funds for Alternative Teacher Certification, only if an institution is able to demonstrate to the satisfaction of the THECB it significantly reduced the cost of tuition for coursework in Alternative Teacher Certification in comparison to the institution's average tuition.	None specified	THECB	U.T. System General Academic Institutions and Office of Academic Affairs	New
THECB	59. Funding for Non-Semester-Length Developmental Education	III-60	THECB	Institutions shall analyze the fiscal and instructional impacts on student outcomes for both semester-length and non-semester-length developmental education interventions. The institutions shall prepare a report to the THECB.	June 1, 2010.	LBB and Governor	U.T. System General Academic Institutions and Office of Academic Affairs	New
THECB	60. Statistical Analysis of Predictors of College Success	III-60	THECB, LBB	The THECB shall assist the LBB in conducting a statistical study of the predictors of access and success in higher education.	October 1, 2010	The Legislature	Office of Academic Affairs	New
The University of Texas System Administration	3. Governing Board	III-62	U.T. System Administration	A separate record of the governing board's expenditures for travel, entertainment, and lodging expenses be kept and retained in the same manner as the fiscal records of the institution(s) the board governs.	Ongoing	Not specified	Office of the Controller	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U.T. System Office or Institution Responsible	New or Existing Reporting Requirement
Available University Fund (AUF)	4. Reporting	III-64	U.T. System Administration	<p>The UT System shall report on the uses of the AUF for each system component and for the system office operations for the two previous years, the current year, and two future years (projected). Each report shall contain detailed information on the following:</p> <p>(1) debt service allocations, by component;</p> <p>(2) bond proceeds allocations, by component;</p> <p>(3) excellence allocations, by component or system office, and their purposes;</p> <p>(4) AUF income, interest, beginning-and-end-of-year balances; and</p> <p>(5) the rationale used by the respective boards to distribute AUF funds.</p>	December 1 of each year	LBB and Governor	Office of the Controller and UTIMCO	Existing
				<p>The UT System shall submit an annual financial report which shall include, at a minimum, an income statement and balance sheet and a summary of the investment return of the fund during the preceding fiscal year. The annual financial report shall also contain:</p> <p>(1) a summary of all gains, losses and income from investments and an itemized list of all securities held for the fund on August 31;</p> <p>(2) any other information needed by the Governor or the LBB to clearly indicate the nature and extent of investments made of the fund and all</p>				

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U.T. System Office or Institution Responsible	New or Existing Reporting Requirement
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income realized from the components of the fund.

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UT Austin	5. University Interscholastic League Financial Reporting	III-69	UT Austin, University Interscholastic League (UIL)	<p>As part of the financial report required n the Education Code § 33.083, the UIL shall provide financial information, in a format and order provided in the rider, for the preceding two fiscal years for all UIL funds by all budget groups. The report shall provide the following information:</p> <ol style="list-style-type: none"> 1) Total revenues; 2) Total expenditures; 3) Excess (Deficit) of revenue over expenditures; 4) Total fund Balance; 5) Total interest income earned on fund balances belonging to UIL that are deposited with the University of Texas at Austin for the benefit of the league; 6) Total member school district earnings from even rebates and other sources; 7) Total UIL earnings from gate receipts, administrative charges, retained excess revenues from UIL managed events and other sources; and 8) Total UT Austin earnings levied on all UIL expenditures and total expenses incurred by the UT Austin in providing administrative services for the UIL. 	November 20th of every year	LBB, Governor, and presiding officer of each house of Legislature.	UT Austin, and Office of Academic Affairs	Existing

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Article III, Special Provisions Relating Only to State Agencies of Higher Education	4. Transfer Provisions	III-224	U.T. System Administration	<p>The UT System shall furnish any documents to the LBB and Governor prior to making an inter-component transfer of funds from Health-related Institution to an academic institution.</p> <p>The UT System shall give 30 days notice to the LBB and the Governor prior to transferring local funds from any UT System hospital.</p>	As needed and reported in the LAR for the biennium beginning September 1, 2011	LBB and Governor	Office of the Controller	Existing
Article III, Special Provisions Relating Only to State Agencies of Higher Education	5-8. Salary and Benefit Provisions	III-226	U.T. System Administration	<p>Further any transfers made, whether general revenue or local funds in nature, shall be reported in the Legislative Appropriations Request (LAR).</p> <p>In each state fiscal year of the biennium an institution of higher education, including a system office, may not spend funds appropriated to the institution by this Act unless, not later than December 1, the institution submits to the LBB, the Chair of House Appropriations Committee, and the Chair of the Senate Finance Committee a report that includes the total number of persons holding high-ranking administrative positions at the institution. The report must:</p> <p>a) Be in a form prescribed by the LBB;</p> <p>b) Include the name, salary, and total value of non-salary benefits for each person holding a high administrative position at the institution; and</p> <p>c) The percentage salary increase for each person who occupies the same position during the current</p>	December 1 of each year	LBB, Chair of House Appropriations Committee, and Chair of Senate Finance Committee.	U.T. System General Academic Institutions and Health-related Institutions, and Office of the Controller	Existing

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				fiscal year as during the preceding fiscal year.				
				Not later than seven days after the report is submitted a copy of it shall be made available for public inspection in the library of the institution.				
Article III, Special Provisions Relating Only to State Agencies of Higher Education	6-1. Expenditure Provisions, Annual Operating Budgets Required	III-226	Governing Board	A)An itemized budget approved by the governing board shall be submitted on or before September 1 of each fiscal year covering the operations of the ensuing fiscal year, which budget shall be prepared within the limits of the revenue available. The budget should contain a section(s) which provides budget amounts and the method of finance for each listed informational item of appropriated funds contained in the General Appropriations Act (GAA).	Section A is due September 1, of each year;	Governor, LBB, THECB; Legislative Reference Library and Institution's General Library for Public Access	U.T. System General Academic Institutions and Health-related Institutions, and Office of the Controller	Existing
				B) A copy of the budget and subsequent amendments shall be filed with the Legislative Reference Library and the institution's library to be available for public inspection. By December 1 of each fiscal year, a copy of the budget shall be	December 1 of each year			

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				filed with the LBB, the Governor, and the THECB.				
				The governing board shall file an annual report of all investment transactions involving endowment funds, short-term and long-term investment funds, and all other securities transactions, in a method prescribed by SAO.				
Article III, Special Provisions Relating Only to State Agencies of Higher Education	6-5. Expenditure Provisions, Investment Reports	III-227	Governing Board	Copies of such reports shall be available for public inspection. In addition to the annual report, each institution shall publish on its website quarterly investment reports in any format it deems appropriate.	December 31 of each year	LBB, SAO, and Comptroller	UTIMCO	Existing
				The governing boards of each educational institution named in this Article must adopt formal investment policies, which shall be submitted to				

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				the LBB and the SAO.				
Article III, Special Provisions Relating Only to State Agencies of Higher Education	11. Method of Financing Scholarships	III-229	Governing Board	The governing board may allocate and expend the actual receipts in Other Education and General Income for student scholarships pursuant to the provisions of Education Code 56.031 to 56.039 (Texas Public Education Grants). Copies of such approved allocations together with copies of rules and regulations adopted by the governing board concerning the award of the scholarships shall be filed prior to disbursement of any moneys for scholarships. Copies of any changes in such allocations or rules shall be similarly filed.	As needed	THECB and Comptroller	Office of Academic Affairs and Office of Health Affairs	Existing
Article III, Special Provisions Relating Only to State Agencies of Higher Education	14. Off-campus Instruction	III-230	THECB	At the conclusion of each fiscal year, the THECB shall file a report on all General Academic Institutions concerning off-campus semester credit hours for that fiscal year.	Conclusion of each fiscal year	LBB and Governor	U.T. System General Academic Institutions	Existing
Article III, Special Provisions Relating Only to State Agencies of	15. Medical School Enrollment	III-230	Health-related Institutions	None of the funds appropriated above to the UT System medical colleges may be used for the education of first year medical students unless the first year class enrollment of undergraduate medical students in the fiscal years ending August 31, 2010, and August 31, 2011, is no less than 200	As needed	LBB	U.T. System Health-related Institutions and Office of Health Affairs	Existing

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Higher Education				students				
Article III, Special Provisions Relating Only to State Agencies of Higher Education	18. Formula Variable and Educational and General Income Audits	III-231	SAO	In the event that a school of medicine falls below the required first year class enrollment of undergraduate medical students by more than 5 percent for fiscal years 2010 and 2011, the school shall report the reasons for failing to meet the required enrollment. This information should be taken into account when preparing the appropriation recommendations for the Eighty-second Legislature.	Not specified	LBB, Governor, THECB, and Comptroller	Office of Institutional Studies and Policy Analysis	Existing
Article III, Special Provisions Relating Only to State Agencies of Higher Education	20. Annual Reports of Health Related Institutions Practice Plans	III-231	Health-related Institutions	As a limitation and restriction upon appropriations made by this Act, UT System Health-related Institutions shall not expend funds after a period of 120 days following the close of the fiscal year, unless there has been filed an annual report showing the use of practice plan funds. The annual report shall conform to a uniform reporting system developed by the SAO for all financial data concerning the Health-related Institutions practice plans.	August 31, of each year	LBB, Governor, SAO, Legislative Reference Library, and Comptroller	Office of the Controller	Existing

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Article III, Special Provisions Relating Only to State Agencies of Higher Education	22. Uncompensated Care Reporting Requirement	III-232	Health-related Institutions	The UT System Health-related Institutions shall include in their LAR information including the actual amount of uncompensated care provided through each institution's respective physician practice plan, hospital, or clinic using the uncompensated care reporting requirement established by the Health and Human Services Commission.	LAR due date (August 2010)	LBB, Governor, and additional distribution list in LAR	U.T. System Health-related Institutions and Office of Health Affairs	Existing
Article III, Special Provisions Relating Only to State Agencies of Higher Education	23. County Indigent Care Contracts	III-232	UTMB at Galveston, UT MD Anderson Cancer Center, UTHSC Tyler	A) Each Health-related Institution that is specified shall provide a list of counties whose indigent residents have been served by each institution; the total amount of reimbursement received by each institution from each county pursuant to the Indigent Health Care and Treatment Act; and the total cost, by county, of services provided by each institution for which counties are liable pursuant to the Indigent Health Care and Treatment Act. B) Each Health-related Institution that is specified shall report annually on the status of contract agreements or negotiations with each county whose indigent residents have been served by the institution.	Section A is due August 31 of each year; Section B is due December 1 of each year.	LBB and Governor	U.T. System Health-related Institutions	Existing

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Article III, Special Provisions Relating Only to State Agencies of Higher Education	27. Post Tenure Review	III-233	Governing Board	None of the funds appropriated by this General Appropriations Act (GAA) may be expended by an institution of higher education until it has filed policies and procedures regarding post tenure review which have been adopted by the board of regents. Policies shall include review procedures to determine that a tenured faculty member is performing consistently at an acceptable, professional level and a mechanism whereby a faculty member is informed of any deficiencies and provided opportunities to effectively improve his or her performance.	As needed	THECB	Office of Academic Affairs and Office of Health Affairs	Existing
Article III, Special Provisions Relating Only to State Agencies of Higher Education	28-7. General Academic Funding	III-234	THECB	The General Academic Institutions' formulas and supplemental items shall be reviewed and updated by study committees appointed by THECB and recommended changes should be forwarded to the Legislature, the LBB, and the Governor.	June 1, 2010	Legislature, LBB, and Governor	U.T. System General Academic Institutions and the Office of Academic Affairs	Existing
Article III, Special Provisions Relating Only to State Agencies of Higher Education	29-7. Health Related Institutions Funding	III-235	THECB	The Health-related Institutions' formulas shall be reviewed and updated by study committees appointed by THECB and recommended changes should be forwarded to the Legislature, the LBB, and the Governor.	June 1, 2010	Legislature, LBB, and Governor	U.T. System Health-related Institutions and the Office of Health Affairs	Existing
Article III, Special Provisions Relating Only to State Agencies of Higher Education	29-8. Health Related Institutions Funding	III-235	THECB	UT MD Anderson Cancer Center and, UTHSC Tyler shall submit a copy of the appropriate reports and supporting documentation which provides the necessary information to calculate the formula allocations for the Mission Specific Support formulas.	As requested	LBB, Governor, and THECB	UT MD Anderson Cancer Center, UTHSC Tyler, and the Office of Health Affairs	Existing

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Article III, Special Provisions Relating Only to State Agencies of Higher Education	32. Fire Safety Projects at Institutions of Higher Education	III-235	State Fire Marshall	Institutions that have major fire safety projects identified by the Fire Marshall's Office as not meeting requirements of the National Fire Protection Association, <i>Life Safety Code 101, 2006 edition</i> , shall consult with the State Fire Marshall's Office and develop a time line for completion of projects. The institutions shall implement the interim safety precautions recommended by the State Fire Marshall's Office. The State Fire Marshall shall submit periodic reports on the progress of institutions remedying the fire safety issues. The institutions shall also contact parents of students living in dorms identified by the State Fire Marshall's Office about actions needed to rectify non-compliance and the timeframe to make improvements.	As needed	House Appropriations Committee and Senate Finance Committee	Office of Facilities Planning and Construction	Existing
Article III, Special Provisions Relating Only to State Agencies of Higher Education	34. Faculty Salary Increase Report	III-236	THECB	The THECB shall report the average salary increase provided to faculty at each General Academic Institution in a form prescribed by the THECB.	January 31 of each fiscal year	LBB and Governor	U.T. System General Academic Institutions and the Office of Academic Affairs	Existing
Article III, Special Provisions Relating Only to State Agencies of Higher Education	36. Nursing School Enrollment	III-236	Institutions of Higher Education	Institutions with students enrolled in programs that are preparing them for licensure as registered nurses in state fiscal year ending August 31, 2010, and the state fiscal year ending August 31, 2011, should not drop student full-time equivalent enrollment below fiscal year 2009 levels. If the institutions should fall below the 2009 level by more than 5 percent for the fiscal years ending in 2010 and 2011, the institution shall report the	As needed	LBB and THECB	U.T. System General Academic Institutions and Health-related Institutions, Office of Academic Affairs, and Office of Health Affairs	Existing

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				reasons for failing to meet the required enrollment.				
Article III, Special Provisions Relating Only to State Agencies of Higher Education	37. Endowed Programs	III-236	Institutions of Higher Education	Institutions shall notify donors in accordance with the donor agreements if, within five years of receiving a donation, the institution diminishes its financial support from local funds for a program created or endowed by the donor. If the agreement so provides, then upon application by the donor, the university shall return the donation or endowment.	As needed	Donor	U.T. System General Academic Institutions and Health-related Institutions, and Office of External Relations	Existing

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Article III, Special Provisions Relating Only to State Agencies of Higher Education	43. Report on Real Property	III-237	Institutions of Higher Education	<p>Institutions shall submit the following information to the General Land Office (GLO) as it may require in accordance with general law:</p> <p>1) a description of each item of property by reference to a volume number and page or image number(s) of the official public records of real property in a particular county, or if not applicable, by a legal description;</p> <p>2) the date of purchase of property, if applicable; 3) purchase price of property, if applicable;</p> <p>4) name of the institution holding title to the property for the state;</p> <p>5) a description of the current uses of the property and the projected uses of the property during the next 15 years;</p> <p>6) a description of each building or other improvement located on the property;</p> <p>7) If the description of real property required by this section is excessively voluminous, as in the case of parkland, the division may direct the institution to furnish the description only in summary form, as agreed to by the division and institution involved; and</p> <p>8) If the institution has done an appraisal on the property, the date of it, and the value broken out by land improvements it should be submitted.</p>	None Specified	Asset Management Division in the General Land Office	U.T. System General Academic Institutions and Health-related Institutions, and Office of Real Estate	Existing

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Article III, Special Provisions Relating Only to State Agencies of Higher Education	44. Limitation on Use of Funds	III-238	Institutions of Higher Education	Institutions that are appropriated funds from the receipts collected pursuant to the Comprehensive Tobacco Settlement Agreement and release shall submit a budget each year that describes the purposes and amounts for which such funds will be expended by the institution. No funds described in this budget may be expended by the institution of higher education until the LBB and the Governor receive the receipt.	November 1 of each year	LBB and Governor	U.T. System General Academic Institutions and Health-related Institutions, UTIMCO, and Office of the Controller	Existing
Article III, Special Provisions Relating Only to State Agencies of Higher Education	45. Financial Information Reporting Requirement	III-238	Each University System, General Academic Institution, and Health-related Institution	Authorized managers of permanent funds and endowments shall provide a copy of year-end financial reports. These reports should include, at a minimum, an income statement and balance sheet for each fund, and a summary of the investment return of the fund during the preceding fiscal year	January 1 of each year	THECB	Office of the Controller	Existing
				In addition to the financial information required to be reported by 2101.011 of the Government Code, each institution and system office receiving appropriations in this GAA shall continue to provide financial data related to operation of each system office and institution as was reported in the 2001 annual financial report. Each system office and institution of higher education shall provide the report using the specific content and format prescribed by the THECB.				

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Article III, Special Provisions Relating Only to State Agencies of Higher Education	50. Report Concerning Designated Tuition	III-239	Governing Board	<p>The governing board shall report for the 2008-2009 and 2009-2010 academic years the following information:</p> <p>1) Amount the institution has collected in designated tuition;</p> <p>2) Purpose for which the institution spent the money, and the amount that was spent for each of those purposes; and</p> <p>3) Amount set aside from designated tuition for resident undergraduate and graduate student assistance under 56.011 and 56.012, Education Code.</p> <p>The governing board shall report the total academic cost for resident undergraduates enrolled for 15 semester credit hours. The information reported shall be derived from actual fee bills for the 2008 fall semester and the 2007 spring and fall semesters and must reflect the actual charges, before any adjustments or discounts are applied for waivers, exemptions, or other discounts, in the following categories:</p> <p>1) statutory tuition;</p> <p>2) designated tuition;</p> <p>3) mandatory fees; and</p> <p>4) average college and course fees, which must include all academic related fees and charges not reported under (1), (2), or (3), such as fees for</p>	January 1, 2010	Lieutenant Governor, Speaker of the House, Chair of the Senate Finance Committee, Chair of the House Appropriations Committee, and members of the Legislative Oversight Committee on Higher Education	U.T. System General Academic Institution and Health-related Institutions, and Office of the Controller	Existing

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				laboratories, field trips, multimedia, equipment replacement, and instructional technology, but should not include charges for voluntary services (“optional fees”)				
Article III, Special Provisions	54. Special Item Study	III-241	THECB, LBB	The THECB and the LBB shall study each item under the Special Item Support. The study shall	None specified	Legislature	U.T. System General Academic	New

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Relating Only to State Agencies of Higher Education				<p>include but not be limited to determining:</p> <p>a) If the special item is for “start up funding” and if so, for how long should it be continued;</p> <p>b) Does the institution get formula funding for the item and should the item be reduced by an equal amount; and</p> <p>c) Does the item still serve its original purpose and if so, how long should it continue.</p> <p>A) General Academic Institutions shall submit an annual report to the THECB that provides:</p>			Institutions and Health-related Institutions, Office of Academic Affairs, and Office of Health Affairs	
Article III, Special Provisions Relating Only to State Agencies of Higher Education	55. Community College Transfer Student Reporting Requirement	III-241	THECB	<p>a) Details on the institution’s goals to increase the number, success, and persistence of community college transfer students as measured by THECB;</p> <p>b) An assessment of existing academic and technical transfer pathways, identify barriers to transfer, and define emerging issues; and</p> <p>c) Detail institution’s actions to serve current and future transfer students through articulation agreements with faculty collaboration, community college program enhancements, student outreach and advising, website information development, targeted financial aid, university student success programs, and degree program alignment.</p>	<p>Section A is due Annually;</p> <p>Section B is due November 1, of each year</p>	THECB, House Appropriations Committee, Senate Finance Committee, LBB	U.T. System General Academic Institutions and Office of Academic Affairs	New
				<p>B) The THECB shall complete the following:</p> <p>a) Provide performance data on transfer and native students by program completion at institutions</p>				

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				during the preceding fiscal year;				
				b) Conduct a comparative analysis of the institutional reports and the performance data; and c) Evaluate actions to increase the number, success, and persistence of community college transfer students and make recommendations to meet state goals.				
Article III, Special Provisions Relating Only to State Agencies of Higher Education	56. Academic Reporting Requirement for Museums	III-242	Institutions of Higher Education	Institutions of higher education that receive a General Revenue appropriation for a museum shall submit a report outlining the museum's relevance to the academic program at the institution. It is the intent of the Legislature that General Revenue funding for museums that are not relevant to the academic program at the institution be discontinued after the 2010-11 biennium.	None Specified	House Appropriations Committee, Senate Finance Committee, LBB, and Governor	U.T. System General Academic Institutions and Health-related Institutions, Office of Academic Affairs, and Office of Health Affairs	New
Article III, Special Provisions Relating Only to State Agencies of Higher Education	57. Mexican American Studies Program or Other Course Work	III-242	Governing Board	The governing board of each General Academic Institution located in one or more counties with a substantial and growing Mexican American population may establish a Mexican American studies program or other course work in Mexican American studies at the institution. The governing board may use a portion of the available General Revenue Funds appropriated to the institution by this GAA to evaluate the demand for and feasibility of establishing a Mexican American studies program or other course work in Mexican American studies in connection with	None Specified	N/A	U.T. System General Academic Institutions and Office of Academic Affairs	New

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				establishing and operating such a program of other course work at the institution.				
Texas Department of Criminal Justice(TDCJ)	41. Managed Health Care – Reporting Requirements	V-21	Correctional Managed Health Care Committee (CMHCC)	<p>The CMHCC is required to submit a report detailing:</p> <p>a) Correctional managed health care actual and projected expenditures for on-site, off-site, and pharmaceutical costs;</p> <p>b) Health care cost for inmates over age 55 including utilization data;</p> <p>c) Other health care information determined by the Governor and the LBB; and</p> <p>d) All monies held in reserve during any quarterly reporting period by the CMHCC or for Correctional Managed Health Care by the UTMB and the Texas Tech University Health Sciences Center.</p>	Quarterly	LBB and Governor	UTMB and Office of Health Affairs	Existing

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TDCJ	83. Managed Health Care – Appropriation Transfer Between Fiscal Years	V-28	CMHCC	<p>The CMHCC may transfer appropriations in an amount not to exceed \$20 million made for fiscal year 2011 to fiscal year 2010, subject to the following conditions:</p> <p>a) Costs of providing correctional managed health care exceed available funding due to increases in prison population, increases in medical care needs among the prison population, or increases in health care staffing costs; and</p> <p>b) For any other emergency expenditure requirements, including expenditures necessitated by public calamity.</p> <p>A transfer authorized by this section above must receive the prior approval of the Governor and the LBB.</p>	As needed	LBB and Governor	UTMB and Office of Health Affairs	New
Texas Workforce Commission	27. School Readiness Models	VII-45	UTHSC Houston	The State Center for Early Childhood Development at the UTHSC Houston shall report the detailed use of all state funds expended by the center for early childhood education services.	December 1 of each even- numbered year	LBB and Governor	UTHSC Houston and Office of Health Affairs	New

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Article IX, Salary Administration and Employment Provisions	3.02. Salary Supplementation	IX-17	Institutions of Higher Education	Funds appropriated by this GAA to an institution of higher education may not be expended for payment of salary to a person whose classified or exempt salary is being supplemented from other than appropriated funds until a report showing the amount and sources of salary being paid from other sources has been reported.	None Specified	Secretary of State and Comptroller	U.T. System General Academic Institutions and Health-related Institutions, and Office of the Controller	Existing
Article IX, Travel Regulations	5.08. Limitations on Travel Expenditures	IX-23	Institutions of Higher Education	Funds appropriated by this GAA may not be used to pay expenses for a trip to foreign countries, except for Canada or Mexico, unless the governing board of an institution of higher education has approved the travel before departure. A copy of the approval must be attached to each travel voucher submitted to the Comptroller. Each agency and institution of higher education must submit a report on all foreign travel with required approvals.	October 1 of each year	LBB and Governor	U.T. System General Academic Institutions and Health-related Institutions, and Office of the Controller	Existing
Article IX, General Limitations on Expenditures	6.08. Benefits Paid Proportional by Fund Subsection d	IX-27	Institution of Higher Education	Each institution shall file a report demonstrating proportionality for the salaries, wages, and benefits of the preceding fiscal year ending August 31. The report shall be in a format prescribed by the Comptroller in collaboration with the LBB and the SAO. The SAO shall at least biennially review agency and institution. The Comptroller, on receipt of notification from the SAO of amounts disproportionately paid from General Revenue funds, shall reduce current year General Revenue Fund appropriations of the institution until such time as such amounts are repaid from sources other than the General Revenue Fund.	November 20, of each year	Comptroller, SAO	U.T. System General Academic Institutions and Health-related Institutions, and Office of the Controller	Existing

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Article IX, General Limitations on Expenditures	6.10. Limitation on State Employment Levels	IX-27	Institution of Higher Education	<p>Without written approval of the Governor and the LBB, an institution of higher education may not use funds appropriated by this General Appropriations Act (GAA) to pay all or part of the salaries or benefits of a number of employees which would cause the number of full-time equivalent employees (FTEs) paid from funds for a fiscal quarter to exceed the figure indicated by this GAA.</p> <p>A request by an institution of higher education to exceed or reduce the FTE limitations must be submitted by the governing board and must include at minimum:</p> <ol style="list-style-type: none"> 1) Date on which the board approved the request; 2) A statement justifying the need to exceed or reduce limitations; 3) Source of funds to be used to pay any additional salaries; and 4) An explanation as to why the functions of any proposed additional FTE's cannot be preformed within current staffing levels. <p>The limitations on FTEs do not apply to an institution of higher education in instances of employment, including employment of temporary or contract workers, directly associated with events declared disasters by the Governor. Each institution of higher education shall provide notification annually as needed of FTEs exempted</p>	As needed	LBB and Governor	U.T. System General Academic Institutions and Health-related Institutions, and Office of the Controller	Existing

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				under this section.				
				The limitations on FTEs do not apply to an institution of higher education in instances of employment, including employment of temporary or contract workers, if the FTEs are directly associated with an unanticipated new or expanded project that is 100 percent federally funded. Each institution of higher education shall provide notification as needed of FTEs exempted under this section.				
Article IX, General Limitations on Expenditures	6.13. Performance Rewards and Penalties	IX-29	Institutions of Higher Education	To foster, support, and reward outstanding performance, ongoing productivity improvements and innovative improvement programs, and to retain key high performing employees, institutions of higher education may expend amounts necessary from funds appropriated in this GAA for the purposes of enhancing compensation for employees who directly contributed to such improvements. Only classified employees are eligible for enhanced compensation not to exceed 6.8 percent of an employee's annual base pay.	As needed	LBB, Governor, Comptroller, House Appropriations Committee, and Senate Finance Committee	U.T. System General Academic Institutions and Health-related Institutions, Office of Academic Affairs, and Office of Health Affairs	Existing
				To be eligible for this provision, an institution of higher education must file a report describing the success of the innovative program and criteria used to assess the improvements. In addition, sixty days prior to implementation, the institution of higher education shall file a report describing in detail how the institution intends to use this				

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Article IX, General Limitations on Expenditures	6.20. Use of Appropriations to Contract for Audits	IX-31	Institutions of Higher Education	<p>flexibility to further the goals of this section.</p> <p>An institution of higher education may enter into a contract with an independent audit entity for the provision of audit services pursuant to § 321.020, Government Code, if the following conditions are met:</p> <p>a) The SAO has reviewed the scope of the proposed audit and has issued a written approval for the scope of the proposed audit; and</p> <p>b) The SAO has delegated the authority to enter into the proposed audit to the institution of higher education, in the event the institution does not have a specific statutory delegation of authority to enter into a contract for audit services.</p>	As needed	SAO	U.T. System General Academic Institutions and Health-related Institutions, and Office of the Controller	Existing

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Article IX, Reporting Requirements	7.01. Budgeting and Reporting	IX-34	Institutions of Higher Education	<p>As a limitation and restriction upon appropriations made by this act, institutions of higher education may only expend funds appropriated by this Act if it is in compliance with the following provisions:</p> <p>A) An itemized budget covering the operation of that fiscal year has been filed with the Governor, LBB, Comptroller, and Legislative Reference Library in a specified format from the LBB;</p> <p>B) All subsequent amendments to the original budget are filed with the Governor and LBB within 30 days of approval; and</p> <p>C) Each institution has filed a report analyzing the institution's performance relative to the attainment of stated outcome, output, and efficiency targets of each funded goal and strategy. The report shall contain a comparison of actual performance for the reporting period with targeted performance based on the level of funding appropriated.</p>	<p>Section A is due December 1 of each fiscal year;</p> <p>Section B is due within 30 days of approval;</p> <p>Section C due date is Not specified</p>	<p>LBB, Governor, Comptroller, and Legislative Reference Library, Texas State Library, SAO, and appropriate substantive committees of the House and Senate</p>	<p>U.T. System General Academic Institutions and Health-related Institutions, Office of the Controller, and Office Of Institutional Studies and Policy Analysis</p>	Existing
Article IX, Reporting Requirements	7.02. Annual Reports and Inventories	IX-35	Institutions of Higher Education	<p>None of the funds appropriated by this GAA may be expended after November 20th following the close of the fiscal year unless an annual financial report has been filed by the executive head of each institution of higher education specified in this Act in accordance with § 2101.011, Government Code.</p>	<p>November 20 of each year</p>	<p>LBB, Governor, Comptroller, Legislative Reference Library, and SAO</p>	<p>U.T. System General Academic Institutions and Health-related Institutions, and Office of the Controller,</p>	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U.T. System Office or Institution Responsible	New or Existing Reporting Requirement
				An institution of higher education shall submit a report to the LBB in the manner prescribed by the LBB all contracts to which the institution was a party to during the prior fiscal year.				
Article IX, Reporting Requirements	7.04. Contract Notification: Amounts Greater than \$50,000	IX-35	Institutions of Higher Education	<p data-bbox="795 574 1289 764">In this section "Contract" includes: a contract, agreement, or other written expression of terms of agreement or amendment, modification, renewal, or extension of such for the purchase or sale of goods or services that was entered to or paid for, whether in whole or in any part, by an institution of higher education.</p> <p data-bbox="795 857 982 885">It does not include:</p> <ol data-bbox="795 915 1289 1318" style="list-style-type: none"> <li data-bbox="795 915 1289 997">1) a contract that has been reported to the LBB under 2054.008, 2166.2551, 2254.006 or 2254.0301, Government Code; <li data-bbox="795 1029 995 1057">2) A purchase order; <li data-bbox="795 1089 1062 1117">3) An interagency contract; <li data-bbox="795 1149 1073 1177">4) An inter-local agreement; <li data-bbox="795 1209 1241 1237">5) A contract less than or equal to \$50,000; or <li data-bbox="795 1269 1289 1318">6) Contract paid only with funds not appropriated by this GAA. 	October 1 of each year	LBB	U.T. System General Academic Institutions and Health-related Institutions, and Operations and Support Services (Accounting and Purchasing Services)	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U.T. System Office or Institution Responsible	New or Existing Reporting Requirement
				An institution of higher education shall submit a report to the LBB in the manner prescribed by the LBB all contracts to which the institution was a party to during the prior fiscal year.				
Article IX, Reporting Requirements	7.05. Contract Notification: Amounts Greater than \$500,000	IX-35	Institutions of Higher Education	In this section "Contract" includes: a contract, agreement, or other written expression of terms of agreement or amendment, modification, renewal, or extension of such for the purchase or sale of goods or services that was entered to or paid for, either in whole or in any part, by an institution of higher education, with a value of greater than \$500,000.	October 1 of each year	LBB	U.T. System General Academic Institutions and Health-related Institutions, and Operations and Support Services (Accounting and Purchasing Services)	Existing
				It does not include a contract that has been reported to the LBB under 2054.008, 2166.2551, 2254.006 or 2254.0301, Government Code, or Section 7.04 of this article.				
Article IX, Reporting Requirements	7.06. Reports and References	IX-36	Institutions of Higher Education	An institution of higher education shall submit to the Governor's Office all reports, approval processes, notifications, filings, documentation of expenditures, plans, addendums, or updates submitted to the Legislative Budget Board, under provisions contained in this GAA.	As needed	Governor	As required	Existing

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Article IX, Reporting Requirements	7.07. Reporting Fees, Fines, and Penalties	IX-36	Institutions of Higher Education	Each institution of higher education shall report to the LBB in the manner prescribed by the LBB all fees, fines, and penalties assessed and all fees, fines, and penalties assessed but not collected by the institution during the prior fiscal year. Each report made under this section shall detail the effort made by the reporting institution to collect fees, fines and penalties that are more than ninety days past due.	November 1 of each year	LBB	U.T. System General Academic Institutions and Health-related Institutions, and Office of the Controller	Existing
Article IX, Reporting Requirements	7.08. Reporting of Federal Homeland Security Funding	IX-36	Institutions of Higher Education	All institutions of higher education shall include in their operating budget reports to the LBB: 1) An estimated amount of federal homeland security funding received by the agency or institution of higher education and used for the operation and administration of state homeland security programs; and 2) The amount of federal homeland security funding received by the agency or institution of higher education and passed through to other agencies, institutions, or local units of government.	November 1 of each year	LBB	U.T. System General Academic Institutions and Health-related Institutions, and Office of the Controller	Existing
Article IX, Reporting Requirements	7.09. Reporting of Historically Underutilized Business (HUB) Key Measures	IX-36	Institutions of Higher Education	Every institution of higher education shall include in their LAR information related to HUB key performance measures.	LAR due date (August 2010)	LBB, Governor, and additional distribution list in LAR	U.T. System General Academic Institutions and Health-related Institutions, and Office of the Controller	Existing

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Article IX, Other Appropriation Authority	8.01. Acceptance of Gifts of Money	IX-37	Institutions of Higher Education	A gift or bequest to an institution of higher education may not be transferred to a private or public development fund or foundation, unless written permission for the transfer is given by the donor of the gift or representative of the estate. An account of all such letters of written permission and transfers of gifts or bequests shall be kept by the institution and shall be reported.	As needed	SAO	U.T. System General Academic Institutions and Health-related Institutions, and Office of External Affairs	Existing
Article IX, Information Resources Provisions	9.02. Quality Assurance Review of Major Information Resources Projects	IX-41	Quality Assurance Team (QAT)	<p>A) An institution of higher education may not expend appropriated funds for a major information resources project unless the project has been reviewed and approved by the LBB in the institution's biennial operating plan and the QAT.</p> <p>B) The QAT may require independent project monitoring, project status reporting, project expenditure reporting, or any additional information necessary to assess a project's on-going potential for success. After a project has been completed, the QAT may also require an institution of higher education to submit a project post-implementation evaluation report to determine if the project met its planned objectives. The QAT may take any additional actions or request information as specified in § 2054.1181, Government Code.</p>	<p>Section A – Biennial Operating Plan due date (August 2010)</p> <p>Section B is due December 1 of each year</p>	LBB, Governor, QAT, SAO, Lieutenant Governor, Speaker of the House, House Appropriations Committee, and Senate Finance Committee	U.T. System General Academic Institutions and Health-related Institutions	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U.T. System Office or Institution Responsible	New or Existing Reporting Requirement
Article IX, Information Resources Provisions	9.03. Biennial Operating Plan and Information Resources Strategic Plan Approval	IX-41	Institutions of Higher Education	Institutions of higher education receiving appropriated funds for the acquisition of information technology must have a current Information Resources Strategic Plan and a Biennial Operating Plan including any amendments as approved by the LBB prior to expending any funds for information technology. The LBB may direct the Comptroller to deny the agency or institution of higher education access to information technology appropriations for non-compliance.	Biennial Operating Plan due date (August 2010)	LBB	U.T. System General Academic Institutions and Health-related Institutions	Existing
Article IX, Health-related Provisions	10.08. Payment for Medical Errors	IX-45	Employees Retirement System (ERS), Teachers Retirement System (TRS), U.T. System, and Texas A&M University System (TAMU System)	The ERS, TRS, UT System, and TAMU System shall jointly study the following: 1) The feasibility and cost effectiveness of including a provision to deny payment for the 28 National Quality Forum events and additional conditions identified by the Centers for Medicare and Medicaid Services in their next request for proposal for a third party administrator; and 2) The potential impact of “balance billing” of clients and identify recommendations to address the impact, and provide a report on their recommendations.	December 31, 2009	LBB and Governor	Office of Employee Benefits	New

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U.T. System Office or Institution Responsible	New or Existing Reporting Requirement
Article IX, Health-related Provisions	10.09. Study on Directly Contracting with Medicare for Prescription Drug Coverage	IX-46	ERS, TRS, U.T. System, and TAMU System	The ERS, the TAMU System, the TRS, and the UT System shall each study directly contracting with Medicare for retiree prescription drug coverage to determine whether such contracting is cost-effective. If an agency determines the direct contracting to be the most cost-effective means of retiree prescription drug coverage for that agency, the agency may begin applications and negotiations with Medicare to become an Employer Group Waiver Plan sponsor.	None specified	N/A	Office of Employee Benefits	New
Article IX, Provisions Related to Real Property	11.02. Statewide Capital Planning	IX-46	Bond Review Board	A) An institution of higher education shall supply capital planning information relating to projects subject to this section and financing options for the 2012-2013 fiscal biennium in a format and according to guidelines developed by the Bond Review Board. It should include: 1) Description of the project or acquisition; 2) Cost of the project; 3) The anticipated useful life of the project; 4) The timing of the capital need; 5) A proposed source of funds (method of financing); 6) A proposed type of financing; and 7) Any additional related information requested by the Bond Review Board.	Section A None specified; Section B is due December 31, 2009; Section C is due September 1, 2010;	LBB and Governor	Office of Finance and Office of Facilities Planning and Construction	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U.T. System Office or Institution Responsible	New or Existing Reporting Requirement
				B) The Bond Review Board shall compile a statewide capital expenditure plan for the 2012-13 fiscal biennium from the information submitted by institutions of higher education in accordance with the capital planning guidelines. Copies of the guidelines shall be filed with the Governor and the LBB.				
				C) The Bond Review Board shall file copies of the capital expenditure plan for the period beginning September 1, 2011, with the Governor and the LBB no later than September 1, 2010				
				Expenditure of appropriated funds for replacement of aircraft with aircraft of comparable quality may be made contingent upon approval of the Texas Department of Transportation and a finding of fact by the Governor that a report has been filed with the Governor showing that:				
Article IX, Provisions Related to Property	12.01. Aircraft	IX-49	U.T. System	1) The aircraft to be replaced has been destroyed or has deteriorated to an extent that continued operation presents a serious hazard or that the aircraft to be replaced can no longer meet the mission requirements of the principal user state agency; and	As needed	Governor	Office of Finance	Existing
				2) Other state-owned aircraft cannot be effectively utilized in lieu of a replacement aircraft.				

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Article IX, Provisions Related to Property	12.04. Lost Property	IX-50	Institutions of Higher Education	An institution of higher education must annually report the value of property lost or missing from the possession of the institution. The LBB and the Comptroller may prescribe forms and dates for reporting. This section applies to all institutions of higher education without regard to the source of funds or classification of funds to acquire the property.	None specified	LBB and Comptroller	U.T. System General Academic Institutions and Health-related Institutions	Existing
Article IX, Agency Non- Discretionary Transfer Provisions	15.01. Reimbursements for Unemployment Benefits	IX-59	Texas Workforce Commission	At the close of each calendar quarter, the Texas Workforce Commission shall prepare a statement reflecting the amount of unemployment benefits paid to all former state employees based on wages earned from state employment and present it to the Comptroller.	Quarterly	Texas Workforce Commission	Office of Risk Management	Existing
Article IX, Agency Non- Discretionary Transfer Provisions	15.02. Payments to the State Office of Risk Management	IX-62	SORM	A) At beginning of each fiscal year, SORM shall prepare a statement reflecting the assessments due from all institutions of higher education and present it to the comptroller. Institutions shall transfer to SORM 75% of their assessed allocation amounts for workers' compensation coverage for their employees from funding in the same proportion as their expected payroll funding. B) Not later than May 1 of each fiscal year, SORM shall determine, based on actual costs since the beginning of the fiscal year and other estimated costs, the remaining assessment due from each institution of higher education. SORM shall prepare a statement reflecting the remaining assessments due from each institution of higher education and present the statement to the Comptroller. Each institution of higher education	Section A None specified;	SORM	Office of Risk Management	Existing

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				shall transfer to SORM the remaining assessed allocation which includes amounts for workers' compensation coverage for their employees from funding in the same proportion as their expected payroll funding.				
Article IX, Contingency and Other Provisions	17.05. Fraud Reporting	IX-69	Institutions of Higher Education	<p>An institution of higher shall assist with the detection and reporting of fraud involving state funds, including funds received pursuant to the American Recovery and Reinvestment Act, as follows:</p> <p>a) By providing information on the home page of the entity's website on how to report suspected fraud waste and abuse involving state resources directly to the SAO. This shall include, at a minimum, the SAO's fraud hotline information and a link to the SAO's website for fraud reporting; and</p> <p>b) By including in the agency or institution's policies information on how to report suspected fraud involving state funds to the state auditor.</p>	None specified	SAO	U.T. System General Academic Institutions and Health-related Institutions	New
Article XII, Special Provisions American Recovery and Reinvestment Act (ARRA)	5. Reporting Requirements	XII-8	Institutions of Higher Education	A) Each institution of higher education receiving appropriations under this article shall develop and submit a plan providing details on the entity's intended use of their appropriations from the ARRA. The plan shall include a summary of any ARRA funds spent, allocated or encumbered prior to August 31, 2009. If the LBB and the Governor	Section A is due September 30, 2009; Section B is	Section A reported to the LBB and Governor; Section B	U.T. System General Academic Institutions and Health-related Institutions, Office of Academic	New

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				do not issue a written disapproval within fifteen business days of receiving the institution's notification, the agency may expend the funds.	due quarterly;	reported to the LBB, Governor, SAO, and Comptroller;	Affairs, and Office of Health Affairs	
				B) Each institution of higher education receiving appropriations under this Article shall submit quarterly reports on expenditure of funds appropriated from ARRA. The report shall be in the format prescribed by the Legislative Budget Board, including the following:				
				1) The estimated number of jobs to be created or retained; and				
				2) The number of full-time equivalents positions.				
				C) Each institution that receives funds as a result of ARRA and that provides reports to the LBB and federal agencies regarding funding received under ARRA shall post on the agency's or institution's internet website, the agency's or institution's ARRA report and provide a link to the SAO fraud hotline.				

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Article XII, Special Provisions ARRA	6. Limitation on Use of Funds	XII-8	Institutions of Higher Education	<p>a) None of the funds appropriated in this Article may be expended for any purpose other than those identified above without prior written approval of the Governor and Legislative Budget Board.</p> <p>b) If the federal Government or its agencies fail to approve an application by an entity receiving funds in this act, of funds appropriated in this act, the institution of higher education shall notify the Governor, Comptroller, LBB and SAO of such federal determination. Such notice may include a proposed alternate use of the subject funds if consistent with the purposes identified above, and if the Governor and LBB do not issue a written disapproval within fifteen business days of receiving the agency's notification, the agency may expend the funds. If the Governor and LBB issue a written disapproval of the proposed alternate use, the Governor and Legislative Budget Board may modify the purposes for which such appropriation may be expended</p> <p>c) Prior to the expenditure of any funds appropriated in this Article, each institution of higher education shall report any changes in federal law, rules, or regulations related to programs that receive appropriations under this Article that could create a future fiscal obligation beyond fiscal year 2011 to the state. If the LBB and the Governor do not issue a written disapproval within fifteen business days of receiving the agency's notification, the agency</p>	As needed	<p>Section A reported to the LBB and Governor;</p> <p>Section B reported to the LBB, Governor, SAO, and Comptroller;</p> <p>Section C reported to the LBB and Governor</p>	<p>U.T. System General Academic Institutions and Health-related Institutions, Office of Academic Affairs, and Office of Health Affairs</p>	New

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may expend the funds.

d) Each institution of higher education that receives funds appropriated under this Article shall certify how these funds or the programs receiving these funds under this Article comply with applicable state law, federal law, rules, regulations, and other relevant guidance, including any changes in guidance or interpretation and any information reported under Subsection (b). Such certification shall include a statement that the institution's chief executive and executive staff have knowledge of ARRA law and federal agency actions regarding that law and in their official capacity accept responsibility that its use of funds appropriated under this Article is in compliance with federal law, state law, rules, regulations and relevant guidance.