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

Summaries of Legislation Impacting Higher Education

82nd Legislature

Regular and First Called Sessions

August 2011

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 Regular and First Called Sessions of the 82nd Legislature affecting higher education and is offered for the convenience of System officers and employees who need to implement or otherwise be aware of those legislative actions. This publication includes both an overview of the 82nd Legislature prepared by OGR and summaries of individual bills prepared by OGC attorneys.

The overview of the 82nd Legislature includes a summary of the budget for the next fiscal biennium and highlights selected significant legislation that became law. More detailed summaries of HB 1 (the General Appropriations Act), HB 4 (the Supplemental Appropriations Act), and SB 2, First Called Session, are also included later in the publication.

The summaries of individual bills follow the overview and are arranged by subject matter under broad categories, such as academic issues and health issues. Note that some of the bills under “Academic Issues” apply to health institutions as well as academic institutions, and vice versa. 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 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 and Chief Governmental Relations Officer

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OVERVIEW OF THE 82nd LEGISLATURE

The budget dominated the 82nd Legislature like few sessions before. Between the November general election and opening day on January 11, politicians and pundits predicted unprecedented shortfalls in revenue, beginning with a multi-billion dollar shortfall for the current fiscal year. After the comptroller released the revenue estimate, a consensus slowly developed around the amount of the shortfall being approximately \$27 billion. In the shadow of that staggering number, it seemed as if few other issues mattered.

The Senate quickly moved to address the matter that had caused the previous legislative session to end in high drama, “Voter ID,” which refers to the necessity of persons to prove their identity when voting in Texas elections. The Senate sent a bill to the House in only a little more than two weeks—warp speed in legislative time—only to have the House not pass its version of the bill until the last week in March. Senate Bill 14 did not make it to the governor’s desk until the middle of May, with two weeks left in the regular session.

Along with Voter ID, the governor declared a number of items as emergencies for prompt legislative action: eminent domain and private property rights; abolishing “sanctuary cities,” which refers to prohibiting local governments from directing police to not question the immigration status of persons detained; requiring sonograms in advance of abortions; and legislation to provide for a balanced budget amendment to the U.S. Constitution. Some of those measures moved quickly, some moved not at all, but each provided at least a distraction from the budget angst.

The state of the budget may have affected the volume of legislative activity, which was significantly lower than the previous session’s record. The lawmakers filed only (!) 5,796 bills and joint resolutions, down 22 percent from the previous session’s numbers. Of those, about 25 percent finally passed both houses. The governor vetoed 24 measures. Personnel participating in systemwide review and analysis of legislation and the Office of General Counsel analyzed, and the Office of Governmental Relations tracked, 2,268 of the bills and joint resolutions, about 39 percent of the total introduced.

The budget also provided the seemingly obligatory drama with which to end the regular session, when a filibuster related to public school finance effectively killed a major component of the budget, leading the governor to call the legislature immediately into special session. That session considered other issues, such as windstorm insurance and invasive body searches by federal transportation security personnel, but the major accomplishment of the first called session was to make appropriations for public schools and provide a method for financing those appropriations. The legislature adjourned *sine die* with only hours left in the constitutional maximum of 30 days for a called session.

Higher education, like all other state enterprises, kept its collective eyes focused on the budget during the regular session, but did not lose sight of the numerous substantive higher education issues addressed by the respective houses. As an enterprise that runs several self-insurance programs, owns and operates hospitals and clinics, manages millions of square feet of public property, produces oil and gas on two million acres in West Texas, and has thousands of

employees ranging from peace officers to physicians, little the legislature does lacks potential to affect UT System—thus the number of measures that must be tracked, analyzed, and ultimately implemented and thus the size of a publication that includes only “summaries.” This overview summarizes the new state budget as it pertains to higher education and UT System; discusses *selected* significant bills of interest that became law; and describes studies commissioned by the legislature for the interim between the 82nd and 83rd Legislatures.

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), House Bill 1 (HB 1) by Pitts and Ogden, authorizes \$172.3 billion in state government spending for the fiscal biennium that begins September 1, 2011 (fiscal years 2012 and 2013). The total is \$15.2 billion less than the budget for FY 10-11, an 8.1 percent decrease overall. Half the budget – \$80.5 billion – is general revenue (GR). The Legislature chose not to appropriate about \$6.0 billion in available revenue in the Economic Stabilization or “Rainy Day” fund, preferring to set those funds aside to help address another large anticipated shortfall for the 2014-15 biennium. Supplemental appropriations bring the total authorized spending to \$175.5 billion, including \$81.3 billion in general revenue.

The Supplemental Appropriations bill from the regular session, House Bill 4 (HB 4) by Pitts and Ogden appropriates \$283.2 million for institutions and agencies of higher education. Through HB 4, UT System institutions received supplemental appropriations that total \$133.2 million. HB 4 generally makes appropriations for the current fiscal year, FY 2011, but includes appropriations that continue into the next fiscal biennium. A Supplemental Appropriations bill from the 1st Called Session, Senate Bill 2 (SB 2), appropriates an additional \$59.0 million for higher education; the UT institutions do not directly receive any of the SB 2 funding.

Higher Education and the UT System

The FY 12-13 budget reflects the state’s revenue shortfall – a combination of non-recurring American Recovery and Reinvestment Act (ARRA) funds from the 2010-11 biennium and not enough state revenue to meet the estimated demand for services – and, as a result, includes reduced levels of funding for higher education. The 82nd Legislature appropriated \$11.9 billion in General Revenue (GR) to support all of higher education, including amounts estimated for employee benefits, for 2012-13. This represents a decrease of \$1.2 billion in General Revenue or 9.3 percent below 2010-11 expenditures.

For the University of Texas General Academic Institutions (GAIs), Health-related Institutions (HRIs), and System Administration, the appropriations bills include \$3.1 billion in General Revenue appropriations for 2012-13, a decrease of \$498.3 million or 13.8 percent compared to 2010-11. General Revenue appropriations total \$1.4 billion for the nine UT GAIs; \$1.7 billion for the six UT HRIs; and \$15.9 million for UT System Administration. Another \$340.3 million is appropriated for the cost of employee group health insurance for the System and all institutions, an \$8.9 million decrease (or 2.6 percent) from FY 10-11. The operating funds

(exclusive of Tuition Revenue Bond debt service appropriations) decreases of \$475.4 million include GAI decreases totaling \$221.8 million, or 15.0 percent, HRI decreases totaling \$252.5 million, or 13.8 percent, and UT System Administration decreases totaling \$1.1 million, or 28.8 percent.

The operating funds overall decrease of \$475.4 million for the UT institutions includes reductions on top of the 5 percent reduction taken in the 2010-11 biennium:

- Funding for the GAI and HRI Instruction and Operations and Infrastructure formulas and the HRI Research formula is reduced 5 percent.
- Mission Specific formula funding is reduced 5 percent
- The Graduate Medical Education formula is reduced 5 percent
- The Research Development Fund is reduced 15 percent
- GAI non-formula strategies including special items, workers compensation and unemployment insurance are reduced 25 percent
- Most HRI special items are reduced 20 percent; certain medical education special items are reduced 10 percent
- The Texas Competitive Knowledge Fund is reduced 25 percent
- Hold harmless funding is provided for the GAIs so that no institution loses more than 15 percent in total General Revenue

Formula Funding

The Legislature did not fund enrollment growth and reduced higher education formula funding 5 percent on top of reduced 2010-11 levels. ARRA funds appropriated for formula funding in 2010-11 were not replaced with General Revenue. Nine UT GAIs receive total formula funding of \$1.0 billion, a total decrease of \$110.1 million in General Revenue, or 9.6 percent, not including formula hold harmless funding. The six UT HRIs receive total formula funding of \$1.0 billion, a total decrease of \$160.1 million in General Revenue, or 13.1 percent. Formula funding includes \$212.5 million for UT M.D. Anderson's Cancer Center Operations formula and \$47.2 million for UT Health Science Center Tyler's Chest Disease Center Operations formula.

Hold Harmless Funding

General Academic Institutions that were reduced more than 15 percent in total General Revenue according to LBB calculations receive a hold harmless. UT Permian Basin receives just under \$1 million in hold harmless funding for 2012-13.

Tuition Revenue Bonds

No new Tuition Revenue Bonds were authorized by the 82nd Legislature. Appropriations for debt service are at institution-requested levels. UT Medical Branch at Galveston (UTMB) receives debt service funding for the TRB authorization in HB 51, 81st Legislature, to issue \$150 million in TRBs to aid the institution in its recovery from the damage resulting from Hurricane Ike. Up to \$11 million in the HB 4 supplemental appropriation for UTMB can be used for TRB debt service.

Student Financial Aid

HB 1 appropriates \$150.4 million less in General Revenue for the Student Financial Aid Strategy at the Texas Higher Education Coordinating Board (THECB), for a total appropriation of \$879.5 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 20, Student Financial Aid Programs:

- A 10 percent decrease for TEXAS Grants, for a total appropriation of \$559.5 million for the biennium.
- A 40 percent decrease in General Revenue and a 23 percent decrease in General Revenue-Dedicated for the B-on-Time Student Loan Program, for total appropriations of \$31.4 million and \$40.6 million for the biennium, respectively.
- Funding for College Work Study is maintained at the 2010-11 level of \$15 million for the biennium.
- Level funding is maintained for Texas Educational Opportunity Grants, for a total appropriation of \$24 million for the biennium.
- Tuition Equalization Grants (TEG) are funded at a 20 percent reduction from the 2010-11 level: \$168.8 million for the biennium.

Research and National Research Universities

Overall research appropriations total over \$810 million. The majority of these funds are distributed through the following programs:

The Texas Competitive Knowledge Fund (TCKF) is appropriated \$93.5 million. UT Austin will receive \$36.8 million (a decrease of \$18.3 million from the 2010-11 appropriation). UT Dallas will receive \$4.7 million. Although they are eligible, UT Arlington and UT El Paso do not receive TCKF appropriations for 2012-13.

The Research Development Fund (RDF) is appropriated \$65.3 million. The eight System GAIs other than UT Austin will receive \$29.7 million from the RDF (a decrease of \$7.6 million from 2010-11).

The Texas Research Incentive Program (TRIP), created by HB 51, 81st Legislature, 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 2012-13, \$35.6 million in 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 \$600 million in General Obligation bond proceeds for the purpose of awarding cancer prevention and research grants.

Appropriations from the National Research University Fund are an estimated \$12.4 million to be distributed to eligible institutions.

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 \$140.5 million available in FY 12-13. The total includes an estimated \$138.3 million in unexpended FY 11 balances carried forward.

Medical Education

The state's Health-related Institutions will see a decrease of \$19.0 million for Graduate Medical Education (GME). The System's HRIs will receive \$35.9 million of the overall total \$59.9 million appropriation for GME for the next biennium.

The THECB received \$7.0 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. The THECB appropriation also includes: a \$4.9 million decrease for formula funding for the Baylor College of Medicine, including a decrease of \$1.7 million for GME (a total of \$82.1 million is appropriated to Baylor College of Medicine for the biennium); a \$14.6 million reduction for the Family Practice Residency Program (a total of \$5.6 million for the biennium); \$5.6 million for the THECB Physician Education Loan Repayment Program, a reduction of \$17.6 million for the biennium; and a total of \$5.2 million for the Alzheimer's Disease Centers.

Nursing

The THECB received a \$17.1 million decrease for the Professional Nursing Shortage Reduction Program, for a total of \$30.0 million for the biennium.

Correctional Managed Health Care

HB 1 appropriates \$858.3 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 a decrease of \$71.5 million from original 2010-11 appropriations. When compared to total fiscal year 2011 appropriations, including the HB 4 supplemental appropriation, the decrease is \$139.9 million.

Selected Significant Legislation that Became Law

This section highlights selected significant measures of general interest to higher education.

Each is discussed in more detail in the main volume. It is not a complete listing of all legislation affecting higher education. Unless indicated otherwise, bill numbers refer to bills from the regular session.

Academic Issues

Institutional Information

SB 5 (Zaffirini and Branch) requires each institution to **post its “checkbook” on the institution’s Internet website**, including for each payment from general revenue or from tuition and fees the amount, date, and purpose of the payment, in addition to the name of the payee. As an alternative to posting that information on the institutional website, an institution may instead provide an easily noticeable, direct link to similar information on the state comptroller’s website.

SB 701 (Watson and Strama, et al.) requires each state agency, including institutions of higher education, to **post on a generally accessible Internet website the agency’s high-value data sets** if this can be done at no cost to the state. Each high-value data set is to be posted as raw data in an open standard format that allows the public to search, extract, organize, and analyze the information in the data set.

HB 736 (Diane Patrick, et al. and West) requires each general academic teaching institution to make **available on the institution’s Internet website** a variety of **information regarding the institution’s students and faculty**, such as student-faculty ratio, the percentage of teaching faculty who are tenured or tenure-track, and the number of faculty members in each rank. HB 736 also changes the requirements for information provided in the institution’s online resume.

Admissions and Advising

SB 36 (Zaffirini and Castro) requires the Coordinating Board, in consultation with representatives from institutions of higher education, to establish a method for **assessing the quality and effectiveness of academic advising services** available to students at each institution of higher education

SB 1107 (Wendy Davis, et al. and Charlie Howard) requires all students entering institutions of higher education to provide a certificate evidencing that a student has received **a bacterial meningitis vaccination** during the five-year period preceding the date established by the Coordinating Board.

HB 3025 (Branch, et al. and Zaffirini) **requires students to file a degree plan** once they have earned 45 or more semester credit hours and requires general academic teaching institutions to facilitate the awarding of associate degrees to students who have transferred from a public junior college, public state college, or public technical college.

Tuition and Fees

SB 176 (Huffman and Branch) changes **eligibility for tuition rebates**, providing that course credit, other than course credit earned exclusively by examination, earned before graduating from high school is not included within the three-credit-hour limit on excess credits.

SB 639 (Van de Putte and Branch) amends the law **providing tuition and fee exemptions for certain military veterans and dependents**, adding a new requirement that the person must currently reside in Texas and must submit an application for the exemption and satisfactory evidence that the applicant qualifies for the exemption within one year of enrollment. The bill also allows the unused portion of an exemption for a deceased veteran to be assigned to a child of the veteran.

HB 1341 (Walle and Zaffirini) makes changes to the law governing **the manner of payment of tuition and fees** at public institutions of higher education, requiring institutions of higher education to establish payment dates for tuition and mandatory fees.

HB 2999 (Lewis and Zaffirini) authorizes a general academic teaching institution to develop a **fixed tuition rate for qualified transfer students** who agree to transfer to the institution within 12 months after successfully earning an associate degree.

Financial Aid and Savings Programs

SB 28 (Zaffirini, et al. and Branch, et al.) **restructures the TEXAS Grant program** and changes the method for determining initial eligibility for the grant for persons graduating from high school on or after May 1, 2013. The changes in law made by SB 28 apply beginning with TEXAS Grants awarded for the 2013 fall semester.

SB 851 (Zaffirini and Branch) requires the Coordinating Board by rule to provide for a **uniform priority application deadline** for applications for financial assistance for an academic year.

SB 1799 (West and Branch, et al.) is the enabling legislation for the constitutional amendment proposed by SJR 50 giving the Coordinating Board continuing authority to **issue bonds for financial aid programs**. SB 1799 increases the statutory limit to \$350 million.

HB 1908 (Madden and Whitmire) adds to the list of physicians who are eligible to receive **student loan repayment assistance** those physicians providing health care services to clients confined in **correctional facilities**.

HB 3577 (Larry Gonzalez and Zaffirini) provides that a person may not receive a Texas Educational Opportunity Grant (**TEOG**) **and a TEXAS Grant** for the same semester or other term.

HB 3578 (Larry Gonzalez and Zaffirini) allows emergency **loans to cover the cost of textbooks**.

HB 3579 (Larry Gonzalez and Zaffirini) amends the law that authorizes the Coordinating Board to provide **repayment assistance for certain physician education loans**. HB 3579 repeals the provision that allowed the assistance to be applied only to the principal amount of the loan, thereby allowing the assistance to also be used to repay accrued interest.

HB 3708 (Hochberg and Zaffirini) changes the funding source for the **Early High School Graduation Scholarship Program** and limits the program to amounts appropriated for that purpose, limits the tuition exemptions for students receiving Aid to Families with Dependent Children and for teacher aides, and restructures the Texas Save and Match Program.

Developmental Education and Student Success

SB 162 (Shapiro and Branch) requires the Coordinating Board to develop a **statewide plan for developmental education** that assigns primary responsibility for developmental education to public junior colleges, public state colleges, and public technical institutes and provides for using technology to provide that education.

HB 9 (Branch, et al. and Zaffirini) requires the Coordinating Board's formula funding recommendations to the legislature for general academic teaching institutions to include consideration of student success measures, often referred to as "**outcomes-based funding**." The Coordinating Board must recommend alternative approaches and must compare the effects of applying the measures within the existing formulas or as a separate formula. No more than 10 percent of base funding may be based on student success measures.

HB 1244 (Castro and West) requires the Coordinating Board to prescribe a single standard or set of standards for each assessment instrument to effectively measure **student readiness** of entering undergraduate students. HB 1244 further provides that an institution that requires a student to enroll in developmental coursework must offer a range of **developmental coursework**, including online coursework, or instructional support that includes the integration of technology.

HB 2910 (Branch, et al. and Zaffirini) gives the Coordinating Board authority, in partnership with institutions of higher education, to hire a nonprofit organization to assist in identifying and implementing effective methods for **increasing degree completion rates** and provides a means for funding.

HB 3468 (Diane Patrick, et al. and Shapiro) requires the Texas Education Agency (TEA), in consultation with the Coordinating Board, to conduct a **study of best practices for programs offering early assessments of high school students** to determine their college readiness, identify deficiencies, and provide intervention. HB 3468 also requires the Coordinating Board to encourage institutions of higher education to offer various types of **developmental coursework**.

Programs, Courses, and Credits

SB 149 (West and Castro) authorizes the Coordinating Board to adopt rules concerning the duties of an institution of higher education with respect to **dual-credit** (college and high school) programs, including reporting requirements.

SB 1414 (Duncan and Eiland) requires operators of programs for minors held on campuses of institutions of higher education (e.g., athletic camps) to verify that employees who will be in contact with the campers have **training in the recognition of victims of sexual abuse** and child molestation.

SB 1726 (Zaffirini and Branch) requires institutions of higher education to identify and adopt **measurable learning outcomes for each undergraduate course** offered by the institution and make them available for public inspection.

HB 399 (Castro, et al. and Zaffirini et al.) requires the Coordinating Board to adopt rules under which general academic teaching institutions must offer training for students in **personal financial literacy**.

HB 1797 (Naishtat and Rodriguez) **exempts from licensing as a social worker** a person who teaches social work at an institution of higher education **to the extent the person confines the person's activities to teaching** and does not otherwise engage in the practice of social work.

Textbooks

HB 33 (Branch, et al. and Zaffirini) requires institutions of higher education to compile a **course schedule list and a list of required and recommended textbooks** for each course offered each semester or other academic term. In addition, the institution must publish the textbook list with the course schedule on the institution's Internet website and with any course schedule the institution provides in hard copy format to students and must also make that information available to college bookstores.

Student Issues

SB 1009 (Huffman and Sheffield) requires public institutions of higher education to notify the federal **Student Exchange and Visitor Information System (SEVIS)** if a non-immigrant student holding an F or M visa withdraws, is dismissed for nonattendance, or has other official action taken against him or her as a result of nonattendance.

HB 452 (Lucio III, et al. and Lucio) requires institutions to assist eligible students who have been in **foster care to locate temporary housing** between academic terms, which may entail personnel time. Institutions are required to provide the assistance on request and may provide housing or housing stipends.

Athletics

HB 1123 (Dutton and West) makes several changes to the regulations governing **athlete agents**, including how the Secretary of State (SOS) is to publish information that prescribes the

compliance responsibilities of an institution of higher education pertaining to athlete agents, which will now be published on the SOS's website instead of mailed to the athletic director.

Health Issues

Medical Education

HB 1380 (Truitt and Rodriguez) allows certain **foreign medical school graduates** to obtain a medical license if they have completed at least two years of graduate medical training in the United States or Canada that was approved by the board.

HB 2908 (Branch, et al. and Zaffirini) attempts to address the increased need for medical professionals in Texas by requiring the Coordinating Board to perform an assessment of the adequacy of opportunities for graduates of medical schools in Texas to enter **graduate medical education (GME)** in Texas.

Health Professions

SB 189 (Nelson and Zerwas) provides that **applicants for a medical license who are not United States citizens** or aliens lawfully admitted for permanent residence in the United States are required to prove to the Texas Medical Board (TMB) that the applicant has practiced or agrees to practice medicine as a condition of the license for at least three years in medically **underserved areas**.

SB 193 (Nelson and Susan King, et al.) makes many changes in regard to the practice of nursing, including development of a **standardized error classification system** for nursing peer review committees and providing for the confidentiality of information submitted in regard to disciplinary proceedings or license applications.

SB 227 (Nelson and Susan King) authorizes the Texas Medical Board to develop **remedial plans for resolving complaints against a physician** as an alternative to dismissal of the complaint or formal disciplinary action.

SB 822 (Watson and Zerwas) permits a medical school or health science center that contracts with a managed care plan to have its physicians participate as network providers to apply for **expedited credentialing for physicians newly hired** by the school or health science center.

Medical Services

HB 15 provides a detailed regulatory scheme prior to an **abortion**. Among other provisions, the bill requires a physician, prior to performing an abortion and in order to have informed consent, to perform a **sonogram**.

HB 1009 (Callegari and Hegar) provides that, effective January 1, 2012, a physician may not perform an **autopsy** unless a written **informed consent** is first obtained and establishes a priority list for who may grant that consent.

SB 7 – First Called Session (Nelson, et al. and Zerwas) is an omnibus health care bill and contains numerous provisions reforming the delivery of health care services in Texas. Among the more significant provisions, SB 7 creates the Texas Institute of Health Care Quality and Efficiency to make recommendations on many different areas of health care; provides for the creation of health care collaboratives; authorizes Texas to enter an interstate health care compact; and directs the Commission on Health and Human Services to implement several initiatives to manage Medicaid costs.

Correctional Managed Care

SB 1 – First Called Session (Duncan, et al. and Pitts) is a comprehensive state “fiscal matters” bill that provides for payment deferrals, prepayment of various taxes, and other measures to make revenue available for balancing the state budget. Among the matters addressed, the bill makes various changes related to correctional managed care, including a **restructured correctional managed health care committee** and the imposition of an **annual health care fee** for offenders.

Medicaid and Indigent Health Care

SB 293 (Watson and John Davis) authorizes expansion of the use of and reimbursement for **telemedicine, telehealth, and home telemonitoring** in the care of certain Medicaid patients.

HB 2245 (Zerwas and Nelson) directs the Health and Human Services Commission to conduct a study to evaluate physician incentive programs that attempt to **reduce hospital emergency room use for non-emergent conditions** by patients covered by Medicaid.

Medical Records

HB 118 (McClendon and Uresti) requires a hospital to provide written notice to a patient or the patient’s legally authorized representative that the hospital may authorize the **disposal of medical records** relating to the patient on or after the dates specified by provisions governing the preservation of records, unless the records relate to any matter that is involved in litigation if the hospital knows the litigation has not been finally resolved.

HB 300 (Kolkhorst, et al. and Nelson) imposes many new requirements in relation to the handling of **medical records**, including required employee training, effective September 1, 2012. The bill confirms that medical records held by state agencies in compliance with HIPAA are confidential under Texas law.

Business Issues

Financial Management

SB 5 (Zaffirini and Branch) has numerous financial management provisions, such as permitting an institution to maintain a bank account in a **foreign depository**; eliminating the separate annual financial report of institutions in a form prescribed by the comptroller and Coordinating Board in favor of the **standard annual financial report** required of all state agencies; authorizing an institution to maintain an **unclaimed money fund**; authorizing an institution to

make any payment through **electronic funds transfer** or by electronic pay card; and **exempting institutional debt, such as revenue finance system debt, from approval by the Bond Review Board** if the state's general revenue is not pledged to the payment of the debt and the institution's or system's debt rating is at least AA-.

Purchasing and State Contracts

SB 5 (Zaffirini and Branch) includes numerous provisions related to purchasing and state contracts, such as **exempting institutions from the requirements of all of Subtitle D, Title 10, Government Code and from the law governing consultants**; providing that any provision required by law to be included in a contract is considered part of the contract without regard to whether the provision appears on the face of the contract; giving institutions the exclusive authority to determine the **use of electronic and digital signatures**; and authorizing **cost-recovery contracts with a local government** without first employing a competitive process.

Construction

SB 5 (Zaffirini and Branch) includes numerous provisions related to construction. SB 5 creates an **expedited process for Coordinating Board approval** of certain construction projects and real estate purchase; **exempts higher education from the uniform general conditions** that apply to state construction contracts generally; and eliminates the requirement that a board of regents, in open meeting, certify that a project has considered **the economic feasibility of incorporating alternative energy systems**.

HB 51 (Lucio III, et al. and Hinojosa) allows the board of regents of institutions of higher education to adopt **high-performance building standards** applicable to most construction and renovation projects but also makes those projects conditionally subject to energy and water conservation standards adopted by the state energy conservation office (SECO). After September 1, 2013, all qualifying projects must be designed, constructed, or renovated to comply with high-performance building standards approved by an institution's board of regents.

HB 1728 (Keffer and Harris) changes the definition of **energy performance contracts** to no longer require that all costs of the energy efficiency measures be paid for out of anticipated energy savings, allowing institutions of higher education to pay for energy savings performance contracts using other available money.

Information Resources

SB 5 (Zaffirini and Branch) provides that, in acquiring a major information system, an institution must **notify the Legislative Budget Board** only if the value of the contract exceeds \$1 million.

SB 74 (Nelson and Branch) authorizes institutions of higher education to establish written procedures as an alternative means for the **disposition of surplus or salvage property**, including information systems hardware.

SB 773 (Zaffirini, et al. and Gallego, et al.) continues the **telecommunications service discount** for higher education and other entities to 2016 and increases the cost recovery by the provider from 105 percent to 110 percent of the company's long term incremental costs.

Real Property and Space Leasing

SB 5 (Zaffirini and Branch) contains several provisions related to real estate and space leasing. SB 5 exempts institutions of higher education from required **space leasing** by the Texas Facilities Commission and provides that, where an institution of higher education owns **the remainder interest** in property subject to a life estate, a lien for deferred property taxes attaches only to the life tenant's interest unless the institution has consented to the deferral. SB 5 also exempts institutions of higher education from a requirement to submit to the **Texas Historical Commission** a photograph and information concerning any building acquired that is more than 45 years old.

SB 18 (Estes, et al. and Geren, et al.) contains extensive modifications to **eminent domain** law. The revisions to eminent domain law apply only to a condemnation proceeding in which a petition is filed on or after September 1, 2011.

SB 873 (Duncan and Hilderbran) requires the UT System Board of Regents to establish procedures by which a person seeking an easement or other interest may seek relief **from a rate or damage schedule** that the person believes does not represent the fair market value of the interest being sought.

Environmental Issues

SB 898 (Carona and Cook) modifies the current **building energy efficiency requirements** for political subdivisions, state agencies, and institutions of higher education to set goals to reduce electric consumption. The goal must now be to reduce electric consumption by at least 5 percent for 10 years beginning September 1, 2011.

Public Property

SB 5 (Zaffirini and Branch) **exempts institutions of higher education from the statewide property inventory system** maintained by the comptroller of public accounts. Each institution must establish property inventory systems and designate one or more property managers.

Research

SB 5 (Zaffirini and Branch) provides that certain information that would reveal an institution's plans or negotiations for commercialization or **a proposed research agreement, contract, or grant is not subject to the state public information law.**

SB 1421 (Nelson and Schwertner, et al.) allows the state to collect interest or proceeds resulting from securities and equity ownership that are realized as a result of projects undertaken with **CPRIT grant awards.** It also provides for confidentiality of certain information related to a grant award contract or a scientific research and development facility.

HB 1000 provides a distribution formula for, and appropriates for the next biennium, the **national research university fund** and establishes a formula to calculate the amount of the annual payout. HB 1000 permits an institution to qualify for a distribution in mid-biennium instead of waiting until the following biennium.

SB 1 – First Called Session (Duncan, et al. and Pitts) is a comprehensive state “fiscal matters” bill that provides for payment deferrals, prepayment of various taxes, and other measures to make revenue available for balancing the state budget. Among the matters addressed, the bill expanded the use of three tobacco settlement funds (not those managed by UT System) to pay principal and interest on bonds issued by the Cancer Prevention and Research Institute of Texas (**CPRIT**).

HB 2251 (Bonnen and Whitmire) facilitates the award of grants by **CPRIT for multi-year projects**, eliminating a requirement that funds for multi-year projects be maintained in an escrow account and distributed only as needed.

HB 2457 (John Davis, et al. and Jackson, et al.) establishes new procedures and requirements for the approval of applications for funding through the Texas Enterprise Fund and **Texas Emerging Technology Fund**.

Emergency Communications

HB 2758 (Pena and Zaffirini) requires institutions of higher education to establish an emergency alert system for the institution’s students and staff, including faculty, using e-mail, telephone notification, and other alert methods.

Employees and Benefits

Employment

SB 321 (Hegar, et al. and Kleinschmidt) provides that a public or private employer may not prohibit an employee who holds a license to carry a concealed handgun or who lawfully possesses firearm ammunition from transporting or **storing a lawfully possessed firearm in a parking area** the employer provides for employees.

SB 1638 (Wendy Davis and Geren) expands the scope of **personal information that is excepted from disclosure** under the public information law to include emergency contact information, motor vehicle and driver’s license information, and identity badges.

Compensation and Leave

SB 5 (Zaffirini and Branch) grants boards of regents broad authority for **payroll deductions** and provides that an employee is considered to have authorized a payroll deduction for any premium contribution for basic coverage. SB 5 also authorizes the use of electronic funds transfer or pay cards for payroll purposes.

SB 1737 (Ogden and Pitts) provides that state employees who are members of the **state military forces**, a reserve component of the armed forces, or an authorized urban search and rescue team

may carry forward from year to year up to 45 days of accumulated leave for these purposes. The bill also provides 22 days of **paid emergency leave** to National Guard employees activated for an emergency.

Health Benefits

SB 5 (Zaffirini and Branch) authorizes a system group insurance program to provide **premium discounts or other differentials** for an individual who participates in a system-approved program promoting disease prevention, wellness, and health. SB 5 authorizes the system to pay more than half the premium for tenured faculty who enter into a **phased retirement agreement** under which the individual will work part-time for a set period of time, at the end of which the faculty member will retire.

SB 29 (Zaffirini and Branch) makes certain **post-doctoral fellows and graduate students eligible to participate in the employee group insurance program.**

Retirement

SB 1667 (Duncan and Truitt) makes many changes to the laws governing the **Teacher Retirement System** of Texas (TRS), including provisions related to beneficiaries and provisions related to payment of salary and annuities to “grandfathered” retirees who returned to work.

SB 1668 (Duncan and Truitt) amends the law governing the **purchase of TRS service credit** for military service, out-of-state public school service, developmental leave, reinstatement of cancelled service, and missed payments for prior service.

SB 1669 (Duncan and Truitt) broadens the ability of a TRS retiree to **return to work** with a Texas public education institution without suspension of monthly annuity payments, including a new exception for any retiree who has been separated from service from Texas public education institutions for at least 12 full consecutive months.

Governance and Administrative Issues

Ethics and Compliance

SB 5 (Zaffirini and Branch) establishes new and clarified requirements governing **contracts with business entities in which a member of the board of regents has an interest.** If a member of the board of regents has an interest that does not meet the statutory standard of a substantial interest, the business is not disqualified from contracting with an institution under that board’s governance. If the interest qualifies as a “substantial interest,” such as the regent owning 10 percent or more of the voting stock of the business entity or sitting on the board of directors, and the contract is one that requires board approval, the regent must disclose that interest in open meeting and abstain from voting.

SB 1327 (Watson and Donna Howard) permits a systemwide compliance officer, appropriate internal officers, and external enforcement agencies to have **access to otherwise confidential information** collected or produced in a compliance program investigation.

Board of Regents

HB 2825 (Otto and Williams) provides the Texas A&M Board of Regents two direct appointments to the University of Texas Investment Management Company (**UTIMCO**) board, eliminating two appointments by the UT System Board of Regents, appointments that included A&M nominees.

Public Information

SB 5 (Zaffirini and Branch) exempts from disclosure under the public information law **information that would tend to identify an applicant for chief executive officer of an institution.**

Reports

SB 5 (Zaffirini and Branch) **eliminates or modifies immediately numerous reports** and notices required by law of institutions of higher education. In addition, SB 5 repeals 29 different specifically identified reports required by law, as well as most reports required by agency rule or policy, effective September 1, 2013.

SB 1179 (Nelson and Harper-Brown) **repeals numerous reports required by law** of state agencies or institutions of higher education, effective immediately.

HB 1781 (Price, et al. and Nelson) requires the executive director of each state agency, including institutions of higher education, to provide an **electronic report by August 1, 2012**, to the governor, the lieutenant governor, the speaker of the house, legislative committee chairs, the Legislative Budget Board, and the Texas State Library and Archives Commission identifying which of the agency's statutory reporting requirements are not necessary, are redundant, or are required at a frequency for which data are not available.

UTB/TSC Partnership

SB 1909 (Lucio and Oliveira) facilitates the **dissolution of the partnership** between UT Brownsville (UTB) and Texas Southmost College (TSC).

Proposed Constitutional Amendments

The 82nd Legislature proposed 11 constitutional amendments to be considered by the voters, only one of which directly affects higher education.

SJR 50 (West and Branch, et al.) seeks additional authority, through a constitutional amendment to be voted on at the general election on November 8, 2011, for the Coordinating Board to issue additional bonds to fund higher education student loan programs. The Coordinating Board will have continuing authority to issue bonds as long as the cumulative amount of all outstanding bonds at any one time does not exceed the cumulative amount of all prior bonding amounts previously authorized by the constitution. SJR 50 will be Proposition 3 on the ballot.

Studies and Advisory Committees

The 82nd Legislature commissioned studies and provided for advisory committees that may affect higher education, particularly health-related institutions. Sometime in the fall of 2011 or spring of 2012, the speaker and lieutenant governor will make additional study charges to special and standing legislative committees.

HB 300 (Kolkhorst, et al. and Nelson) requires the Health and Human Services Commission, in consultation with the Department of State Health Services, the Texas Medical Board, and the Texas Department of Insurance, to explore and evaluate new developments in **safeguarding protected health information**. An annual report, with recommendations, is due not later than December 1 of each year.

HB 2229 (Coleman, et al. and Ellis) creates the **Texas HIV Medication Advisory Committee** appointed by the commissioner of health and human services. Membership appointed by the commissioner will include physicians, a pharmacist, a social worker, and a public, nonprofit hospital administrator to review and advise on the Texas HIV Medication Program, filing a written report with the commissioner not later than March 31 of each year.

HB 2636 (Kolkhorst, et al. and Nelson) creates the **Neonatal Intensive Care Unit Council** appointed by the commissioner of health and human services to study and make recommendations regarding neonatal intensive care unit operating standards and reimbursement through Medicaid. The council's report is due not later than January 1, 2013, to the commissioner, the governor, and legislative officers.

SB 501 (West and Dukes) abolishes the Health Disparities Task Force (Chapter 107, Texas Health and Safety Code) and creates in its place a new **Interagency Council for Addressing Disproportionality**, expanding the duties of the previous task force to include review of disproportionate treatment of children in the juvenile justice, child welfare and mental health systems, with a particular focus on racial and ethnic minority groups. This new will have 18 members, including representation from those particular state agencies with jurisdiction over these issues. The executive commissioner of the Health and Human Services Commission is charged to appoint two representatives from the medical community to the Council. (Two U.T. physicians are on the abolished task force.)

SB 969 (Nelson and Kolkhorst) establishes the **Public Health Funding and Policy Committee** within the Department of State Health Services to evaluate public health and identify initiatives and establish public health policy priorities for Texas. The commissioner of state health services will appoint the committee, which must include two representatives of schools of public health at institutions of higher education.

SB 988 (Van de Putte and Larson, et al.) establishes a 9-member **Cybersecurity, Education, and Economic Development Council**. Members of the council are to be appointed by the executive director of the Department of Information Resources not later than October 1, 2011, and must include representatives from various state agencies and offices, including two representatives from institutions of higher education with cybersecurity-related programs. The report to the executive director, the governor, and legislative officials is due December 1, 2012.

SB 1020 (Rodriguez and Marquez) requires the Coordinating Board to study the need for and feasibility of establishing a **dental school in El Paso** as a component of the Texas Tech University Health Sciences Center. The report to the governor and legislative officers is due not later than November 1, 2012.

SB 7 – First Called Session (Nelson, et al. and Zerwas) establishes the **Medicaid and CHIP Quality-Based Payment Advisory Committee** to advise the Health and Human Services Commission, for purposes of the child health plan and Medicaid programs administered by the commission or a health and human services agency, on program and reimbursement standards. The committee, appointed by the executive commissioner of health and human services, is to include several physicians and other health care providers.

Joint Oversight Committee on Higher Education Governance, Excellence, and Transparency. The lieutenant governor and speaker by proclamation created this 11-member special joint committee. Co-chairs are Senate Higher Education Committee Chair Judith Zaffirini and House Higher Education Committee Chair Dan Branch. The members from the Senate are John Carona, Robert Duncan, Kel Seliger, Rodney Ellis, and Kirk Watson. The House members are Dennis Bonnen, Joaquin Castro, Eric Johnson, Lois Kolkhorst, and Jim Pitts.

The committee is charged to ensure governing boards are following best practices when they develop and implement policy; to look for major policy decisions to be adequately vetted and discussed transparently; and to protect the excellence and high quality of our state's institutions of higher education.

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Institutional Information

SB 5 by Zaffirini and Branch

Relating to the administration and business affairs of public institutions of higher education. (Financial Management)

SB 5 is an omnibus bill that affects a variety of areas of law governing higher education with a purpose of eliminating unfunded mandates, improving efficiency, and providing administrative flexibility to institutions of higher education. This analysis summarizes the provisions relating to financial management.

SB 5 clarifies that funds must be deposited in the institutional depository within seven days of “receipt” under Section 51.003(b), Education Code. (Section 1.01)

SB 5 also amends Section 51.003, Education Code, to permit an institution to maintain a bank account in a foreign depository from which to pay local vendors in support of the institution’s academic and research operations in that country. (Section 1.01)

SB 5 eliminates the separate annual financial report that institutions of higher education were required to submit in a form prescribed by the comptroller and Coordinating Board. Instead, institutions will be required to submit the standard annual financial report required of all state agencies under Section 2101.011, Government Code. (Section 1.02)

SB 5 authorizes an institution of higher education to maintain an unclaimed money fund composed of credit balances of less than \$25 that are presumed abandoned under escheat laws. The institution will hold and account for those funds, and may expend those funds, as other educational and general funds, instead of transferring those funds to the comptroller of public accounts. The institution remains responsible to pay claims. These provisions apply to credit balances held on or after June 17, 2011. (Sections 1.02, 1.07, 1.08)

SB 5 authorizes an institution to make any payment through electronic funds transfer or by electronic pay card. (Section 1.02)

SB 5 requires each institution of higher education to post its “checkbook” on the institution’s Internet website, including for each payment from general revenue or from tuition and fees the amount, date, and purpose of the payment, in addition to the name of the payee. As an alternative to posting that information on the institutional website, an institution may instead provide an easily noticeable, direct link to similar information on the comptroller’s website. (Section 1.03)

SB 5 exempts institutional debt, such as revenue finance system debt, from approval by the Texas Bond Review Board if the state’s general revenue is not pledged to the payment of the debt and the institution’s or system’s debt rating is at least AA-. (Sections 1.05 and 1.06)

SB 5 requires the Legislative Budget Board and the governor's office, in consultation with institutions of higher education, to review the forms for higher education legislative appropriation requests (LARs) to identify opportunities to improve efficiency, provide transparency, and eliminate unnecessary and duplicative requirements. (Section 6.06)

Impact: A UT System institution will be in compliance with the statutory requirement if payments received by a collecting agency through on-line and credit card payments, which of necessity are first deposited into a trust account of the collector, are deposited in the institutional depository within seven days of receipt from the collecting agency.

An institution that opens a bank account with a foreign depository must ensure that the depository meets the statute's requirement that the bank be licensed by a central bank, be annually audited, and meet the capitalization requirements. An institution may not deposit in the account any money other than that collected from students participating in the foreign program.

The requirement for a duplicative annual financial report unique to institutions of higher education is eliminated.

To maintain an unclaimed money fund, an institution is required to adopt procedures for an owner of the credit balance to make a claim and be paid and must maintain a database that permits the public to search for unclaimed funds.

An institution is authorized to make any payment by electronic funds transfer or electronic pay card and thereby save the expense of paper checks. An institution will likely need to adopt procedures for that purpose. Although a house amendment removed an express reference to payment of salary and wages, an institution is not prohibited from paying salary and wages through use of a pay card.

At a minimum, each institution will need to provide the "easily noticeable direct link" to similar "checkbook" information on the comptroller of public accounts' website. The law specifies that the purpose of the link must be "clearly identifiable."

Debt issued by the UT System Office of Finance under the systemwide revenue financing system is no longer subject to approval by the Texas Bond Review Board, which should facilitate the ability of the system to move quickly in the refinance market and otherwise avoid the expense and time requirements of bond review board review and approval.

UT System institutions and System Administration should consider the extent to which they will be proactive in seeking to participate with the LBB, the governor, and other institutions concerning improvement of the LAR forms.

Effective: June 17, 2011

Steve Collins

SB 701 by Watson and Strama, et al.

Relating to high-value data sets of state agencies posted on the Internet.

SB 701 requires each state agency, including institutions of higher education, to post on a generally accessible Internet website maintained by or for that agency each of the agency's high-value data sets if this can be done at no cost to the state (either by the agency or a contractor) or if the agency receives a gift or grant to do so. Such a high-value data set is to be posted as raw data in an open standard format that allows the public to search, extract, organize, and analyze the information in the data set.

SB 701 defines a "high-value data set" as information that can be used to increase state agency accountability and responsiveness, improve public knowledge of the agency and its operations, further the core mission of the agency, create economic opportunity, or respond to need and demand as identified through public consultation. However, such a term does not include information that is confidential or protected from disclosure under state or federal law.

Impact: UT System and its institutions should prepare to post high-value data sets on their websites in accordance with SB 701.

Effective: September 1, 2011

Scott A. Patterson

HB 736 by Patrick, Diane, et al. and West

Relating to online information and resources regarding public institutions of higher education and career schools and colleges.

HB 736 requires each general academic teaching institution to make available on the institution's Internet website information regarding the students and faculty at the institution. It also requires that additional information be included in the on-line resumes of each general academic teaching institution.

Before HB 736 passed, each general academic teaching institution was required to make public on the institution's Internet website information regarding each undergraduate classroom course offered for credit, including course syllabi and faculty curriculum vitae. HB 736 requires that the following additional information be made publicly available on the institution's Internet website:

- the student/faculty ratio;
- the percentage of teaching faculty who are tenured or tenure-track;

- the percentage of semester credit hours taken by students classified as freshmen or sophomores that are taught by tenured and tenure-track faculty;
- the number of faculty members in each rank (professor; associate professor; assistant professor; instructor; nontenured or nontenure track; and teaching assistant) with a breakdown of these numbers by race, ethnicity and gender;
- the average faculty salaries by rank;
- the amount of money appropriated by the legislature per full-time equivalent faculty member and full-time student;
- the revenue the institution spent per full-time equivalent faculty member and full-time student;
- the amount of federal and private research expenditures per tenured or tenure-track full-time equivalent faculty member;
- the number and percentage of faculty members holding extramural research grants;
- the number and names of awards to faculty members from nationally recognized entities; and
- the number of endowed professorships or chairs.

This information must be updated with the preceding year's information by December 31st of each year. The administrator that has been designated by the UT System Board of Regents as responsible for ensuring implementation of Section 51.974, Education Code (the section regarding on-line availability of course information, i.e., syllabus and faculty curriculum vita) or his or her delegate is responsible for ensuring implementation of these new requirements. The Coordinating Board is responsible for developing rules to ensure the consistency of the information made available by institutions.

With respect to an institution of higher education's online resume, HB 736 requires that the institution's Internet website home page provide a link on the first frame of the home page in a font that is larger than the font of the majority of the text on the home page, to its online resume as maintained by the Coordinating Board on its Internet website.

Further, HB 736 changes the requirements for information provided in the institution's online resume designed for use by legislators and other interested policy makers as follows:

- **Enrollment Information.** In addition to the enrollment information about the total number of students enrolled in the institution during the fall semester, this section must include the percentage of undergraduate students enrolled in the institution

for the first time during the fall semester that ended in the fiscal year covered by the resume who are transfer students.

- **Costs.** In addition to the comparison information regarding the average annual total academic costs for a resident undergraduate student enrolled in 30 semester credit hours, the resume cost information must include the percentage of students receiving student loans at the institution and at the institution's in-state and out-of-state peer institutions, the average annual amount of a student loan received by a student at the institution and at the institution's in-state and out-of-state peer institutions, and the same comparison information regarding federal and state grants. The "Costs" section must also include the average annual amount and percentage by which the total academic costs charged to a resident undergraduate student enrolled in 30 semester credit hours has increased in each of the five most recent state fiscal years at the institution and at the institution's in-state and out-of-state peer institutions.
- **Student Success.** The resume must now include not only the four and six year graduation rates of full-time bachelor's degree-seeking students, but also the five year graduation rates.
- **Funding.** The institution's resume must include the total amount of money appropriated by the legislature for that state fiscal year and the corresponding percent of the institution's operating budget for that state fiscal year that the total amount of money appropriated by the legislature represents, the total amount of federal funds from all federal sources and the corresponding percent of the institution's operating budget for that fiscal year that the amount of federal funds represents, and the total academic costs charged to students by the institution in that state fiscal year and the corresponding percent of the institution's operating budget for that state fiscal year that the total academic costs charged to students represents.

HB 736 also requires additional information to be included in an online resume that is designed for use by prospective students of the institution, their parents, and other interested members of the public as follows:

- **Enrollment.** In addition to the number of students enrolled, this section must include the percentage of undergraduate students enrolled for the first time during the fall semester who are transfer students.
- **Costs.** The resume must also include the percentage of undergraduate students enrolled in the institution who receive student loans and the average amount of an undergraduate student's student loan. This section must also include the average annual amount and percentage increase of the total academic costs charged to a resident undergraduate student enrolled in 30 semester credit hours in each of the five most recent years at the institution and at the institution's in-state peer institutions

- **Baccalaureate Success.** The information must also include the retention rate of first-time, full-time, degree-seeking entering undergraduate students enrolled after one academic year and after two academic years.
- **Funding.** The resume must also include the total amount of money appropriated by the legislature for that state fiscal year and the corresponding percent of the institution's operating budget for that state fiscal year that the total amount of money appropriated by the legislature represents, the total amount of federal funds from all federal sources and the corresponding percent of the institution's operating budget for that fiscal year that the amount of federal funds represents, the total academic costs charged to students by the institution in that state fiscal year and the corresponding percent of the institution's operating budget for that state fiscal year that the total academic costs charged students represents, and the total amount of money from any source available to the institution in that year.

HB 736 provides that an institution of higher education may satisfy requirements of the on-line resume relating to student loans, grants, or scholarships by linking the online resume of the institution to that information as it appears on the US Department of Education's "College Navigator" website.

Also, the Coordinating Board is required to develop a search tool that would allow the public to compare general academic teaching institutions along various criteria. The tool must be easily accessible on the Coordinating Board's Internet website. It must allow a user to make comparisons among institutions based on criteria as determined by the Coordinating Board. Further, the tool must generate a comparison chart in a grid format. To the extent practicable, the searchable criteria must be from information that institutions already must report under other laws or Coordinating Board rules.

Impact: HB 736 impacts UT System general academic teaching institutions because they are required to make additional information regarding students and faculty publicly available on the institution's Internet website. The information required by HB 736 is listed above. HB 736 also impacts all UT System institutions in that each is required to provide a link on the first frame of its Internet home page, in a font that is larger than the font of the majority of the text on the home page, to its online resume as maintained by the Coordinating Board on its Internet website. Additionally, general academic teaching institutions are required to obtain and provide to the Coordinating Board additional information for inclusion in the on-line resumes made available for members of the legislature and for students, parents, and the public. The additional information required under HB 736 for the on-line resumes of general academic teaching institutions is listed above.

The administrator that has been designated by the UT System Board of Regents as responsible for ensuring implementation of Section 51.974, Education Code (the section regarding on-line availability of course information, i.e., syllabus and faculty curriculum vita) should be notified of HB 736 and determine whether or not one or more administrative employees should be assigned duties and, if so, make such assignments to

ensure that the additional student/faculty information is made publicly available. UT System Office of Academic Affairs, academic institution provosts and deans, and any other institutional offices responsible for compiling information responsive to the Coordinating Board's requests for information related to enrollments, costs, student success, and funding should be made aware of HB 736. Additionally, UT System institution offices responsible for maintaining institutional Internet homepages should be made aware of HB 736 so that the requirements regarding the placement and font size of the link to the on-line resume on the Coordinating Board's site can be made compliant.

Effective: June 17, 2011

Priscilla A. Lozano

Admissions and Advising

SB 36 by Zaffirini and Castro

Relating to methods for increasing student success and degree completion at public institutions of higher education.

SB 36 requires the Coordinating Board, in consultation with representatives from institutions of higher education, to establish a method for assessing the quality and effectiveness of academic advising services available to students at each institution of higher education. The method of assessment must include the use of student surveys and identify objective, quantifiable measures for determining the quality and effectiveness of academic advising services. The Coordinating Board must establish the method by September 1, 2012.

Impact: SB 36 does not specify whether academic advising assessments will be conducted by the institution of higher education or by the Coordinating Board, nor does it specify that the assessments are mandatory. UT System should monitor the Coordinating Board as it establishes the method for assessing academic advising services. Additionally, representatives from UT System institutions may be requested to consult with the Coordinating Board as it formulates the assessment methods.

Effective: June 17, 2011

Karen Lundquist

SB 431 by Jackson, Mike and Smith, Wayne

Relating to the use of fraudulent or fictitious military records; creating an offense.

SB 431 makes it an offense to use a military record that the person knows is fraudulent or fictitious or has been revoked if the person has the intent to:

- obtain priority in receiving certain job training and employment assistance services or resources;
- qualify for a veteran's employment preference;
- obtain an occupational license or certificate;
- obtain a promotion, compensation, or other benefit, or an increase in compensation or other benefit in employment or the practice of a trade, profession, or occupation;
- obtain a benefit, service, or donation from another;
- obtain admission to an educational program; or
- gain a position in state government with authority over another person.

Impact: SB 431 could deter individuals from fraudulently using military records for the purpose of obtaining certain employment or admission benefits, and thus indirectly impacts UT System institutions.

Effective: September 1, 2011

Karen Lundquist

[SB 966](#) by Uresti, et al. and Pickett

Relating to high school diplomas for certain military veterans.

SB 966 allows a school district to issue a high school diploma to any person who left school before graduating high school (but after completing the sixth grade or higher) to serve in the Persian Gulf War, the Iraq War, the war in Afghanistan, or any other war formally declared by the United States, military engagement authorized by the United States Congress, military engagement authorized by the United Nations Security Council resolution and funded by the United States Congress, or conflict authorized by the President of the United States pursuant to the War Powers Resolution of 1973. The person to whom the diploma will be issued must have been honorably discharged from the army and must have been scheduled to graduate from high school between 1940 thru 1975 or after 1989.

Impact: SB 966 impacts UT System institutions and charter schools because it allows UT System charter schools to issue high school diplomas to military veterans who left school during certain years to serve the US military in specific wars or under certain circumstances. SB 966 also impacts admissions at UT System institutions, as certain military veterans who did not finish high school can now be awarded a high school diploma and apply for admission to an institution of higher education. Admissions officers at UT System institutions should be aware of SB 966 and its potential impact on admission numbers.

Effective: June 17, 2011

Zeena Angadicheril

SB 1107 by Davis, Wendy, et al. and Howard, Charlie

Relating to the vaccination against bacterial meningitis of entering students at public and private or independent institutions of higher education.

SB 1107 requires all entering students at public, private, or independent institutions of higher education to provide to the institution a certificate signed by a health practitioner or an official immunization record evidencing that the student has received a bacterial meningitis vaccination dose or booster during the five-year period preceding the date established by the Coordinating Board. This requirement applies only to entering students enrolling in public, private, or independent institutions of higher education on or after January 1, 2012. (Prior law required the vaccination only for students residing or applying to reside on campus.)

An “entering student” includes a new student (a first-time student or a transfer student), as well as a student who previously attended an institution of higher education before January 1, 2012, and who is enrolling in the same or another institution following a break in enrollment of at least one fall or spring semester. It does not include a student who is enrolled only in online or other distance education courses, or who is 30 years of age or older.

The Coordinating Board must adopt rules to administer the law, including rules requiring the vaccination by the 10th day before the first day of a semester or other term in which the student initially enrolls unless the student is granted an extension by the institution as provided by Coordinating Board rule. The rules must authorize an institution to extend the compliance date to not later than the 10th day after the first day of the semester or other term in which the student initially enrolls.

Institutions are required to provide to entering students, with the registration materials that the institution provides before initial enrollment, written notice of the right of the student or of a parent or guardian of the student to claim an exemption from the vaccination requirement in the manner prescribed by law (injurious to health, reasons of conscience), and of the importance of consulting a physician about the need for immunization to prevent the disease.

Impact: UT System institutions should monitor the Coordinating Board’s adoption of rules to implement SB 1107, and should adopt procedures for accepting and reviewing the certificates or immunization records and for granting an extension. Additionally, institutions should adopt procedures for notifying students of their right to claim an exemption from the vaccination requirement.

Effective: May 27, 2011

Karen Lundquist

[HB 3025](#) by Branch, et al. and Zaffirini

Relating to measures to facilitate the timely completion of degrees by students of public institutions of higher education.

HB 3025 requires students to file a degree plan once they have earned 45 or more semester credit hours. This applies beginning with undergraduate students who initially enroll in a public institution of higher education for the 2012 fall semester. The degree plan is a statement of the courses of study the student must complete in order to be awarded an associate or bachelor's degree. The plan must be filed not later than the end of the second regular semester following the semester in which the student has earned a cumulative total of 45 or more semester hours. Students who begin their first semester at an institution of higher education with 45 or more semester hours of course credit must submit their degree plan no later than the end of the student's second regular semester at that institution. Institutions must provide students with information regarding the degree plan filing requirement and options for consulting with an academic advisor.

At registration, students who are required to have filed a degree plan must verify to the institution that they have filed the plan and that the courses for which they are registering are consistent with the plan. If a student fails to file a required degree plan, the institution must notify the student that the plan is required by law and must require the student to consult with an academic advisor. The student may not obtain an official transcript until a required degree plan is filed. The Coordinating Board may adopt rules as necessary.

HB 3025 also requires general academic teaching institutions to facilitate the awarding of associate degrees to students who have transferred from a public junior college, public state college, or public technical college. If a student transfers from a lower-division institution where the student earned at least 30 credit hours and has earned a cumulative of at least 90 credit hours, the general academic teaching institution must request authorization from the student to release the student's transcript to the student's former lower-division institution to determine whether or not the student has earned enough credits to be awarded an associate degree. The lower-division institution shall then review the transcript and determine if an associate degree should be awarded. This applies to a student who not earlier than the 2011 fall semester transfers to or otherwise initially enrolls in a general academic teaching institution after attending a lower-division institution.

Impact: Academic affairs offices at UT System academic institutions, and in particular registrars, should be aware of the requirements in HB 3025. It requires institutions to notify students regarding the degree plan filing requirement, and also requires institutions to have in place a monitoring system to ensure that students who are required to have degree plans do in fact have them, to notify students who have not submitted required plans to do so, to have academic advisors available for consultation,

and to withhold official transcripts from students who do not have a required plan. Furthermore, HB 3025 requires institutions to have in place a system to check the records of students who transfer from lower-division institutions and to facilitate their obtaining an associate degree when appropriate.

Effective: June 17, 2011

Dan Sharphorn

Tuition and Fees

[SB 5](#) by Zaffirini and Branch

Relating to the administration and business affairs of public institutions of higher education. (Tuition and Fees)

SB 5 is an omnibus bill that affects a variety of areas of law governing higher education with a purpose of eliminating unfunded mandates, improving efficiency, and providing administrative flexibility to institutions of higher education. This analysis summarizes the provisions relating to tuition and fees.

SB 5 requires that a student fee advisory committee established under Chapter 54, Education Code, must conduct any meeting at which a quorum is present in a manner that is open to the public in accordance with procedures prescribed by the president. (Section 7.01)

The procedures must provide for 72-hour notice of the date, hour, place, and subject of the meeting. The notice must be posted on the Internet and in the student newspaper, if an issue will be published between the time of the Internet posting and the time of the meeting.

SB 5 also requires that the final recommendations of a student fee advisory committee be recorded and made public.

Impact: Institutional presidents will need to prescribe procedures, consistent with the terms of the law, to govern the conduct and notice of open meetings of the student fee advisory committee.

This law does NOT subject the committee to the open meetings law, nor does it provide penalties for violations of the requirement.

Effective: June 17, 2011

Steve Collins

SB 32 by Zaffirini and Branch

Relating to the consolidation of related higher education programs governing tuition, fee exemptions, and waivers respective to specific target populations.

SB 32 makes nonsubstantive changes to various tuition and fee waivers and exemptions by consolidating waivers and exemptions found throughout the Education Code into Subchapter D of Chapter 54, by renumbering the sections, and by repealing laws that were moved into Subchapter D.

The changes under SB 32 apply beginning with the 2012-2013 academic year.

Impact: UT System institutions should review their catalogs, student handbooks, and financial aid information and amend any legal citations relating to tuition and fees waivers and exemptions.

Effective: January 1, 2012

Esther L. Hajdar

SB 176 by Huffman and Branch

Relating to student eligibility for tuition rebates offered by general academic teaching institutions.

Current law authorizes tuition rebates of up to \$1,000 for resident undergraduate students who are awarded a baccalaureate degree within the period prescribed for forgiveness of a B-On-time loan (4 or 5 years, depending on the degree program), and who have attempted no more than three hours in excess of the minimum number of semester credit hours required to complete the degree program. Under SB 176, course credit, other than course credit earned exclusively by examination, that is earned before graduating from high school is not included within the three-credit-hour limit. SB 176 applies only to a student who is awarded a baccalaureate degree on or after June 17, 2011.

Impact: UT System academic institutions will have to change the method for determining which students are eligible for the tuition rebate. Excluding certain credit hours earned during high school may slightly increase the number of students who are eligible for the rebate. The law requires the institution awarding the degree to pay the rebate from local funds, but also requires the legislature to account in the General Appropriations Act for the rebates in a way that provides a corresponding increase in the general revenue funds appropriated to the institution. If this bill is determined to have a fiscal impact, UT System should monitor the Appropriations Act to determine if the rebates are accounted for.

Effective: June 17, 2011

Karen Lundquist

[SB 639](#) by Van de Putte, et al. and Branch

Relating to tuition and fee exemptions at public institutions of higher education for certain military personnel, veterans, and dependents residing in this state.

SB 639 amends the law providing tuition and fee exemptions for certain military veterans and dependents (Section 54.203). The changes made by SB 639 apply beginning with tuition and fees for the 2011 fall semester.

First, under current law, the veteran seeking the exemption must have entered the service at a location in this state, and must have declared this state as his or her home of record or would have been determined to be a Texas resident for tuition purposes when the person entered the service. SB 639 adds to the above requirements a new requirement that the person must currently reside in Texas. However, a person who received the exemption before the 2011-2012 academic year continues to be eligible for the exemption regardless of whether the person currently resides in Texas as long as the other provisions of Section 54.203 are satisfied.

SB 639 also requires the applicant to submit to the institution of higher education an application for the exemption and satisfactory evidence that the applicant qualifies for the exemption within one year after the earlier of the date the institution: (1) provides written notice to the applicant of the applicant's eligibility for the exemption; or (2) receives a written acknowledgment from the applicant evidencing the applicant's awareness of the applicant's eligibility for the exemption.

SB 639 also provides that following the death of a veteran who becomes eligible for the exemption, the unused portion of the exemption may be assigned to a child of the veteran by the veteran's spouse or by the conservator, guardian, custodian, or other legally designated caretaker of the child, if the child doesn't otherwise qualify for an exemption under Section 54.203(b) (parent killed in action, missing in action, etc.).

SB 639 further defines "child" for all purposes of Section 54.203 (such as veteran's waiver, assignment on death, survivor of parent killed in action) as a person who is 25 years of age or younger on the first day of the semester or other term for which the exemption is claimed.

Section 2 of SB 639 recodifies prior law and generally does not make substantive changes. Prior law required institutions of higher education to exempt from the payment of tuition a dependent child of a Texas resident who is a member of the armed forces deployed on combat duty (Section 54.203(b-2)). SB 639 recodifies those provisions as new Section 54.2031, and thus repeals Section 54.203(b-2). The difference between prior law and the new law is in the funding provisions. Prior law required the legislature to provide sufficient funds to cover the full cost of this exemption, whereas SB 639 requires the legislature to cover the full costs of the exemption, based on availability of money. If sufficient money is not available, the Coordinating Board must prorate the funding to each institution in proportion to the total amount the institution would

otherwise be entitled to receive. An institution of higher education is required to grant an exemption only to the extent money is available for that purpose.

Impact: SB 639 allows a veteran's unused exemption to be transferred to a child following the veteran's death, and standardizes the definition of "child" as one who is 25 years of age or younger for purposes of Section 54.203. Most of the other changes provided by SB 639 are nonsubstantive and will not require UT System institutions to change current policies or procedures.

Effective: June 17, 2011

Karen Lundquist

[HB 1163](#) by Keffer and Hegar

Relating to tuition and fee exemptions at public institutions of higher education for certain peace officers and firefighters.

Section 1 of HB 1163 reenacts Section 54.208, Education Code, which provides certain firefighters with an exemption from tuition and laboratory fees for courses that are offered as part of a fire science curriculum. The reenactment clarifies that the exemption applies to a student who:

- (1) is employed as a firefighter by a political subdivision; or
- (2) is currently, and has been for at least one year, an active member of an organized volunteer fire department in Texas who holds certain levels of certification.

The student may continue to receive the exemption only if the student makes satisfactory academic progress toward a degree or certificate at the institution as determined by the institution for purposes of financial aid.

The exemption does not apply to security deposits, nor to additional tuition imposed for excessive undergraduate or doctoral semester credit hours or for enrolling in the same or a substantially same course as authorized under Sections 54.014 and 61.059(1)(1)-(2), Education Code.

As part of the reenactment, Section 2 of HB 1163 outlines the exemption on tuition and laboratory fees that is extended to peace officers enrolled in a criminal justice or law enforcement course or courses as an undergraduate student. HB 1163 provides that the peace officer must:

- (1) be employed as a peace officer by the state or by a political subdivision;
- (2) be enrolled in a criminal justice or law enforcement-related degree program at the institution;

- (3) be making satisfactory academic progress toward the student's degree; and
- (4) timely apply for the exemption in accordance with the statute.

The exemption does not apply to courses beyond the maximum number of semester credit hours that are eligible for formula funding.

The exemption may not be awarded to a student if the specific course the student has enrolled in exceeds 20 percent of the maximum student enrollment designated by the institution for that class. The exemption also does not apply to security deposits.

If the legislature does not specifically appropriate funds to an institution of higher education in an amount sufficient to pay the institution's costs in complying with the peace officer exemption for a semester, the governing board of the institution must report to certain legislative committees the cost to the institution of complying with the exemption for that semester.

Finally, the Coordinating Board is required to adopt rules implementing these two exemptions.

The changes apply beginning with the 2011 fall semester.

Impact: As this is a reenactment of current law, HB 1163 clarifies existing law relating to the exemptions for firefighters and peace officers and thus does not have a significant impact on UT System institutions. Of note, the legislature did not address the scope of what constitutes "courses offered as part of a fire science curriculum" or "criminal justice or law enforcement courses." A current attorney general opinion has given "fire science curriculum" a very expansive definition. (Tex. Att'y Gen. Op. No. GA-0397 (2006).)

Effective: June 17, 2011

Esther L. Hajdar

HB 1341 by Walle and Zaffirini

Relating to the manner of payment of tuition and mandatory fees at public institutions of higher education.

HB 1341 makes changes to the law governing the manner of payment of tuition and fees at public institutions of higher education.

Under HB 1341, the law governing the payment of tuition and fees in full or by installment will only apply to the payment of tuition and mandatory fees, and will not apply to optional fees. HB 1341 requires institutions of higher education to establish payment dates, whereas prior law specified that the full payment or the first installment payment must be paid before the beginning of the semester or other term. Those payment dates (either full payment or first installment payment) may not be later than the date

established by the Coordinating Board for certifying student enrollment for the semester or term for purposes of formula funding. It also requires institutions to establish subsequent dates by which subsequent installment payments are due.

HB 1341 covers the payment of tuition and mandatory fees for a semester or term of 10 weeks or longer, as well as a term of less than 10 weeks. The prior law did not address alternative educational terms.

HB 1341 also authorizes an institution to collect the following on a due date that falls after one established by the institution for full payment or installment payments:

- unpaid tuition and mandatory fee balances resulting from an adjustment to a student's enrollment status or an administrative action; or
- unpaid residual balances of tuition and mandatory fees equal to less than five percent of the total amount of tuition and mandatory fees charged for that semester or term.

Section 2 of HB 1341 amends the law authorizing an institution to postpone the due date for the payment of all or part of the tuition and mandatory fees for a semester or term in which the student will receive delayed financial aid awards. Under the amendment, this provision no longer applies to optional fees.

The changes made by HB 1341 apply beginning with the payment of tuition and fees for the 2011 fall semester.

Impact: HB 1341 gives UT System institutions the authority to determine due dates for tuition and mandatory fees. Under Rule 40401, Regents' *Rules and Regulations*, the Board of Regents has delegated to institutional presidents the authority to collect tuition and fees as authorized by law. Institutional presidents should establish the due dates for payments of tuition and mandatory fees beginning with the 2011 fall semester, and institutions should make any changes to publications, websites, and other documents as necessary to give notice of the due dates.

Effective: June 17, 2011

Karen Lundquist

[HB 2999](#) by Lewis and Zaffirini

Relating to a fixed tuition rate program for certain students who transfer to a state university after completing an associate degree program.

HB 2999 provides for a fixed tuition rate for certain students who transfer to a general academic teaching institution after completing an associate degree program.

It authorizes a general academic teaching institution to develop a fixed tuition rate program for qualified students who agree to transfer to the institution within 12 months after successfully earning an associate degree at a lower-division institution of higher education.

Under the program, a general academic teaching institution must:

- guarantee transfer admission within the 12-month period to those students on successful completion of the associate degree program; and
- charge tuition during a period of at least 24 months following initial enrollment at the same rate the general academic teaching institution would have charged to the student during the later of: (1) the fall semester of the student's freshman year at the other institution had the student entered the general academic teaching institution as a freshman; or (2) the fall semester of the second academic year preceding the academic year of the student's initial enrollment in the general academic teaching institution.

A general academic teaching institution that develops this fixed tuition rate program must prescribe eligibility requirements for participation in the program and notify applicants for transfer admission from lower-division institutions of higher education regarding the program.

Impact: HB 2999 authorizes, but does not require, UT System academic institutions to develop a fixed tuition rate program for transfer students from lower-division institutions of higher education. Institutions that choose to develop the program must also prescribe eligibility requirements for participation and must notify applicants for transfer admission from lower-division institutions of the program.

Effective: June 17, 2011

Karen Lundquist

SB 1 – **First Called Session** by Duncan, et al. and Pitts

Relating to certain state fiscal matters; providing penalties.

SB 1, First Called Session, is composed of approximately 70 articles and 262 pages, designed primarily to make changes to the manner of distribution and methods of providing revenue for the support of public schools. SB 1 has little direct effect on higher education or UT System. Many of the other provisions of the bill adjust the schedule for payment of various taxes and fees, moving payments from the following biennium to the current biennium (requiring prepayment followed by a reconciliation) or delaying transfers from general revenue to a special fund, all with a purpose of increasing the amount held in general revenue during the fiscal biennium ending August 31, 2013. This includes prepayment of alcoholic beverage taxes (Article 10) and sales taxes (Article 13).

The following describes matters of interest to higher education, even though most of the described provisions generally have no direct impact on higher education or UT System.

Article 1 defers foundation school fund payments to school districts (and therefore charter schools) from August 2013 to September 2013, moving the cost of those payments to the following fiscal biennium.

Article 17 transfers from the comptroller of public accounts to the Coordinating Board a report on the physician education loan repayment assistance program under Subchapter J, Chapter 61, Education Code.

Article 20 eliminates the statutory requirement that the secretary of state produce bound copies of the “session laws” after each session of the legislature.

Article 21 authorizes the attorney general to charge a fee for the electronic filing of documents with the attorney general.

Article 23 continues the Department of Information Resources (DIR) in operation for the next two years (the DIR sunset bill from the regular session having been vetoed). SB 1 provides DIR authority to employ best value purchasing for information technology commodity items. It also authorizes DIR to set and charge a fee to each entity that receives services from DIR.

Article 27 eliminates the statutory authority of the Commission on State Emergency Communications to establish a regional poison control center in Harris County and authorizes the commission to standardize the operations of and implement management controls to improve the efficiency of regional poison control centers.

Article 28 expands the use of three tobacco settlement funds (not those managed by UT System) to pay principal and interest on bonds issued by the Cancer Prevention and Research Institute of Texas (CPRIT).

Article 34 requires the Legislative Budget Board (LBB) to conduct public hearings on expenditure reduction plans requested by leadership, and agencies to provide to the LBB plans in response to such a request. In addition, Article 34 requires the comptroller of public accounts to publish online a schedule of all revenue to the state from fees authorized by statute (implicitly including higher education fees).

Article 50 limits eligibility for education aide tuition exemptions to persons seeking teacher certification in subject areas experiencing teacher shortages, as determined by the Texas Education Agency.

Article 54 removes the comptroller of public accounts as an ex officio member of the Texas Guaranteed Student Loan Board and reduces the board from 10 to nine members. It also authorizes the governor to name the chair of the board.

Articles 42 and 65 relate to correctional health care. Article 42 changes the composition of the correctional managed health care committee, reducing the committee to five voting

members plus the state Medicaid director as a nonvoting member, and reducing the term of office to four years. Article 42 also transfers from the committee to the Texas Department of Criminal Justice (TDCJ) the responsibility to contract for correctional managed care and requires TDCJ, in cooperation with the committee, to contract for a biennial review of expenditures. Article 65 requires TDCJ to adopt policies designed to manage inmate populations based on similar health conditions. It requires each inmate to pay an annual \$100 health services fee instead of a co-pay. It requires TDCJ to make over-the-counter medicines available to inmates and requires TDCJ, in cooperation with UT Medical Branch at Galveston (UTMB) and Texas Tech University Health Sciences Center, to develop and implement, not later than January 1, 2012, a training program for corrections medications aides. It further exempts from end-stage renal disease licensing requirements any clinics or hospitals providing dialysis in correctional managed care.

Article 71 authorizes the Health and Human Services Commission to apply for a federal Medicaid waiver relating to benefits for individuals with chronic health conditions.

Impact: In general, SB 1 has little direct impact on UT System or its institutions. No amendments to rules or policies are necessary, nor are changes to catalogues, websites, or notices. Institutional business offices should be aware of the described provisions of SB 1.

State payments to campus charter schools will be briefly delayed from August to September of 2013.

Offices filing documents electronically with the attorney general, such as campus legal counsel, and offices receiving services from DIR will pay fees not previously paid.

Financial aid offices should be aware of the changes to qualifications for the educational aide tuition exemption, and should monitor the Texas Education Agency for rules determining which areas of teacher certification will qualify an individual for the exemption.

UTMB is directly affected by the described changes to correctional managed care.

The Southeast Texas Poison Center at UTMB and the South Texas Poison Center at UT Health Science Center at San Antonio should monitor changes in policies and procedures of the Commission on State Emergency Communications.

Effective: Each of the described provisions takes effect September 28, 2011, as does the bill generally. Some provisions have specified later effective dates.

Steve Collins

Financial Aid and Savings Programs

[SB 28](#) by Zaffirini, et al. and Branch, et al.

Relating to eligibility for a TEXAS grant and to administration of the TEXAS grant program.

SB 28 is the TEXAS Grant College Readiness Reform Act. It relates to the TEXAS grant program and changes the method for determining initial eligibility for the grant for persons graduating from high school on or after May 1, 2013. The changes in law made by SB 28 apply beginning with TEXAS grants awarded for the 2013 fall semester.

SB 28 changes the academic requirements for awarding an initial TEXAS grant to a person graduating from high school on or after May 1, 2013, by adding a new category of eligibility. The new category covers a person who is a graduate of a public or accredited private high school, who completed the recommended high school program, and who accomplished any two or more of the following:

- graduation under the advanced high school program, successful completion of the international baccalaureate diploma program, or earning of at least 12 semester credit hours in the college credit program described by Section 28.009;
- satisfaction of the Texas Success Initiative college readiness benchmarks or qualification for an exemption;
- graduation from high school in the top third or with a GPA of at least 3.0; or
- completion for high school credit of at least one advanced mathematics course following successful completion of an Algebra II course, or completion for high school credit of at least one advanced career and technical course.

Beginning with TEXAS grants awarded for the 2013-2014 academic year, general academic teaching institutions must give highest priority in awarding initial TEXAS grants to students who meet the new academic requirements described above, and must also give priority based on financial need. The financial need standard is amended to apply to students who demonstrate the greatest financial need and whose expected family contribution, as determined according to the methodology used for federal student financial aid, does not exceed 60 percent of the average statewide amount of tuition and required fees as determined by the Coordinating Board under the TEXAS grant program. In giving financial need priority to students who meet the highest priority academic requirements, an institution must determine financial need according to the relative expected family contribution of those students, beginning with students who have the lowest expected contribution.

From money appropriated for purposes of the TEXAS grant program, the Coordinating Board must annually determine the allocation among general academic teaching institutions and other eligible institutions of money available for TEXAS grants and must distribute the money accordingly. In allocating money among general academic teaching

institutions for initial TEXAS grants for an academic year, the Coordinating Board must ensure that each of those institutions' percentage share of the total amount for initial grants that is allocated to general academic teaching institutions does not, as a result of the number of students who are eligible under the new academic requirements, change from the institution's percentage share of the total amount for initial grants that is allocated to general academic teaching institutions for the preceding academic year.

The amendments to new Section 56.3042 are made to conform that section with the rest of SB 28, except that a new provision is added for a person on track to complete an associate degree by allowing the person to receive a provisional TEXAS grant from the institution to which the person is transferring, and providing for revocation of the grant if eligibility requirements are not satisfied.

It also adds a new section that tolls eligibility for an initial TEXAS grant award. It applies to a person who was eligible to receive an initial TEXAS grant in an academic year for which sufficient money was not available through appropriations to allow the Coordinating Board to award initial TEXAS grants to at least 10 percent of persons eligible for an initial grant, who has not previously been awarded a TEXAS grant, and who has not received a baccalaureate degree. If such a person meets the continuing eligibility requirements, that person is eligible to receive an initial TEXAS grant in any academic year in which funding is sufficient to award initial TEXAS grants for that year. The person's eligibility is not affected by the period for which the person has been enrolled, nor is it affected by any statutory changes to eligibility that are enacted after the person first established eligibility for an initial TEXAS grant in a year in which less than 10 percent of persons eligible for initial grants received a grant. Such a person is entitled to the highest priority under the new academic eligibility requirements if the person was entitled to that priority when eligibility was first established for an initial TEXAS grant in a year in which less than 10 percent of persons eligible for initial grants received a grant. Such a person may receive subsequent TEXAS grants if the person meets the criteria for continuing eligibility, and is not entitled to TEXAS grants for any previously completed academic year.

SB 28 also requires the Coordinating Board to file a report with the Legislative Oversight Committee by September 1 of each year regarding the operation of the TEXAS grant program, including for the three preceding state fiscal years the allocation of TEXAS grants by eligible institution, the number of TEXAS grants awarded to students disaggregated by race, ethnicity, and expected family contribution, the number of TEXAS grants awarded to students who meet the current academic eligibility requirements and the number awarded to students who meet the new higher academic eligibility requirements (reported both on a statewide basis and for each eligible institution), and the persistence and graduation rates of students receiving TEXAS grants.

Impact: SB 28 impacts TEXAS grants awarded by UT System academic institutions beginning in 2013. At that time, institutions will be required to revise their processes to comply with the new eligibility and priority determinations.

Effective: September 1, 2011

Karen Lundquist

SB 777 by Williams and Otto

Relating to re-creating the scholarship trust fund for fifth-year accounting students as a trust fund outside the state treasury.

SB 777 recreates the scholarship trust fund for fifth-year accounting students as a trust fund held outside the state treasury. It also rededicates revenue dedicated to the trust fund to provide scholarships to accounting students in the fifth year of a program designed to qualify each student to apply for certification as a CPA.

The scholarship fund was transferred last session from the Coordinating Board to the Board of Public Accountancy for deposit in the scholarship trust fund (HB 2440), but because of the funds consolidation bill enacted the same session, the funds were not transferred to the Board of Public Accountancy. SB 777 accomplishes the transfer.

Impact: Scholarships authorized by SB 777 could provide financial assistance to fifth-year accounting students attending UT System academic institutions.

Effective: May 9, 2011

Karen Lundquist

SB 851 by Zaffirini and Branch

Relating to a uniform deadline for student financial assistance for public institutions of higher education other than public junior colleges.

SB 851 requires the Coordinating Board by rule to provide for a uniform priority application deadline for applications for financial assistance for an academic year. The deadline may not serve as a determination of eligibility, but otherwise eligible applicants who apply on or before the deadline must be given priority consideration for available state financial assistance before other applicants.

The Coordinating Board must consult with financial aid personnel at institutions of higher education in adopting the deadline rules.

SB 851 applies only to general academic teaching institutions.

The changes made by SB 851 apply beginning with student financial assistance awarded for the 2013-2014 academic year.

Impact: Eligible applicants for financial aid at UT System academic institutions who apply on or before the deadline prescribed by the Coordinating Board will receive priority in state financial assistance. Once SB 851 takes effect (January 1, 2013), UT

System academic institutions may be requested to consult with the Coordinating Board and should monitor the Coordinating Board's rulemaking regarding the deadlines.

Effective: January 1, 2013

Karen Lundquist

[SB 1799](#) by West and Branch, et al.

Relating to the student loan program administered by the Texas Higher Education Coordinating Board; authorizing the issuance of bonds.

SB 1799 is the implementing legislation for SJR 50, which will be on the ballot at an election to be held November 8, 2011. SJR 50 seeks additional authority for the coordinating board to issue bonds to fund higher education student loan programs. It caps the bond issue amount so that the cumulative amount of all outstanding bonds at any one time cannot exceed the cumulative amount of all prior bonding amounts previously authorized by the constitution.

SB 1799 provides bonding authority to the Coordinating Board. It removes the specific bonding amount caps, and limits the aggregate principal total of bonds the Coordinating Board can authorize, which are outstanding at one time, to the amount set forth in the proposed constitutional amendment. SB 1799 amends the current sub-cap on the amount of bonds issued by the Coordinating Board in a fiscal year, increasing it from \$125 million to \$350 million.

Impact: Basically, as bonds are paid down, additional bonds can issue, up to the cumulative cap, without specific legislative or constitutional authorization. UT System institutions should be aware that SB 1799, in conjunction with SJR 50, should allow for more student loan fund availability in the future.

Effective: Effective on adoption of SJR 50

Traci L. Cotton

[SJR 50](#) by West and Branch, et al.

Proposing a constitutional amendment providing for the issuance of general obligation bonds of the state to finance educational loans to students.

SJR 50 seeks additional authority, through a constitutional amendment, for the Coordinating Board to issue bonds to fund higher education student loan programs. This proposed amendment caps the bond issue amount so that the cumulative amount of all outstanding bonds at any one time cannot exceed the cumulative amount of all prior bonding amounts previously authorized by the constitution. Under the proposed amendment, the Coordinating Board adopts the form and term of the bonds, except that the net effective interest rate on the bonds may not exceed the maximum allowed by law. The legislature would control how the bond proceeds are invested, and how income from

the investment is used. Payment of matured bonds from treasury funds is given high priority.

SB 1799 provides the implementing legislation.

Impact: Under SJR 50, as bonds are paid down, additional bonds can issue, up to the cumulative cap, without specific legislative or constitutional authorization. UT System institutions should be aware that passage of this constitutional amendment on November, 8, 2011, would allow for more student loan fund availability in the future.

Effective: If adopted by the voters at an election to be held November 8, 2011.

Traci L. Cotton

[HB 34](#) by Branch, et al. and Shapiro, et al.

Relating to including in the public high school curriculum instruction in methods of paying for post-secondary education and training.

HB 34 provides that beginning with the 2013-2014 school year, the Texas essential knowledge and skills shall require instruction in personal financial literacy, including instruction in methods for paying for college and other postsecondary education and training. Pursuant to HB 34, each school district and open-enrollment charter school that offers a high school program must provide students with instruction in personal financial literacy in any course meeting the requirements for an economics credit. It further requires that the mandatory instruction include guidance on completing the application for federal student aid provided by the US Department of Education. A school district or charter school may satisfy the requirements of HB 34 by using an existing state, federal, private, or non-profit program that provides this instruction to students for free. In addition, school districts and charter schools must ensure that their dual-credit students receive the personal financial literacy instruction described by HB 34.

HB 34 requires the State Board of Education to approve materials that provide for this instruction no later than August 31, 2012.

Impact: HB 34 impacts UT System institution charter schools by requiring the schools to incorporate instruction related to methods for paying for college and post-secondary education and training into their personal financial literacy curriculum. UT System institution charter schools should monitor the State Board of Education and keep apprised of the board's decision on materials for the required instruction. As an alternate method of satisfying the requirements of HB 34, UT System institution charter schools may want to evaluate existing state, federal, private, or non-profit programs and determine whether any existing program could be used to provide the required instruction to charter school students.

Effective: June 17, 2011

Zeena Angadicheril

HB 1908 by Madden and Whitmire

Relating to student loan repayment assistance for certain providers of correctional health care.

HB 1908 adds to the list of physicians who are eligible to receive student loan repayment assistance from the Coordinating Board those physicians providing health care services to clients confined in correctional facilities operated by or under contract with the Texas Youth Commission (TYC) or offenders confined in correctional facilities operated by or under contract with any division of the Texas Department of Criminal Justice (TDCJ).

To qualify, the physician must be one of the first 10 physicians to apply for the grant, and must satisfy rules adopted by the Coordinating Board and the Correctional Managed Health Care Committee. Those rules must be adopted by December 1, 2011.

Impact: UT System institutions providing health care services to TYC clients or TDCJ offenders may find that HB 1908 aids them in recruiting physicians to work in correctional managed health care.

Effective: June 17, 2011

Chuck Johnstone

HB 2910 by Branch, et al. and Zaffirini

Relating to measures to increase degree completion rates and support students enrolled in science, technology, engineering, and mathematics at institutions of higher education.

HB 2910 gives the Coordinating Board authority, in partnership with institutions of higher education, to hire a nonprofit organization to assist in identifying and implementing effective methods for increasing degree completion rates and provides a means for funding.

It also requires the Coordinating Board to establish and administer the Texas Science, Technology, Engineering, and Mathematics (T-STEM) Challenge Scholarship program under which the Coordinating Board provides a scholarship to a student who meets the eligibility criteria prescribed by HB 2910 and is enrolled in a public junior college or public technical institute. Thus, this provision does not apply to UT System institutions, but may apply to Texas Southmost College in Brownsville.

Impact: The plan to increase degree completion might generate helpful ideas and programs.

Since the T-STEM Challenge Scholarship applies to scholarships awarded to students enrolled at two-year institutions of higher education, it could impact Texas Southmost College.

Effective: June 17, 2011

Dan Sharphorn

[HB 2911](#) by Branch and Patrick

Relating to guaranteed student loans and alternative education loans.

HB 2911 amends Section 53B.47, Education Code, so that alternative education loans may be made or purchased, and otherwise administered, by higher education loan authorities (secondary markets created by Chapter 53B) in the same manner as guaranteed student loans. An alternative education loan is defined as “a loan other than a guaranteed student loan that is made to or for the benefit of a student for the purpose of financing all or part of the student’s cost of attendance at an accredited institution.”

HB 2911 also amends or repeals definitions provided by Section 1372.033(a), Government Code, concerning certain issuers of qualified student loan bonds, as defined by 26 U.S.C. Sec. 144(b). It also makes technical amendments to Section 1372.033(d), and repeals subsections dealing with student loan bond allocation applications and computations.

Impact: Regarding the changes to Chapter 53B of the Education Code, no action needs to be taken by UT System or its institutions. However, UT System’s Office of Academic Affairs and the financial aid offices at UT’s academic and health institutions should be aware of HB 2911 because these offices deal with student loans.

Effective: June 17, 2011

Hannah D. Huckaby

[HB 3470](#) by Patrick, Diane, et al. and Ogden, et al.

Relating to the Texas Armed Services Scholarship Program.

HB 3470 relates to the Texas Armed Services Scholarship Program. Under HB 3470, to receive an initial scholarship, a student is no longer required to be a freshman. Additionally, HB 3470 amends the requirements for the student’s agreement with the Coordinating Board to provide that the student agrees to graduate by the sixth year after initial enrollment in an institution, as opposed to the fifth year provided by current law. It also authorizes the person to agree to enter into a four-year commitment to be a member of the Texas State Guard, the US Coast Guard, or the US Merchant Marine and to meet its physical examination and prescreening requirements; current law authorizes only the Texas Army National Guard, the Texas Air National Guard, or the US Armed Services.

Finally, rather than deducting from the scholarship any amount paid to the student by a branch of the US Armed Services, HB 3470 requires the scholarship to be reduced by the amount by which the full amount of the scholarship plus the total amount to be paid to the student for being under contract with a branch of the US Armed Services exceeds the student's total cost of attendance for the academic year.

The Coordinating Board is required to adopt rules to administer these provisions as soon as practicable after the effective date of the Act, and may adopt the rules in the manner provided by law for emergency rules.

Impact: Depending on funding, HB 3470 may enable the Coordinating Board to award more scholarships to students attending institution of higher education, including UT System institutions.

Effective: June 17, 2011

Karen Lundquist

[HB 3577](#) by Gonzales, Larry and Zaffirini

Relating to eligibility requirements for the Texas Educational Opportunity Grant.

HB 3577 provides that a person may not receive a Texas Educational Opportunity Grant and a TEXAS grant for the same semester or other term. A person who but for this provision would be awarded both grants for the same semester or other term is entitled to receive only the grant of the greater amount. This applies beginning with grants awarded for the 2011-2012 academic year.

Impact: The Texas Educational Opportunity Grant is available for students attending two-year public institutions of higher education. Therefore, SB 3577 impacts Texas Southmost College, which currently partners with UT Brownsville.

Effective: June 17, 2011

Karen Lundquist

[HB 3578](#) by Gonzales, Larry and Zaffirini

Relating to clarification of the authorized uses for loans under public institution of higher education emergency loan programs.

HB 3578 amends the law that authorizes institutions of higher education to adopt an emergency loan program. Although the law allows the program to cover the cost of textbooks, the law governing the terms of the loan previously allowed only for the coverage of tuition and mandatory fees. HB 3578 makes it clear that the loan amount may also cover the cost of textbooks.

Impact: HB 3578 impacts the administration of any emergency loan programs established by UT System institutions by clarifying that the loan may cover the cost of textbooks. Rule 40402 of the Regents' *Rules and Regulations* should be revised to be consistent with HB 3578. Additionally, any institutional policies and procedures related to the emergency student loan program should be revised accordingly.

Effective: June 17, 2011

Karen Lundquist

[HB 3579](#) by Gonzales, Larry and Zaffirini

Relating to repayment assistance for certain physician education loans.

HB 3579 amends the law that authorizes the Coordinating Board to provide repayment assistance for certain physician education loans. HB 3579 repeals the provision that allowed the repayment to be applied only to the principal amount of the loan, thereby allowing the repayment to also be used to repay accrued interest.

Impact: This program is partially funded through a two percent tuition set aside at medical units of institutions of higher education, including UT System health institutions. Although HB 3579 does not affect that funding mechanism, appropriations for this program have been greatly reduced or eliminated for the 2012-13 biennium, which will affect the ability of the Coordinating Board to provide the repayment assistance.

Effective: June 17, 2011

Karen Lundquist

[HB 3708](#) by Hochberg and Zaffirini

Relating to measures regarding high school completion and enrollment in higher education.

DROPOUT RECOVERY PROGRAM: Beginning September 1, 2012, HB 3708 authorizes the operation of a dropout recovery program by certain public junior colleges in partnership with school districts. It applies only to a junior college in a county with a population of 750,000 or more and with less than 65 percent of the population 25 years and older having graduated from high school. It also applies only to a school district with a dropout rate that is higher than 15 percent. Both applicability provisions expire September 1, 2013.

EARLY HIGH SCHOOL GRADUATION SCHOLARSHIP PROGRAM: HB 3708 requires the commissioner of education to award specified amounts of state credit to eligible persons under the Early High School Graduation Scholarship program, except that the total amount may not exceed the amount of funds appropriated for that purpose for the current state fiscal year. When the commissioner of education receives the annual report from the Coordinating Board concerning students who have used the credit, the commissioner of education must transfer to the Coordinating Board, from funds

appropriated for the Early High School Graduation Scholarship program, an amount commensurate with the amount of funds appropriated to pay each eligible institution the amount of state credit for tuition and mandatory fees that is applied by the institution.

HB 3708 also repeals the two statutes dedicating to the scholarship program that portion of the savings to the Foundation School Program that occur as a result of the program. (The program is currently funded from funds appropriated for the Foundation School Program and transferred through the Coordinating Board to eligible institutions under Section 56.207.)

In addition, HB 3708 deletes provisions that require certain savings to the Foundation School Fund to be used to provide tuition exemptions for certain students who received financial aid under the aid to families with dependent children program or for students who are eligible for a tuition exemption as an educational aide, if any funds remain after funding the Early High School Graduation Scholarship program. Instead, the Texas Education Agency retains its authority to accept gifts to provide educational aide tuition exemptions, and must transfer those funds to the Coordinating Board to distribute to institutions of higher education that provide exemptions to educational aides. HB 3708 does not change the provision in current law that provides that an institution of higher education is not required to provide these two tuition exemptions beyond those funded by appropriations specifically designated for that purpose.

Changes to the program apply beginning with the 2011-2012 academic year, but do not affect any state credit awarded before June 17, 2011. The Coordinating Board is required to revise program rules as soon as practicable after that date.

TEXAS SAVE AND MATCH PROGRAM: HB 3708 repeals the Texas Save and Match Program under current law, effective January 1, 2012, and adds a new subchapter creating the new Texas Save and Match Program. The Prepaid Higher Education Tuition Board, in cooperation with the Texas Match the Promise Foundation, administers the program. The Save and Match Program is one under which money contributed to a savings trust account by an account owner under the higher education savings plan or paid by a purchaser under a prepaid tuition contract on behalf of an eligible beneficiary may be matched with contributions made by any person to the program, or matched with money appropriated for the program.

Impact: Eligible persons under the Early High School Graduation Scholarship program will no longer be entitled to receive a state credit toward tuition and mandatory fees, but will only receive the award if funds are appropriated for that purpose.

The dropout recovery program may impact Texas Southmost College.

Effective: June 17, 2011, except that amendments to the Texas Save and Match Program take effect January 1, 2012

Karen Lundquist

SB 1 – **First Called Session** by Duncan, et al. and Pitts

Relating to certain state fiscal matters; providing penalties.

SB 1, First Called Session, is composed of approximately 70 articles and 262 pages, designed primarily to make changes to the manner of distribution and methods of providing revenue for the support of public schools. SB 1 has little direct effect on higher education or UT System. Many of the other provisions of the bill adjust the schedule for payment of various taxes and fees, moving payments from the following biennium to the current biennium (requiring prepayment followed by a reconciliation) or delaying transfers from general revenue to a special fund, all with a purpose of increasing the amount held in general revenue during the fiscal biennium ending August 31, 2013. This includes prepayment of alcoholic beverage taxes (Article 10) and sales taxes (Article 13).

The following describes matters of interest to higher education, even though most of the described provisions generally have no direct impact on higher education or UT System.

Article 1 defers foundation school fund payments to school districts (and therefore charter schools) from August 2013 to September 2013, moving the cost of those payments to the following fiscal biennium.

Article 17 transfers from the comptroller of public accounts to the Coordinating Board a report on the physician education loan repayment assistance program under Subchapter J, Chapter 61, Education Code.

Article 20 eliminates the statutory requirement that the secretary of state produce bound copies of the “session laws” after each session of the legislature.

Article 21 authorizes the attorney general to charge a fee for the electronic filing of documents with the attorney general.

Article 23 continues the Department of Information Resources (DIR) in operation for the next two years (the DIR sunset bill from the regular session having been vetoed). SB 1 provides DIR authority to employ best value purchasing for information technology commodity items. It also authorizes DIR to set and charge a fee to each entity that receives services from DIR.

Article 27 eliminates the statutory authority of the Commission on State Emergency Communications to establish a regional poison control center in Harris County and authorizes the commission to standardize the operations of and implement management controls to improve the efficiency of regional poison control centers.

Article 28 expands the use of three tobacco settlement funds (not those managed by UT System) to pay principal and interest on bonds issued by the Cancer Prevention and Research Institute of Texas (CPRIT).

Article 34 requires the Legislative Budget Board (LBB) to conduct public hearings on expenditure reduction plans requested by leadership, and agencies to provide to the LBB plans in response to such a request. In addition, Article 34 requires the comptroller of public accounts to publish online a schedule of all revenue to the state from fees authorized by statute (implicitly including higher education fees).

Article 50 limits eligibility for education aide tuition exemptions to persons seeking teacher certification in subject areas experiencing teacher shortages, as determined by the Texas Education Agency.

Article 54 removes the comptroller of public accounts as an ex officio member of the Texas Guaranteed Student Loan Board and reduces the board from 10 to nine members. It also authorizes the governor to name the chair of the board.

Articles 42 and 65 relate to correctional health care. Article 42 changes the composition of the correctional managed health care committee, reducing the committee to five voting members plus the state Medicaid director as a nonvoting member, and reducing the term of office to four years. Article 42 also transfers from the committee to the Texas Department of Criminal Justice (TDCJ) the responsibility to contract for correctional managed care and requires TDCJ, in cooperation with the committee, to contract for a biennial review of expenditures. Article 65 requires TDCJ to adopt policies designed to manage inmate populations based on similar health conditions. It requires each inmate to pay an annual \$100 health services fee instead of a co-pay. It requires TDCJ to make over-the-counter medicines available to inmates and requires TDCJ, in cooperation with UT Medical Branch at Galveston (UTMB) and Texas Tech University Health Sciences Center, to develop and implement, not later than January 1, 2012, a training program for corrections medications aides. It further exempts from end-stage renal disease licensing requirements any clinics or hospitals providing dialysis in correctional managed care.

Article 71 authorizes the Health and Human Services Commission to apply for a federal Medicaid waiver relating to benefits for individuals with chronic health conditions.

Impact: In general, SB 1 has little direct impact on UT System or its institutions. No amendments to rules or policies are necessary, nor are changes to catalogues, websites, or notices. Institutional business offices should be aware of the described provisions of SB 1.

State payments to campus charter schools will be briefly delayed from August to September of 2013.

Offices filing documents electronically with the attorney general, such as campus legal counsel, and offices receiving services from DIR will pay fees not previously paid.

Financial aid offices should be aware of the changes to qualifications for the educational aide tuition exemption, and should monitor the Texas Education Agency for rules determining which areas of teacher certification will qualify an individual for the exemption.

UTMB is directly affected by the described changes to correctional managed care.

The Southeast Texas Poison Center at UTMB and the South Texas Poison Center at UT Health Science Center at San Antonio should monitor changes in policies and procedures of the Commission on State Emergency Communications.

Effective: Each of the described provisions takes effect September 28, 2011, as does the bill generally. Some provisions have specified later effective dates.

Steve Collins

Developmental Education and Student Success

SB 162 by Shapiro and Branch

Relating to developing a developmental education plan for students entering public institutions of higher education.

SB 162 requires the Coordinating Board to develop a statewide plan for developmental education that assigns primary responsibility for developmental education to public junior colleges, public state colleges, and public technical institutes and provides for using technology to provide that education. The plan must provide for ongoing training for faculty members, tutors, and instructional aides at developmental education programs, and ongoing research to monitor results of the program and identify possible solutions to program problems.

By December 1, 2012, the Coordinating Board must submit a report to the governor, lieutenant governor, and legislature concerning the initial development of the plan, including recommendations.

Impact: Under SB 162, primary responsibility for developmental education will be assigned to junior colleges, public state colleges, and public technical institutes, which will impact Texas Southmost College. However, it is likely that the statewide plan will also impact UT System academic institutions, and thus those institutions should monitor the development of the plan by the Coordinating Board.

Effective: June 17, 2011

Karen Lundquist

[HB 9](#) by Branch, et al. and Zaffirini

Relating to student success-based funding for and reporting regarding public institutions of higher education

HB 9 is designed to produce recommendations for a means of including outcomes-based elements in the formula funding for higher education.

HB 9 directs a change in the membership of the committee established by the Coordinating Board to assist in making recommendations for formula funding by specifying that the committee include a cross-section of institutions. Each system chancellor recommends at least one representative for each of the institutional groupings under the Coordinating Board's accountability system to which a system institution is assigned. Each president of an institution not included within a system makes similar recommendations.

HB 9 requires the Coordinating Board's formula funding recommendations to the legislature for general academic teaching institutions to include consideration of student success measures, which may include elements such as bachelor's degrees awarded in critical fields, bachelor's degrees awarded to at-risk students, and six-year graduation rates. The Coordinating Board must recommend alternative approaches and must compare the effects of applying the measures within the existing formulas or as a separate formula. No more than 10 percent of base funding may be based on student success measures.

The Coordinating Board is directed to submit a report on this matter, including national and global best practices, to the Joint Oversight Committee on Higher Education Governance, Excellence, and Transparency (separately created by proclamation of the speaker and lieutenant governor) not later than September 30, 2011, and July 1, 2012.

Impact: The recommendations of the Coordinating Board, adopted in consultation with the described committee, will likely affect formula funding for the 2012-2013 biennium. The UT System chancellor will have the opportunity to nominate four committee members, one each from the four institutional groupings represented among UT System institutions: research university (UT Austin); emerging research university (UT Arlington, UT Dallas, UT El Paso, UT San Antonio); comprehensive university (UT Pan American); and master's university (UT Brownsville, UT Tyler, UT Permian Basin).

Effective: June 17, 2011

Steve Collins

[HB 1244](#) by Castro and West

Relating to developmental education and the assessment of student readiness under the Texas Success Initiative and to students enrolled in developmental education at public institutions of higher education.

HB 1244 amends the law relating to the assessment of academic skills of entering undergraduate students to determine readiness to enroll in freshman academic coursework. The changes made by HB 1244 apply beginning with the 2012-2013 academic year.

HB 1244 requires the Coordinating Board to prescribe a single standard or set of standards for each assessment instrument to effectively measure student readiness as demonstrated by current research, and deletes the provision authorizing institutions of higher education to adopt more stringent assessment standards, as well as the provision authorizing the Coordinating Board to designate additional assessment instruments. It also clarifies that an institution may not require enrollment in developmental coursework for a student previously determined to have met college readiness standards by completing a recommended or advanced high school program and demonstrating college readiness on the end-of-course assessment instruments.

HB 1244 further provides that an institution that requires a student to enroll in developmental coursework must offer a range of developmental coursework, including online coursework, or instructional support that includes the integration of technology to efficiently address the particular developmental needs of the student.

Institutions of higher education are required to base developmental coursework on research-based best practices that includes eight components specified by HB 1244, including assessment, differentiated placement and instruction, faculty development, and program evaluation (defined by HB 1244 as a systematic method of collecting, analyzing, and using information to evaluate developmental education courses, interventions, and policies). The Coordinating Board is required to adopt rules to implement this provision.

The Coordinating Board is also required, in consultation with institutions, to develop and provide professional development programs to faculty and staff who provide developmental coursework to students.

Institutions of higher education must determine when a student is ready to perform freshman-level academic coursework using learning outcomes for developmental education courses developed by the Coordinating Board based on established college and career readiness standards and student performance on one or more appropriate assessments.

Finally, HB 1244 allows an institution of higher education to exempt from the payment of tuition a student who is participating in an approved non-semester-length developmental education intervention, including course-based, non-course-based, alternative-entry/exit, and other intensive developmental education activities.

Impact: Beginning with the 2012-2013 academic year, UT System academic institutions must:

- use the assessment instruments for college readiness using standards developed by the Coordinating Board;
- offer a range of developmental coursework, including online coursework, that integrates technology to address the particular needs of the student;
- base developmental coursework on best practices and include specified components in the coursework; and
- determine student readiness for freshman-level coursework using learning outcomes developed by the Coordinating Board.

Additionally, faculty and staff who provide developmental coursework to students may be required to attend professional development programs developed by the Coordinating Board.

Finally, the Board of Regents is authorized, but not required, to exempt from tuition a student who is participating in an approved non-semester-length developmental education intervention.

UT System academic institutions should monitor the Coordinating Board's adoption of rules, standards, and programs under HB 1244, should provide student assessments as required by HB 1244 and Coordinating Board rule, and should develop and offer developmental coursework as required by HB 1244.

Effective: June 17, 2011

Karen Lundquist

[HB 2909](#) by Branch and Shapiro

Relating to increasing awareness in this state of the importance of higher education.

HB 2909 renames a week-long campaign aimed at increasing awareness among middle, junior high, and high school students of the importance of higher education from "Education: Go Get It" to "Generation Texas." The campaign is administered by the State Board of Education. HB 2909 also authorizes the appointment of three additional members to the P-16 Council.

Additionally, HB 2909 requires the public awareness campaign conducted by the Coordinating Board to include information related to college readiness standards and expectations and also requires the inclusion of information that was previously optional. Finally, HB 2909 requires the Coordinating Board to coordinate with the Texas Education Agency, P-16 Councils, and other appropriate entities, including businesses, in implementing the public awareness campaign.

Impact: The University of Texas-University Charter School should be aware of HB 2909 since it is required to provide students with information regarding the pursuit of higher education under the “Generation Texas” campaign.

Effective: June 17, 2011

Esther L. Hajdar

[HB 2910](#) by Branch, et al. and Zaffirini

Relating to measures to increase degree completion rates and support students enrolled in science, technology, engineering, and mathematics at institutions of higher education.

HB 2910 gives the Coordinating Board authority, in partnership with institutions of higher education, to hire a nonprofit organization to assist in identifying and implementing effective methods for increasing degree completion rates and provides a means for funding.

It also requires the Coordinating Board to establish and administer the Texas Science, Technology, Engineering, and Mathematics (T-STEM) Challenge Scholarship program under which the Coordinating Board provides a scholarship to a student who meets the eligibility criteria prescribed by HB 2910 and is enrolled in a public junior college or public technical institute. Thus, this provision does not apply to UT System institutions, but may apply to Texas Southmost College in Brownsville.

Impact: The plan to increase degree completion might generate helpful ideas and programs.

Since the T-STEM Challenge Scholarship applies to scholarships awarded to students enrolled at two-year institutions of higher education, it could impact Texas Southmost College.

Effective: June 17, 2011

Dan Sharphorn

[HB 3468](#) by Patrick, Diane, et al. and Shapiro

Relating to the assessment of public school students for college readiness and developmental education courses to prepare students for college-level coursework.

HB 3468 requires the Texas Education Agency (TEA), in consultation with the Coordinating Board, to conduct a study of best practices for programs offering early assessments of high school students to determine their college readiness, identify any deficiencies in college readiness, and provide intervention to address any deficiencies before high school graduation. HB 3468 identifies items to be reviewed during the study including, for example, end-of-course assessment instruments; statewide assessment models being proposed by the Coordinating Board; summer bridge programs; college

preparatory courses for credit toward high school graduation; developmental education programs; dual credit courses; and program costs and effectiveness.

The TEA must submit a written report with recommendations concerning early assessments of college readiness and early intervention to the governor, lieutenant governor, and other key members of the legislature by December 1, 2012.

HB 3468 also requires the TEA, in consultation with the Coordinating Board, to review the standardized assessment mechanism for participants in adult education programs and recommend necessary changes.

HB 3468 also amends the Texas Success Initiative, which is related to developmental education for students not prepared for college-level work. It requires the Coordinating Board to encourage institutions of higher education to offer various types of developmental coursework, and authorizes the Coordinating Board to adopt rules to implement this provision. It also requires the Coordinating Board, in consultation with institutions of higher education, to conduct another study to analyze assessment instruments, differentiated placements, funding formulas as applied to developmental coursework, and the statutory exemptions to the Texas Success Initiative requirements. The Coordinating Board must submit a written report with recommendations relating to a statewide diagnostic standard assessment instrument to the governor, lieutenant governor, and other key members of the legislature by December 1, 2012.

Finally, HB 3468 requires the Coordinating Board, based on its study and report, to submit recommendations for changes in the funding formulas for developmental education programs in its periodic review of the general formula funding for institutions of higher education. This provision applies beginning with periodic reviews submitted on or after December 1, 2012; it expires January 1, 2015.

Impact: UT System institutions should identify appropriate personnel to monitor the actions of the TEA and the Coordinating Board relating to these topics and any rules the Coordinating Board may adopt under HB 3468. Institutions should also be prepared to provide data or information as requested by the TEA or the Coordinating Board.

Effective: June 17, 2011

Esther L. Hajdar

Programs, Courses, and Credits

[SB 149](#) by West and Castro

Relating to rules adopted and reporting required under the school district college credit program.

SB 149 amends current law pertaining to rules that govern dual-credit (college and high school) programs and related reporting requirements. Section 1 authorizes the

Coordinating Board to adopt rules concerning the duties of an institution of higher education with respect to dual-credit programs. Effective September 1, 2013, Section 3 requires the Texas Education Agency (TEA) and the Coordinating Board to share data as necessary to allow school districts to comply with reporting requirements under the dual-credit program. Also effective September 1, 2013, Section 4 requires the Coordinating Board to collect student course credit data from institutions of higher education regarding students who have enrolled in dual-credit courses in order to provide any necessary information to the TEA.

Impact: SB 149 impacts UT System institutions that participate with public school districts in dual-credit programs since the institutions will be required to report information regarding students participating in the program and the courses they take to the Coordinating Board. SB 149 will also require UT System institutions to comply with the rules adopted by the Coordinating Board regarding the administration of the dual-credit programs. UT System institutions should monitor the rules proposed by the Coordinating Board regarding dual-credit programs. If UT System institutions are not doing so already, the institutions should develop methods to collect course data for high school students earning dual-credit courses; beginning September 1, 2013, SB 149 will require UT System institutions to provide this information to the TEA.

Effective: June 17, 2011, except that Section 2 takes effect September 1, 2011 and Sections 3 and 4 take effect September 1, 2013.

Zeena Angadicheril

SB 1414 by Duncan and Eiland

Relating to sexual abuse and child molestation training and examination for employees of certain programs for minors held on campuses of institutions of higher education; providing penalties.

SB 1414 requires operators of certain campus programs for minors held on campuses of institutions of higher education to verify that its employees who will be in contact with the campers have successfully completed or will complete sexual abuse and child molestation training. The employees must then be tested on the training. SB 1414 applies to a program that:

- (1) is operated on the campus of an institution of higher education;
- (2) offers activities for at least 20 minors who are not enrolled at the institution and who attend or temporarily reside at the camp for all or part of at least four days; and
- (3) is not a day camp, a youth camp, or a facility or program required to be licensed by the Department of Family and Protective Services.

The program operator is the person who owns, operates, or supervises a campus program for minors, regardless of profit. A program operator may not employ an individual in a

position involving contact with campers unless the employee has successfully completed the sexual abuse and child molestation training and examination program within the preceding two years, or during the individual's first five days of employment.

However, the requirements do not apply to an individual who is a student enrolled at the institution of higher education that operates the campus program for minors or at which the campus program is conducted and whose contact with campers is limited to a single class of short duration.

The program operator must submit required documentation of compliance to the Department of State Health Services (department), pay required fees, and maintain required documentation of compliance until the second anniversary of the examination date.

The executive commissioner of the Health and Human Services Commission is required to adopt rules regarding the criteria and guidelines for the training and examination program no later than December 1, 2011. The training and examination program must include topics listed in Section 141.0095(e), Health and Safety Code, which includes definitions, typical patterns, warning signs, symptoms, and recommended responses. The training and examination program may be offered by contracted trainers or online training organizations as authorized by the department.

SB 1414 authorizes the department to assess fees to cover the costs of administering these requirements. Every five years, the department must review each approved training and examination program to ensure the program continues to meet the statutory criteria and guidelines. The department is authorized to investigate persons suspected of violating these provisions or adopted rules. A person who violates these requirements is subject to the enforcement provisions of Section 141.015, Health and Safety Code, relating to civil penalties (\$50-\$1,000) and injunctive relief.

SB 1414 provides that program operators and institutions are immune from civil or criminal liability for any act or omission of an employee for which the employee is immune under Section 261.106, Family Code (grants immunity to individual who reports child abuse or neglect if the person reports in good faith). Finally, SB 1414 provides that a program operator must consider the costs of compliance in determining any charges or fees imposed and collected for participation in the campus program for minors.

A campus program for minors or an individual employed by the program is not required to comply with the requirements of SB 1414 before June 1, 2012.

Impact: Before June 1, 2012, UT System institutions should identify all campus programs for minors that are covered by SB 1414. Once the Health and Human Services Commission adopts its rules, institutions should then decide whether to contract with a third party to provide the required training and examination or to develop and offer the training and examination in-house. Decisions also need to be made as to who is responsible for maintaining the documentation, submitting the documentation to the State Department of Health Services, and paying the required fees. Institutions should also

inform third parties who operate campus programs for minors of their obligations under SB 1414.

Effective: September 1, 2011

Esther L. Hajdar

SB 1619 by Duncan and Aycock

Relating to participation of public high school students in college credit programs.

SB 1619 amends the law that requires each school district to implement a program under which students may earn up to 12 semester credit hours of college credit while in high school. Prior law provided that a school district was not required to pay a student's tuition or other costs for taking a course under the college credit program. SB 1619 makes that provision expire September 1, 2013, instead of 2011. As a result, until September 1, 2013, a school district is not required to pay a student's tuition or other costs for taking a college credit course.

Additionally, the SB 1619 provides that if a student may receive course credit toward both high school and higher education academic requirements, including courses provided under the college credit program by a public institution of higher education, the time during which the student attends the course must be counted as part of the minimum number of instructional hours required for a student to be considered a full-time student in average daily attendance. This provision impacts funding at the school district level.

Impact: Under SB 1619, school districts will not be required to pay a student's tuition or other costs for taking a course under the college credit program until September 1, 2013. Under Section 54.216, Education Code, institutions of higher education are authorized to provide a total or partial tuition and fee exemption for students enrolled in a course that gives concurrent high school and college-level credit. UT System academic institutions that have adopted this permissive exemption will bear the costs of students taking courses at the institution for concurrent high school and college credit.

Effective: June 17, 2011

Karen Lundquist

SB 1726 by Zaffirini and Branch

Relating to the development of measurable learning outcomes for undergraduate courses at public institutions of higher education.

SB 1726 requires institutions of higher education to identify and adopt measurable learning outcomes for each undergraduate course offered by the institution and make them available for public inspection. However, excluded from the requirement are courses with a highly variable subject content that is tailored specifically to an individual student, such as an independent study or directed reading course, and laboratories,

practicum, or discussion sections that are part of a lecture course. Institutions are authorized to adopt learning outcomes for a course that are the same as or based on those identified for that course by the institution's recognized accrediting agency. The Coordinating Board is required to consult with institutions of higher education in adopting rules appropriate for the administration of this requirement.

Impact: SB 1726 impacts UT System institutions, including the health institutions that offer undergraduate courses, because they are required to adopt measurable learning outcomes for each undergraduate course and make them publicly available. Institutions are authorized to adopt learning outcomes for a course that are the same as or based on those identified for that course by the institution's recognized accrediting agency. Provosts and deans and other academic personnel responsible for determining the content and development of undergraduate courses should be notified of SB 1726. The Coordinating Board must consult with institutions in developing rules under SB 1726, and thus UT System Offices of Academic and Health Affairs may wish to consider developing a process to receive from UT System institutions and provide to the Coordinating Board input regarding the rules as well as monitor the rulemaking process.

Effective: June 17, 2011

Priscilla A. Lozano

[SB 1736](#) by Van de Putte, et al. and Castro, et al.

Relating to the establishment of the College Credit for Heroes program.

SB 1736 requires the Texas Workforce Commission (TWC) to establish the College Credit for Heroes program. The purpose of the program is to identify, develop, and support methods to maximize academic or workforce education credit awarded by institutions of higher education to veterans and military servicemembers for military experience, education, and training obtained during military service in order to expedite their entry into the workforce. The TWC must work with other state agencies, including the Coordinating Board, public junior colleges, and other institutions of higher education.

Under SB 1736, the TWC is authorized to award grants to state, local, or private entities that perform activities related to the purposes of the program. The TWC must use money previously appropriated to the TWC or received from federal or other sources to administer the program. The TWC may adopt rules for the program.

Finally, by November 1, 2012, the TWC, after consulting with the Coordinating Board, must report to the legislature and the governor on:

- the results of any grants awarded;
- the best practices;

- changes needed to facilitate the award of academic credit by institutions for military experience, education, and training obtained during military service; and
- other related measures needed to facilitate the entry of trained, qualified veterans and military servicemembers into the workforce.

Impact: UT System institutions should monitor the actions and rules of the TWC to determine how they may impact their operations and may wish to apply for any grants that may be offered by the TWC. Institutions may also wish to contact the TWC to offer their assistance and advice in developing the College Credit for Heroes program.

Effective: June 17, 2011

Esther L. Hajdar

[HB 399](#) by Castro, et al. and Zaffirini, et al.

Relating to requiring general academic teaching institutions to offer personal financial literacy training.

HB 399 requires the Coordinating Board by rule to require general academic teaching institutions to offer training in personal financial literacy to provide students of the institution with the knowledge and skills necessary as self-supporting adults to make important decisions relating to personal financial matters. The Coordinating Board determines the topics to be covered by the training, and may provide for the training to be offered in an online course. General academic teaching institutions must provide the training as soon as the Coordinating Board considers practical, but not later than the 2013 fall semester.

Impact: UT System's academic institutions will be required to offer personal financial literacy training as required by rules adopted by the Coordinating Board. The Coordinating Board must adopt the rules as soon as practicable, and may adopt them in the manner provided for emergency rules. Academic institutions should monitor the Coordinating Board's rulemaking to determine the requirements for the training and should be prepared to implement the requirements.

Effective: June 17, 2011

Karen Lundquist

[HB 1797](#) by Naishtat and Rodriguez

Relating to a person's eligibility to obtain a license in social work and to an exemption from the licensing requirement.

HB 1797 amends the Social Work Practice Act to provide that a person who teaches social work at a public, private, or independent institution of higher education is not

required to hold a license under that Act to the extent the person confines the person's activities to teaching and does not otherwise engage in the practice of social work.

It also amends the provision relating to licensing examinations to allow applicants to take the examination if they possess certain degrees from a program that is accredited or is in candidacy for accreditation by the Council on Social Work Education. This applies to a license for which an application is filed on or after the effective date of the Act.

Impact: The exclusion of certain persons teaching at institutions of higher education from the social work licensing requirement will allow faculty at UT System institutions who teach social work to do so without first obtaining a social work license.

Effective: June 17, 2011

Karen Lundquist

[HB 2909](#) by Branch and Shapiro

Relating to increasing awareness in this state of the importance of higher education.

HB 2909 renames a week-long campaign aimed at increasing awareness among middle, junior high, and high school students of the importance of higher education from "Education: Go Get It" to "Generation Texas." The campaign is administered by the State Board of Education. HB 2909 also authorizes the appointment of three additional members to the P-16 Council.

Additionally, HB 2909 requires the public awareness campaign conducted by the Coordinating Board to include information related to college readiness standards and expectations and also requires the inclusion of information that was previously optional. Finally, HB 2909 requires the Coordinating Board to coordinate with the Texas Education Agency, P-16 Councils, and other appropriate entities, including businesses, in implementing the public awareness campaign.

Impact: The University of Texas-University Charter School should be aware of HB 2909 since it is required to provide students with information regarding the pursuit of higher education under the "Generation Texas" campaign.

Effective: June 17, 2011

Esther L. Hajdar

UTB/TSC Partnership

[SB 1909](#) by Lucio and Oliveira

Relating to The University of Texas at Brownsville, including its partnership agreement with the Texas Southmost College District.

SB 1909 facilitates the dissolution of the partnership between UT-Brownsville (UTB) and Texas Southmost College (TSC). To the extent that the authority does not already exist, it would enable the parties to enter into agreements to, among other things, transfer students and student credit hours and share property and facilities. It would further enable UTB to offer bachelor's, master's, and doctoral degrees and to create departments and schools, subject to prior approval by the Coordinating Board.

SB 1909 is intended to facilitate the independent operation of UTB and TSC, but does not affect the authority of the two to continue the partnership or establish a new one.

The two institutions are to cooperate to ensure that each timely achieves separate accreditation from the appropriate agency before terminating the existing partnership and must continue in a partnership agreement until August 21, 2015, to the extent necessary to ensure accreditation.

UTB and TSC must submit semiannual reports to the legislature on the status of the partnership until each achieves accreditation and the existing partnership is terminated.

Impact: Primarily, UTB and TSC leadership, the Executive Vice Chancellor for Academic Affairs, and staff of the Office of General Counsel should be aware of SB 1909. This provides an important next step in the UTB and TSC separation process. In addition to the considerable work attendant to dissolving the partnership, each institution will have to submit semiannual reports to the legislature.

Effective: June 17, 2011

Dan Sharphorn

Textbooks

[HB 33](#) by Branch, et al. and Zaffirini

Relating to measures to increase the affordability of textbooks used for courses at public or private institutions of higher education.

HB 33 requires institutions of higher education to compile a course schedule list and a list of required and recommended textbooks for each course offered each semester or other academic term. The textbook list must include the following information for each textbook to the extent practicable:

- the retail price;
- the author;
- the publisher;
- the most recent copyright date; and
- the International Standard Book Number assigned, if any.

To allow for timely placement of textbook orders by students, each institution of higher education must: (1) establish a deadline by which faculty members must submit information to be included on the lists, and (2) disseminate the lists as soon as practicable after they are compiled, but not later than the 30th day before the first day that classes are conducted for the semester or other academic term for which the lists are compiled. Any revisions to the lists must be disseminated as soon as practicable.

The institution must publish the textbook list with the course schedule on the institution's Internet website and with any course schedule the institution provides in hard copy format to students. The institution must also make that information available to college bookstores (bookstores that are operated by the institution, or that have a contractual relationship or are affiliated with the institution) and other bookstores that generally serve the students of the institution.

However, an institution of higher education is released from its obligation to publish a textbook list if a college bookstore publishes the list and any revisions on the bookstore's Internet website on behalf of the institution at the appropriate times.

To the extent practicable, an institution is also obligated to make a reasonable effort to inform students about its programs for renting books or purchasing used books, its guaranteed buyback programs, its programs for alternative delivery of textbook content, and other institutional textbook cost-saving strategies.

HB 33 also imposes obligations on textbook publishers. When a textbook publisher provides information regarding a textbook or supplemental material to a faculty member or other person in charge of selecting course materials at an institution, the publisher also must provide written information regarding:

- the pricing of the textbook and supplemental materials at college bookstores and bookstores serving students and the public;
- the copyright dates of the current and three preceding editions of the textbook;
- a description of any substantial content revisions made between the current edition of the textbook or supplemental material and the most recent preceding edition of the textbook or material, including the addition of new chapters, new material covering additional time periods, new themes, or new subject matter; and
- the availability and price of the textbook and materials in other formats, such as paperback or unbound versions.

For custom textbooks, the publisher must comply with these requirements only to the extent reasonably practicable.

Finally, textbook publishers that offer a textbook bundle for sale directly to students enrolled at the institution or, for resale purposes, to a college bookstore or other bookstore that generally serves the students of the institution must also offer for sale to the students and bookstore each individual item of instructional material as a separate, unbundled item that is separately priced.

HB 33 applies to institutions of higher education and publishers beginning with the 2012 fall semester.

Impact: UT System institutions should ensure that deadlines and procedures are in place for the faculty to submit information required by the statute. The institution must also first communicate with college bookstores (bookstores that are operated by the institution, or that have a contractual relationship or are otherwise affiliated with the institution) and determine whether the bookstore will be responsible for publishing the information required by the statute. If the bookstore will not assume the publication responsibility, institutions must identify appropriate offices or personnel to ensure the required statutory information is published as soon as practicable after the information is collected. Institutions should also identify appropriate offices or personnel to ensure that, to the extent possible, students are informed about cost-saving strategies for textbooks. Finally, institutions should inform faculty or other purchasers of textbooks about the textbook publisher's responsibility to provide certain information.

Effective: September 1, 2011

Esther L. Hajdar

Student Issues

[SB 866](#) by Deuell, et al. and Jackson, Jim

Relating to the education of public school students with dyslexia, the education and training of educators who teach students with dyslexia, and the assessment of students with dyslexia attending an institution of higher education.

SB 866 amends the provision requiring the State Board of Education to specify the minimum academic qualifications required for an educator certificate. It provides that any minimum qualifications that require a person to possess a bachelor's degree must also require that the person receive, as part of the curriculum for that degree, instruction in detection and education of students with dyslexia. That instruction must be developed by experts in the diagnosis and treatment of dyslexia who are employed by an institution of higher education and approved by the board, and must include specified information on dyslexia.

Any continuing education requirements for an educator who teaches students with dyslexia must include training regarding new research and practices in educating students with dyslexia, and may be offered on-line.

SB 866 also includes provisions relating to testing of public school students for dyslexia and development of a classroom technology plan for students with dyslexia.

Finally, SB 866 provides that an institution of higher education may not reassess a student determined to have dyslexia for the purpose of assessing the student's need for accommodations until the institution reevaluates the information obtained from previous assessments of the student. This provision applies beginning with the 2011-2012 academic year.

Impact: UT System institutions should be aware of the provision in SB 866 that states that, for purposes of accommodating a person with dyslexia, an institution of higher education must reevaluate information obtained from previous assessments before reassessing the student. Additionally, UT System employees who are dyslexia experts may be requested to assist in developing instruction in the detection and education of students with dyslexia. That instruction must be part of the curriculum for a bachelor's degree as required by SB 866.

Effective: June 17, 2011

Karen Lundquist

SB 1009 by Huffman and Sheffield

Relating to requiring public institutions of higher education to notify the federal Student and Exchange Visitor Information System (SEVIS) regarding the withdrawal or nonattendance of certain foreign students.

SB 1009 requires public institutions of higher education to notify the federal Student Exchange and Visitor Information System (SEVIS) if a non-immigrant student holding an F or M visa withdraws, is dismissed for nonattendance, or has other official action taken against him or her as a result of nonattendance.

Impact: SB 1009 impacts UT System institutions that admit foreign students because they are required by state statute to notify SEVIS if a student enrolled under an F or M visa withdraws from the institution, withdraws from all courses in which the student is enrolled, is dismissed for nonattendance, or has other action taken against him or her for nonattendance. UT System institutions are currently required by federal law to enter information regarding foreign students into SEVIS regarding whether the F visa holder has maintained status. This includes reporting into SEVIS when a student falls below the required number of hours, withdraws from the classes, or fails to enroll in a subsequent semester. Since UT System institutions admitting such visa holders are subject to federal regulations regarding SEVIS, SB 1009 does not have a significant impact. Nevertheless, UT System institution international offices and student affairs offices responsible for

international students should be notified of SB 1009, which imposes the requirement in state law.

Effective: September 1, 2011

Priscilla A. Lozano

SB 1107 by Davis, Wendy, et al. and Howard, Charlie

Relating to the vaccination against bacterial meningitis of entering students at public and private or independent institutions of higher education.

SB 1107 requires all entering students at public, private, or independent institutions of higher education to provide to the institution a certificate signed by a health practitioner or an official immunization record evidencing that the student has received a bacterial meningitis vaccination dose or booster during the five-year period preceding the date established by the Coordinating Board. This requirement applies only to entering students enrolling in public, private, or independent institutions of higher education on or after January 1, 2012. (Prior law required the vaccination only for students residing or applying to reside on campus.)

An “entering student” includes a new student (a first-time student or a transfer student), as well as a student who previously attended an institution of higher education before January 1, 2012, and who is enrolling in the same or another institution following a break in enrollment of at least one fall or spring semester. It does not include a student who is enrolled only in online or other distance education courses, or who is 30 years of age or older.

The Coordinating Board must adopt rules to administer the law, including rules requiring the vaccination by the 10th day before the first day of a semester or other term in which the student initially enrolls unless the student is granted an extension by the institution as provided by Coordinating Board rule. The rules must authorize an institution to extend the compliance date to not later than the 10th day after the first day of the semester or other term in which the student initially enrolls.

Institutions are required to provide to entering students, with the registration materials that the institution provides before initial enrollment, written notice of the right of the student or of a parent or guardian of the student to claim an exemption from the vaccination requirement in the manner prescribed by law (injurious to health, reasons of conscience), and of the importance of consulting a physician about the need for immunization to prevent the disease.

Impact: UT System institutions should monitor the Coordinating Board’s adoption of rules to implement SB 1107, and should adopt procedures for accepting and reviewing the certificates or immunization records and for granting an extension. Additionally, institutions should adopt procedures for notifying students of their right to claim an exemption from the vaccination requirement.

Effective: May 27, 2011

Karen Lundquist

[HB 452](#) by Lucio III, et al. and Lucio

Relating to temporary housing between academic terms for certain postsecondary students who have been under the conservatorship of the Department of Family and Protective Services.

HB 452 relates to temporary housing between academic terms for students who have been under the conservatorship of the Department of Family and Protective Services.

To be eligible, a student must have been under the conservatorship of the department on the day preceding the student's 18th birthday, or on the day preceding the date the student's disabilities of minority are removed by a court. Additionally, the student must be enrolled full-time at the institution immediately before and after the period for which the student requests housing assistance, and lack other reasonable temporary housing alternatives between academic terms.

On request, an institution of higher education must assist the student in locating temporary housing for periods between academic terms. If the student demonstrates financial need, the institution may provide a stipend to cover reasonable costs of the temporary housing that are not covered by other financial aid that is immediately available, or may provide temporary housing directly to the student. An institution may use any available revenue, including legislative appropriations and gifts, grants, and donations, for this purpose. An institution must use gifts, grants, and donations received for this purpose before using other revenue.

Impact: HB 452 requires UT System institutions, on request, to assist eligible students who have been in foster care to locate temporary housing between academic terms, which may entail personnel time. Institutions are not required to provide housing or housing stipends, but may choose to do so.

Effective: June 17, 2011

Karen Lundquist

Athletics and the University Interscholastic League

[HB 675](#) by Lucio III, et al. and Lucio

Relating to football helmet safety requirements in public schools.

HB 675 provides that school districts are prohibited from using a helmet that is sixteen years old or older, and requires school districts to ensure that all helmets ten years old or older are reconditioned at least once every two years. School districts will be responsible

for maintaining and making available to parents of students documentation evidencing that these requirements have been met.

HB 675 also authorizes the University Interscholastic League (UIL) to adopt rules to implement these provisions, subject to approval by the commissioner of education.

These provisions apply beginning with the 2012-2013 school year.

Impact: HB 675 will have a direct impact on the University of Texas at Austin, which operates the UIL. Under HB 675, the UIL is authorized to adopt rules related to football helmet safety requirements.

Effective: September 1, 2011

Alan Marks

HB 1123 by Dutton and West

Relating to the regulation of athlete agents; providing administrative and criminal penalties.

HB 1123 makes several changes to the regulations governing athlete agents, including harsher administrative and criminal penalties for failure to comply and changes relating to an agent's civil liability. Among the changes are the following provisions.

Regulation of Athlete Agents: First, HB 1123 expressly prohibits an athlete agent from furnishing a thing of value to an athlete or an individual related to the athlete within the second degree by affinity or consanguinity before the athlete completes his or her last intercollegiate sports contest. It also expressly prohibits an athlete agent or someone acting on the agent's behalf from committing an act that would cause an athlete to violate a rule of the national association for the promotion and regulation of intercollegiate athletics of which the athlete's institution of higher education is a member (e.g., NCAA).

Second, HB 1123 requires an athlete agent to deposit a \$50,000 surety bond with the secretary of state (SOS) before contacting an athlete or entering into any contract with the athlete. This bond is to be made payable to the state and conditioned on certain criteria.

Third, HB 1123 places restrictions on who may register as an athlete agent. An athlete agent must be an individual, thereby excluding a corporation, association, or partnership from registering as an agent. It provides for two types of certification, either as a professional athlete agent or a limited athlete agent. A professional athlete agent must also be certified by a national professional sports association. A limited athlete agent may only represent an athlete in a sport that does not have a national professional sports association.

Finally, an applicant for registration or renewal as an athlete agent is required to provide certain information to the SOS, including information on whether the applicant or certain affiliated persons have been convicted of a crime that is a Class A or Class B misdemeanor. Registered athlete agents must also notify the SOS if they have been

convicted of anything other than a Class C misdemeanor, or if they have been decertified by their national professional sports association. The SOS must revoke the registration of a decertified athlete agent.

Administrative and Criminal Penalties: Depending on the violation, the maximum administrative penalty for an athlete agent's failure to comply is either \$25,000 or \$50,000. Similarly, the criminal penalty is either a Class A misdemeanor or a third degree felony, depending on the violation. These changes apply only to an offense committed on or after September 1, 2011.

Civil Liability: A former athlete agent's liability under this section is extinguished. An institution of higher education adversely affected by a violation of this law may no longer file suit against a former athlete for damages. Additionally, HB 1123 gives an athlete a cause of action against an agent for certain violations of the statute, provided the athlete has been disqualified or suspended from participating in intercollegiate athletics and can demonstrate that he or she has suffered an adverse financial impact as a result of the disqualification or suspension.

Impact: HB 1123 directly and indirectly impacts all UT System institutions that participate in intercollegiate athletics. It directly impacts UT System institutions by modifying how the SOS is to publish information that prescribes the compliance responsibilities of an institution of higher education pertaining to athlete agents, which will now be published on the SOS's website instead of mailed to the athletic director. The SOS will notify the athletic director or other appropriate official of any changes to the compliance responsibilities, and will post these on its website by January 1, 2012. HB 1123 also directly impacts UT System institutions by extinguishing the liability of a former athlete agent for violations of the statute.

HB 1123 may indirectly impact UT System institutions because increased regulation of athlete agents and stricter penalties for failure to comply may protect student-athletes and institutions of higher education from suffering negative consequences due to the inappropriate actions of athlete agents. Accordingly, athletic directors and compliance personnel should be familiar with the provisions of HB 1123.

Effective: September 1, 2011

Timothy Shaw

[HB 1286](#) by Howard, Donna, et al. and Davis, Wendy

Relating to adoption of rules by the University Interscholastic League.

HB 1286 requires the legislative council of the University Interscholastic League (UIL) to complete a fiscal impact statement before taking final action on a new or amended rule that would result in additional costs to a member school.

Final action is defined as submitting a rule to school superintendents or to the commissioner of education, depending on the legislative council's procedural

requirements for that particular rule. A fiscal impact statement must include a 5-year cost projection for member schools for complying with the rule and an explanation of the methodology used to analyze the fiscal impact and determine the cost projection. A copy of this statement must be attached to the rule when it is submitted to school superintendents or the commissioner for approval.

HB 1286 applies only to a rule on which the legislative council of the UIL takes final action on or after September 1, 2011.

Impact: HB 1286 directly impacts the University of Texas at Austin, which operates the UIL under the auspices of the vice president for diversity and community engagement. The legislative council of the UIL must complete a fiscal impact statement before final action may be taken on any new or amended rule that would result in additional costs for a member school. This statement must include a 5-year cost projection for member schools and an explanation of the methodology used, and a copy must be attached to the rule when it is submitted for approval.

The legislative council of UIL should be aware of HB 1286 and should devise procedures for completing the fiscal impact statement.

Effective: September 1, 2011

Timothy Shaw

[**HB 2038**](#) by Price, et al. and Deuell, et al.

Relating to prevention, treatment, and oversight of concussions affecting public school students participating in interscholastic athletics.

HB 2038 adds a new law that relates to the prevention, treatment, and oversight of concussions affecting public school students participating in athletics. It applies to interscholastic athletic activity, including practice or competition, that is sponsored or sanctioned by a school district, a public school (including any school for which a charter has been granted under Chapter 12, Education Code), or the University Interscholastic League (UIL).

The governing body of a school district or open-enrollment charter must designate a concussion oversight team. This team will be required to establish a return-to-play protocol based on peer-reviewed scientific evidence for a student's return to practice or competition. This team must include a physician, and to the greatest extent practicable, one or more athletic trainers, advance practice nurses, neuropsychologists, or physician assistants. If an athletic trainer is employed by a school district or an open-enrollment charter, the trainer must be a member of the oversight team.

Each member of the team must have had training in concussions at the time of appointment or approval. Coaches and non-physician members of the oversight team must complete an approved training course in concussions at least once every two years.

The UIL must approve the training courses for coaches. Proof of timely completion must be submitted to the school district superintendent or a person serving in the function of a superintendent or his or her designee.

Students are prohibited from participating in interscholastic athletic activity until the student's parent or guardian has signed and returned a form for that school year that acknowledges receiving and reading information concerning concussions and guidelines for resuming participation after sustaining a concussion. This form must be approved by the UIL.

Students are also prohibited from practicing or competing immediately after a coach, a physician, a licensed health care professional, or the student's parent or guardian believes the student may have sustained a concussion. A coach may not authorize a student's return to practice or competition or may not supervise the return-to-play protocol. A student may only return if all of the following occur:

- The student is evaluated by a treating physician chosen by the student or the student's parents;
- The student successfully completes the return-to-play protocol;
- The physician provides a written statement indicating that it is safe for the student to return to practice and competition; and
- Both the student and the student's parent or guardian acknowledge that the student has completed the return-to-play protocol, the physician's written statement is provided to the person responsible for compliance with the protocol, and a consent form is signed acknowledging the risks with returning to play, consenting to HIPAA permitted disclosures, and acknowledging they understand that immunity from liability is not waived.

HB 2038 expressly does not: (1) waive any immunity from liability, or create any liability for a cause of action against a school district or open-enrollment charter school or its employees; (2) waive any immunity from liability for emergency care; or (3) create any cause of action or liability for a member of the oversight team arising from injury or death of a student based upon service or participation on the team.

HB 2038 applies beginning with the 2011-2012 school year, and persons required to take training courses in concussions must initially complete the course by September 1, 2012.

Impact: HB 2038 directly impacts UT Austin, which operates the UIL. It requires the UIL to approve two things: (1) a concussion information acknowledgement form; and (2) training courses for coaches of interscholastic activities that provides for at least two hours of training on concussions, including evaluation, prevention, symptoms, risks, and long-term effects. The UIL must also keep an updated list of individuals and organizations authorized to provide this training.

HB 2038 also impacts UT System institution charter schools that have students who participate in interscholastic athletics. Those institutions must assemble concussion oversight teams and comply with all applicable provisions specified by HB 2038.

Effective: June 17, 2011

Timothy Shaw

Junior Colleges

SB 419 by West and Patrick, Diane

Relating to prohibiting state funding to public junior colleges for physical education courses offered for joint high school and junior college credit.

The law authorizes junior colleges to count dual credit (junior college and high school) courses as contact hours for purposes of determining their share of appropriated state funds. SB 419 excludes from counting as contact hours any physical education course that is taken in fulfillment of state K-12 physical education requirements.

Impact: SB 419 impacts Texas Southmost College.

Effective: June 17, 2011

Dan Sharphorn

SB 975 by Hinojosa, et al. and Munoz, Jr., et al.

Relating to the operation of dropout recovery programs by certain public junior colleges in partnership with school districts.

Beginning September 1, 2012, SB 975 authorizes the operation of a dropout recovery program by certain public junior colleges in partnership with school districts.

SB 975 applies only to a junior college in a county with a population of 750,000 or more and with less than 65 percent of the population 25 years and older having graduated from high school. It also applies only to a school district with a dropout rate that is higher than 15 percent. Both applicability provisions expire September 1, 2013, at which time the law will apply to junior colleges and school districts generally.

Impact: SB 975 could impact Texas Southmost College.

Effective: June 17, 2011

Karen Lundquist

[SB 1226](#) by Hegar and Callegari, et al.

Relating to the ballot language for junior college district annexation elections.

SB 1226 provides specific language for a ballot for junior college district annexation elections. It applies to the ballot for an election ordered to be held on or after September 1, 2011.

Impact: SB 126 could impact Texas Southmost College, which currently partners with UT Brownsville.

Effective: September 1, 2011

Karen Lundquist

[SB 1909](#) by Lucio and Oliveira

Relating to The University of Texas at Brownsville, including its partnership agreement with the Texas Southmost College District.

SB 1909 facilitates the dissolution of the partnership between UT-Brownsville (UTB) and Texas Southmost College (TSC). To the extent that the authority does not already exist, it would enable the parties to enter into agreements to, among other things, transfer students and student credit hours and share property and facilities. It would further enable UTB to offer bachelor's, master's, and doctoral degrees and to create departments and schools, subject to prior approval by the Coordinating Board.

SB 1909 is intended to facilitate the independent operation of UTB and TSC, but does not affect the authority of the two to continue the partnership or establish a new one.

The two institutions are to cooperate to ensure that each timely achieves separate accreditation from the appropriate agency before terminating the existing partnership and must continue in a partnership agreement until August 21, 2015, to the extent necessary to ensure accreditation.

UTB and TSC must submit semiannual reports to the legislature on the status of the partnership until each achieves accreditation and the existing partnership is terminated.

Impact: Primarily, UTB and TSC leadership, the Executive Vice Chancellor for Academic Affairs, and staff of the Office of General Counsel should be aware of SB 1909. This provides an important next step in the UTB and TSC separation process. In addition to the considerable work attendant to dissolving the partnership, each institution will have to submit semiannual reports to the legislature.

Effective: June 17, 2011

Dan Sharphorn

[HB 650](#) by Castro and Uresti

Relating to property held by certain junior colleges and presumed abandoned.

HB 650 amends Section 76.001, Property Code, to give junior colleges the ability to opt into the alternate reporting requirements that are contained in Chapter 76 for abandoned property valued at less than \$100.

Impact: Texas Southmost College should be aware of HB 650.

Effective: June 17, 2011

Traci L. Cotton

[HB 1495](#) by Munoz, Jr. and Hinojosa

Relating to the application of the Information Resources Management Act to public junior colleges and public junior college districts.

HB 1495 exempts public junior colleges and public junior college districts from most of the requirements of the Information Resources Management Act in Chapter 2054, Government Code.

Impact: HB 1495 impacts Texas Southmost College, and could impact UT System and institutional offices dealing with public junior colleges or districts.

Effective: June 17, 2011

Scott A. Patterson

[HB 2910](#) by Branch, et al. and Zaffirini

Relating to measures to increase degree completion rates and support students enrolled in science, technology, engineering, and mathematics at institutions of higher education.

HB 2910 gives the Coordinating Board authority, in partnership with institutions of higher education, to hire a nonprofit organization to assist in identifying and implementing effective methods for increasing degree completion rates and provides a means for funding.

It also requires the Coordinating Board to establish and administer the Texas Science, Technology, Engineering, and Mathematics (T-STEM) Challenge Scholarship program under which the Coordinating Board provides a scholarship to a student who meets the eligibility criteria prescribed by HB 2910 and is enrolled in a public junior college or public technical institute. Thus, this provision does not apply to UT System institutions, but may apply to Texas Southmost College in Brownsville.

Impact: The plan to increase degree completion might generate helpful ideas and programs.

Since the T-STEM Challenge Scholarship applies to scholarships awarded to students enrolled at two-year institutions of higher education, it could impact Texas Southmost College.

Effective: June 17, 2011

Dan Sharphorn

[HB 3577](#) by Gonzales, Larry and Zaffirini

Relating to eligibility requirements for the Texas Educational Opportunity Grant.

HB 3577 provides that a person may not receive a Texas Educational Opportunity Grant and a TEXAS grant for the same semester or other term. A person who but for this provision would be awarded both grants for the same semester or other term is entitled to receive only the grant of the greater amount. This applies beginning with grants awarded for the 2011-2012 academic year.

Impact: The Texas Educational Opportunity Grant is available for students attending two-year public institutions of higher education. Therefore, SB 3577 impacts Texas Southmost College, which currently partners with UT Brownsville.

Effective: June 17, 2011

Karen Lundquist

[HB 3708](#) by Hochberg and Zaffirini

Relating to measures regarding high school completion and enrollment in higher education.

DROPOUT RECOVERY PROGRAM: Beginning September 1, 2012, HB 3708 authorizes the operation of a dropout recovery program by certain public junior colleges in partnership with school districts. It applies only to a junior college in a county with a population of 750,000 or more and with less than 65 percent of the population 25 years and older having graduated from high school. It also applies only to a school district with a dropout rate that is higher than 15 percent. Both applicability provisions expire September 1, 2013.

EARLY HIGH SCHOOL GRADUATION SCHOLARSHIP PROGRAM: HB 3708 requires the commissioner of education to award specified amounts of state credit to eligible persons under the Early High School Graduation Scholarship program, except that the total amount may not exceed the amount of funds appropriated for that purpose for the current state fiscal year. When the commissioner of education receives the annual report from the Coordinating Board concerning students who have used the credit, the commissioner of education must transfer to the Coordinating Board, from funds

appropriated for the Early High School Graduation Scholarship program, an amount commensurate with the amount of funds appropriated to pay each eligible institution the amount of state credit for tuition and mandatory fees that is applied by the institution.

HB 3708 also repeals the two statutes dedicating to the scholarship program that portion of the savings to the Foundation School Program that occur as a result of the program. (The program is currently funded from funds appropriated for the Foundation School Program and transferred through the Coordinating Board to eligible institutions under Section 56.207.)

In addition, HB 3708 deletes provisions that require certain savings to the Foundation School Fund to be used to provide tuition exemptions for certain students who received financial aid under the aid to families with dependent children program or for students who are eligible for a tuition exemption as an educational aide, if any funds remain after funding the Early High School Graduation Scholarship program. Instead, the Texas Education Agency retains its authority to accept gifts to provide educational aide tuition exemptions, and must transfer those funds to the Coordinating Board to distribute to institutions of higher education that provide exemptions to educational aides. HB 3708 does not change the provision in current law that provides that an institution of higher education is not required to provide these two tuition exemptions beyond those funded by appropriations specifically designated for that purpose.

Changes to the program apply beginning with the 2011-2012 academic year, but do not affect any state credit awarded before June 17, 2011. The Coordinating Board is required to revise program rules as soon as practicable after that date.

TEXAS SAVE AND MATCH PROGRAM: HB 3708 repeals the Texas Save and Match Program under current law, effective January 1, 2012, and adds a new subchapter creating the new Texas Save and Match Program. The Prepaid Higher Education Tuition Board, in cooperation with the Texas Match the Promise Foundation, administers the program. The Save and Match Program is one under which money contributed to a savings trust account by an account owner under the higher education savings plan or paid by a purchaser under a prepaid tuition contract on behalf of an eligible beneficiary may be matched with contributions made by any person to the program, or matched with money appropriated for the program.

Impact: Eligible persons under the Early High School Graduation Scholarship program will no longer be entitled to receive a state credit toward tuition and mandatory fees, but will only receive the award if funds are appropriated for that purpose.

The dropout recovery program may impact Texas Southmost College.

Effective: June 17, 2011, except that amendments to the Texas Save and Match Program take effect January 1, 2012

Karen Lundquist

Elementary and Secondary Education

[SB 27](#) by Zaffirini, et al. and Branch, et al.

Relating to policies of school districts and open-enrollment charter schools for the care of certain students at risk for anaphylaxis.

SB 27 seeks to provide for the care of students with a diagnosed food allergy at risk for anaphylaxis by greatly reducing the possibility of a fatal attack. It requires the board of trustees of each school district and the governing body of each open-enrollment charter to implement and administer a policy for the care of students at risk for anaphylaxis. This policy must be based on guidelines to be established by the commissioner of state health services in consultation with an ad hoc committee appointed by the commissioner. Any policy implemented before the development of the guidelines must be reviewed and revised as necessary to ensure the policy is consistent with the guidelines.

Under these guidelines, a school may not be required to purchase prescription medication or undertake any other expenditure that would result in a negative fiscal impact. Also, school personnel may not be required to administer medication to a student unless that medication has been prescribed to that student.

SB 27 specifically provides that it does not grant any waiver of governmental immunity and does not create liability for any cause of action against the government.

Guidelines must be developed by the commissioner not later than May 1, 2012, and must be posted on the Texas Education Agency's website alongside other information relating to students with special needs. Schools must implement a policy consistent with the guidelines by August 1, 2012.

Impact: Charter schools run by UT System institutions must implement and administer a policy for the care of students at risk for anaphylaxis based on guidelines developed by the commissioner of state health services in consultation with an ad hoc committee. This policy must be implemented by August 1, 2012.

Effective: June 17, 2011

Timothy Shaw

[SB 89](#) by Lucio and Uresti, et al.

Relating to summer nutrition programs provided for by school districts.

SB 89 repeals the statute governing the summer food service program found in the Human Resources Code and replaces it with a new section in the Agriculture Code titled summer nutrition programs.

Under SB 89, a district in which 50 percent or more of the students are eligible for free or reduced-price lunches under 42 U.S.C. Section 1751 et seq. must provide or arrange for a summer nutrition program for at least 30 days during the summer break. The Texas Department of Agriculture may grant a one-year waiver under the following conditions:

- The district has worked with a field office to identify another possible provider for a summer nutrition program and provides verified documentation showing any of the following:
 - There are fewer than 100 children eligible for free or reduced-price lunches;
 - Transportation to participate in a summer nutrition program is an insurmountable obstacle to providing the program;
 - The district is unable to operate a summer nutrition program due to renovation or construction of facilities and an appropriate alternative provider is unavailable; or
 - Any other extenuating circumstance and the unavailability of an appropriate alternative; or
- The cost for providing or arranging for a summer nutrition program would be cost-prohibitive, as determined by a methodology to be determined by the Department of Agriculture.

The Department of Agriculture must notify each affected school district by October 31 of each year of its responsibility of providing a summer nutrition program for the next summer. If a school district intends to request a waiver it must send written notice and an explanation of its reasoning to the district's local school health advisory council by November 30. And by January 31 a district must give notice to the department that it either intends to operate a summer nutrition program or that it is requesting a waiver.

Impact: Open-enrollment charter schools run by UT System institutions in which at least 50 percent of students are eligible for free or reduced-price lunches must either provide a summer nutrition program or obtain a waiver. Open-enrollment charters are affected by this bill because under Section 12.103(a), Education Code, open-enrollment charters are subject to federal and state laws and rules governing public schools.

Effective: September 1, 2011

Timothy Shaw

SB 290 by Watson, et al. and Hernandez Luna

Relating to including a personal financial literacy component in public school mathematics instruction.

SB 290 amends the Texas essential knowledge and skills requirements to include the requirement of personal financial literacy in each mathematics course in kindergarten through 8th grade. The commissioner of education is required to adopt a list of instructional materials for use as part of the foundation curriculum for personal financial literacy for those grades.

Impact: SB 290 impacts UT System institution charter schools because it adds personal financial literacy to the essential knowledge and skills requirements of each mathematics course from kindergarten through 8th grade.

Effective: June 17, 2011

Zeena Angadicheril

SB 407 by Watson, et al. and Craddick, et al.

Relating to the creation of the offense of electronic transmission of certain visual material depicting a minor and to certain educational programs concerning the prevention and awareness of that offense.

SB 407 makes it a criminal offense for a person under the age of 18 to intentionally or knowingly use electronic means to promote to another minor visual material depicting the minor engaging in sexual conduct or possess in an electronic format visual material depicting another minor engaging in sexual conduct where the person produced the material or knows that another minor produced the same. Offenses range from a Class C misdemeanor to a Class A misdemeanor, depending on the circumstances. If a court (including a juvenile court) finds that an individual has committed the offense, the court may order the individual to attend and successfully complete an educational program on the dangers of students sharing visual material depicting a minor engaged in sexual conduct. These provisions only apply to an offense committed on or after September 1, 2011.

In addition, SB 407 requires the Texas School Safety Center, along with the attorney general, to develop programs for use by school districts that address the consequences of sharing visual material depicting a minor engaged in sexual conduct, the prevention of and responses to bullying, including cyberbullying, and the connection between bullying and sharing such visual material. Each school district is required to make information relating to the programs available to parents and students beginning with the 2012-2013 school year. The Texas School Safety Center is required to develop the program by January 1, 2012.

Impact: Under SB 407, UT System institution charter schools are not required to provide education on the consequences of sharing material depicting a minor engaged in sexual conduct. However, UT System institution charter schools may want to consider providing education that is similar to the programs for use by school districts as to the new criminal offense (which seeks to address “sexting”) as well as potential legal and social consequences.

Effective: September 1, 2011

Neera Chatterjee

[SB 471](#) by West, et al. and Parker

Relating to public school, child-placing agency, and day-care center policies addressing sexual abuse and other maltreatment of children.

SB 471, in relevant part, amends the law relating to sexual abuse and other maltreatment of children, and provides that “other maltreatment” includes abuse or neglect, as those terms are defined in Section 261.401, Family Code.

SB 471 is amended to specifically include open-enrollment charter schools and requires school districts and open-enrollment charter schools to adopt and implement a policy addressing sexual abuse and other maltreatment of children. The policy must address increasing staff, student, and parent awareness of issues regarding sexual abuse and other maltreatment of children, including prevention techniques, and actions a victim should take to obtain assistance.

SB 471 provides that the methods for preventing sexual abuse and maltreatment of children must include training. This training must be provided as part of a new employee orientation to a new school district or open-enrollment charter school employee and may be provided annually to any employee. The training may be included in staff development, and must include guidance concerning: (1) factors indicating a child is at risk for sexual abuse or other maltreatment; (2) likely warning signs indicating a child may be a victim; (3) internal procedures for seeking assistance for an at-risk child; (4) techniques for reducing a child’s risk; and (5) community organizations that can provide training to employees, students, and parents.

SB 471 provides that a school district or charter school must maintain records that include the names of employees who participated in the training. If a school district or open-enrollment charter school does not have the resources to provide the required annual training, the district or charter school can work with a community organization to provide the training free of charge.

SB 471 expressly provides that an employee may not be subject to disciplinary proceedings for any action taken in compliance with SB 471. The requirements of SB 471 are considered to involve an employee’s judgment and discretion, and thus do not limit the immunity from liability provided under Section 22.0511, Education Code.

SB 471 also requires day-care centers to provide training for staff members that addresses sexual abuse or other maltreatment of children. Day-care center employees must also be trained on the responsibility and procedure for reporting suspected occurrences of sexual abuse and other maltreatment of children. The type of training to be offered will be determined by rule of the Department of Family and Protective Services. Similar to what is required for school districts and charter schools, the training to be provided to day-care center employees must include guidance concerning: (1) factors indicating a child is at risk for sexual abuse or other maltreatment; (2) likely warning signs indicating a child may be a victim; (3) internal procedures for reporting sexual abuse or other maltreatment; and (4) community organizations that can provide training to employees, children, and parents. If a day-care center does not have the resources to provide the required training, the center may contact the Department of Family and Protective Services to obtain information regarding community organizations that will provide the training free of charge.

SB 471 requires day-care centers to adopt and implement a policy addressing sexual abuse and other maltreatment of children. The policy must address increasing staff and parent awareness of issues regarding and prevention techniques for sexual abuse and other maltreatment of children, including knowledge of warning signs, and actions a victim should take to obtain assistance.

SB 471 applies beginning with the 2011-2012 school year.

Impact: SB 471 impacts UT System institution charter schools because charter schools will be required to adopt and implement a policy addressing sexual abuse and other maltreatment of children. It requires UT System charter schools to offer training to all new educators, including coaches and counselors, as well as other professional staff members, and specifies the content of the training sessions. Administrators at UT System charter schools, particularly human resources administrators, must incorporate specific information addressing sexual abuse and other maltreatment of children into training sessions offered to new employees. If the school lacks sufficient resources, the charter school should work with a community organization to provide training at no cost to the school.

In addition, SB 471 also requires UT System institution day-care centers to adopt and implement a policy addressing the sexual abuse and other maltreatment of children, and to provide training to day-care center staff members. SB 471 requires the Department of Family and Protective Services to adopt rules that will articulate the type of training required. UT System institution day-care centers should monitor the rulemaking process as well as any additional guidance offered by the Department of Family and Protective Services.

Effective: June 17, 2011

Zeena Angadicheril

[SB 738](#) by Shapiro and Villarreal

Relating to a parental role in determining sanctions applied to a public school campus under certain circumstances.

Under SB 738, if a campus has an unacceptable performance rating for three consecutive school years after the campus is reconstituted, the commissioner of education must order the specific action (repurposing, alternative management, or closure) that is requested by a written petition signed by the parents of a majority of the students enrolled at the campus. The signature of only one parent is required. However, if the board of trustees of the school district in which the campus is located presents the commissioner with a written request and explanation that the commissioner order a specific action other than that requested in the parents' petition, the commissioner may order the action requested by the board of trustees. SB 738 applies beginning with the 2011-2012 school year.

Impact: SB 738 allows parents to participate and force change at low performing schools, including UT System institution charter schools, by petitioning for alternative management, repurposing of the campus, or closure.

Effective: June 17, 2011

Neera Chatterjee

[SB 966](#) by Uresti, et al. and Pickett

Relating to high school diplomas for certain military veterans.

SB 966 allows a school district to issue a high school diploma to any person who left school before graduating high school (but after completing the sixth grade or higher) to serve in the Persian Gulf War, the Iraq War, the war in Afghanistan, or any other war formally declared by the United States, military engagement authorized by the United States Congress, military engagement authorized by the United Nations Security Council resolution and funded by the United States Congress, or conflict authorized by the President of the United States pursuant to the War Powers Resolution of 1973. The person to whom the diploma will be issued must have been honorably discharged from the army and must have been scheduled to graduate from high school between 1940 thru 1975 or after 1989.

Impact: SB 966 impacts UT System institutions and charter schools because it allows UT System charter schools to issue high school diplomas to military veterans who left school during certain years to serve the US military in specific wars or under certain circumstances. SB 966 also impacts admissions at UT System institutions, as certain military veterans who did not finish high school can now be awarded a high school diploma and apply for admission to an institution of higher education. Admissions officers at UT System institutions should be aware of SB 966 and its potential impact on admission numbers.

Effective: June 17, 2011

Zeena Angadicheril

SB 975 by Hinojosa, et al. and Munoz, Jr., et al.

Relating to the operation of dropout recovery programs by certain public junior colleges in partnership with school districts.

Beginning September 1, 2012, SB 975 authorizes the operation of a dropout recovery program by certain public junior colleges in partnership with school districts.

SB 975 applies only to a junior college in a county with a population of 750,000 or more and with less than 65 percent of the population 25 years and older having graduated from high school. It also applies only to a school district with a dropout rate that is higher than 15 percent. Both applicability provisions expire September 1, 2013, at which time the law will apply to junior colleges and school districts generally.

Impact: SB 975 could impact Texas Southmost College.

Effective: June 17, 2011

Karen Lundquist

SB 1042 by Hegar and Jackson, Jim

Relating to the eligibility of employees convicted of certain offenses to provide services under a contract with a public school.

SB 1042 prohibits an entity that contracts or subcontracts with a school from allowing its employee to provide services at a school, if the employee has previously been convicted of a felony or misdemeanor that would prevent the employee from being employed by the school under 22.085(a), Education Code.

Impact: SB 1042 indirectly impacts UT System institution charter schools because it expands the scope of individuals who are prohibited from providing services to a school due to the individual's criminal history. Under existing law, UT System institution charter schools already have access to the criminal histories of employees of entities that contract or subcontract with the school. To ensure compliance with SB 1042, UT System institution charter schools should: (1) review the criminal histories of employees of entities with whom the school contracts or subcontracts; and (2) assess that employee's ability to provide services to the school under the modified standard set forth in SB 1042.

Effective: June 17, 2011

Zeena Angadicheril

SB 1106 by Harris, et al. and Madden

Relating to the exchange of confidential information concerning certain juveniles.

SB 1106 requires a school district or charter school to disclose, in certain circumstances, information in a student's educational records to a juvenile service provider, defined as a governmental entity that provides juvenile justice or prevention, medical, educational or other support to a juvenile. Charter schools are explicitly included in the definition of "juvenile service provider."

Specifically, at the request of a juvenile service provider, an independent school district or charter school must disclose to a juvenile service provider confidential information in a student's educational records if the student has been taken into custody under Section 52.01, Family Code, or if the student has been referred to a juvenile court for allegedly engaging in delinquent conduct or conduct indicating a need for supervision. If an independent school district or charter school discloses confidential information to a juvenile service provider, it cannot destroy the information it disclosed until seven years after the date it was disclosed. A juvenile service provider that receives information must certify that it will not disclose the information except to another juvenile service provider and that it will use the information only to verify the identity of a student involved in the juvenile justice system and to provide prevention or treatment services to the student. The provision does not affect the confidential status of the information being shared.

In addition, at the request of a juvenile service provider, another juvenile service provider must disclose a multi-system youth's personal health information or a history of governmental services provided to that individual. A "multi-system youth" is defined as a person who is younger than 19 years of age and has received services from two or more juvenile service providers. The information may be disclosed only for the purposes of identifying a multi-system youth, coordinating care for the individual, and improving the quality of services. A juvenile service provider may enter into a memorandum of understanding with another such provider to share information. The provision does not affect the confidential status of the information being shared.

A juvenile service provider that receives information pursuant to SB 1106 must pay a fee relating to the costs associated with disclosing the information identical to the costs that would be charged under the Texas public information law (Subchapter F, Chapter 552, Government Code). A juvenile service provider does not have to pay the fee if: (1) there is a memorandum of understanding that prohibits the payment of a fee, provides for the waiver of the fee, or provides an alternative method of assessing a fee; (2) the fee is waived; or (3) disclosure of the information is required by other law.

SB 1106 also allows information contained in the juvenile justice information system for use of the Department of Public Safety to be shared with a county, justice, or municipal court exercising jurisdiction over a juvenile.

A videotaped interview of a child described under Section 264.408, Family Code, is subject to production under Article 39.14, Code of Criminal Procedure, and Rule 615,

Texas Rules of Evidence. This provision applies to a criminal action in which the information or indictment was filed on or after June 17, 2011.

Impact: SB 1106 impacts UT System institution charter schools because if they receive a request from a juvenile service provider for the educational records of a student who has been taken into custody or referred to a juvenile court, the UT System institution charter schools will be required to provide those records. Further, because UT System institution charter schools are also juvenile service providers as defined in SB 1106, they may make requests for the educational records of a student. In certain circumstances, UT System institution charter schools may charge for disclosing educational information to a juvenile service provider (or be charged in requesting such information) pursuant to Subchapter F, Chapter 552, Government Code.

In addition, SB 1106 may have a similar impact on the University of Texas Medical Branch at Galveston (UTMB), as they have contracted with the Texas Youth Commission to provide health care to individuals in the juvenile justice system. As such, UTMB may be considered a juvenile service provider and would have to comply with the provisions that would require, in certain circumstances, the disclosure of health information relating to multi-system youths to another juvenile service provider. In addition, as a juvenile service provider, they may make requests for such information from other juvenile service providers. Finally, UTMB may charge for disclosing health information to a juvenile service provider (or be charged in requesting such information) pursuant to Subchapter F, Chapter 552, Government Code.

Ultimately, SB 1106 will allow for increased sharing of information between governmental bodies relating to youths in the juvenile justice system, but that information will remain confidential with regard to third parties seeking the information.

Effective: June 17, 2011

Neera Chatterjee

SB 1154 by Uresti and McClendon

Relating to a task force for the development of a strategy to reduce child abuse and neglect and improve child welfare.

SB 1154 establishes a task force to develop a strategy and implement a plan to reduce child abuse and neglect and improve child welfare. The task force consists of nine members: 7 appointed by the governor and two appointed by the lieutenant governor. SB 1154 requires the task force to: (1) identify all existing programs in the state relating to reducing child abuse and neglect or improving child welfare; and (2) identify which of these programs use state money. As part of its duties, the task force must gather information concerning child welfare throughout the state, receive reports and testimony from concerned individuals and entities, and create goals for state policy that would improve child welfare. SB 1154 requires members of the task force to be appointed no later than October 1, 2011. SB 1154 also requires the task force to submit its strategic plan to the governor, lieutenant governor and speaker of the house by December 1, 2012.

SB 1154 also creates the child abuse reduction task force account as an account in the general revenue fund, which may only be appropriated to the task force. It further provides that the task force shall review the funding strategies for the task force and develop proposals for expanding the sources of funds available to finance the activities of the task force.

UT System is one of seven enumerated state agencies required to: (1) provide administrative support to the task force; (2) coordinate administrative responsibilities; (3) share equally in the costs of the task force; and (4) designate a person to serve as the agency liaison with the task force. The other support agencies designated in SB 1154 are the Department of Family and Protective Services, the Department of State Health Services, the Department of Criminal Justice, the Texas Youth Commission, the Texas Juvenile Probation Commission, and the Texas A&M University System. SB 1154 requires the task force to consult with employees of these entities as needed to accomplish the task force's responsibilities.

SB 1154 provides that the task force is abolished September 1, 2013.

Impact: SB 1154 impacts UT System because UT System is designated to provide administrative, financial, and strategic support for the task force. SB 1154 lacks specific details regarding the level of support that UT System will be expected to provide; however, these details will be determined as the task force develops and submits the strategic plan. UT System should designate an individual or department to monitor appointments to and developments of the task force, and should be prepared to provide the required support to the task force.

Effective: June 17, 2011

Zeena Angadicheril

SB 1484 by Shapiro and Strama

Relating to authorizing open-enrollment charter schools to be awarded academic distinction designations.

SB 1484 allows the commissioner of education to award distinction designations to open-enrollment charter schools, assuming the charter school is not evaluated under the alternative education accountability procedures. It also provides that all provisions under Subchapter G, Chapter 39, Education Code, which relate to the award of distinction designations, are applicable to open-enrollment charter schools.

Impact: SB 1484 impacts UT System institution charter schools because under current law, only public school districts and campuses are eligible to earn academic distinction designations for performance.

Effective: June 17, 2011

Neera Chatterjee

[SB 1557](#) by Carona and Strama

Relating to the Texas High Performance Schools Consortium.

SB 1557 creates the Texas High Performance Schools Consortium (consortium). The consortium is created for the purpose of informing the governor, legislature, and education commissioner about ways to transform public schools in order improve student learning through the development of innovative, next-generation learning standards and assessment and accountability systems. SB 1557 provides that the education commissioner shall prescribe the form, time, and manner in which schools apply for the consortium. The commissioner may select up to 20 school districts to be included in the consortium. SB 1557 requires the consortium to include a representative range of district types and sizes and diverse student population, as determined by the commissioner.

SB 1557 also provides that the commissioner may select (upon application) an exemplary open-enrollment charter school to participate in the consortium. It provides that applying charter schools must submit a detailed plan that includes, among other requirements, a clear description of each assessed curricular goal, a plan for acquiring resources to support teachers in improving student learning, and a description of any waiver for which the school may want to apply.

The commissioner may adopt various rules and convene consortium leaders periodically to discuss ways to transform learning opportunities for all students, build cross-district support systems and training, and share best practice tools and processes. SB 1557 also requires the commissioner, with the assistance of schools participating in the consortium, to submit reports concerning the progress and performance of the consortium by December 1, 2012, and December 1, 2014. It provides that the commissioner or a school district that participates in the consortium may accept gifts, grants, or donations from any source. SB 1557 also states that the commissioner may charge a fee to the school districts or charter school participating in the consortium.

SB 1557 requires the commissioner to adopt rules regulating the consortium no later than January 1, 2012, and to make application forms available by March 1, 2012. Interested school districts and charter schools must apply to participate in the consortium by June 1, 2012.

Impact: UT System institution charter schools who are interested in participating in the consortium must have been awarded an exemplary designation during the preceding school year, and must submit their application by June 1, 2012. If invited to participate in the consortium, UT System institution charter schools will have to satisfy certain rules and obligations that are to be determined by the commissioner of education no later than January 1, 2012. SB 1557 will impact a UT System institution charter school only if the charter school applies and is invited to participate in the consortium; otherwise, SB 1557 will have no impact on UT System institution charter schools.

Effective: June 17, 2011

Zeena Angadicheril

SB 1620 by Duncan and Van de Putte, et al.

Relating to substitution of certain career and technology courses for certain mathematics and science courses otherwise required under the recommended high school program.

Pursuant to SB 1620, applied science, technology, engineering or mathematics (STEM) courses can be approved in certain circumstances for purposes of satisfying the mathematics and science curriculum requirements for the recommended high school programs under Section 28.025, Education Code. Specifically, a course can only be substituted for a math course after the completion of Algebra I and geometry and taken concurrently with or after the completion of Algebra II. A course can only be substituted for a science course after the completion of biology and chemistry and taken concurrently with or after the completion of physics.

The State Board of Education (SBOE) is required to establish a process by September 1, 2012, to approve such substitutions in coursework. If the course is part of a coherent sequence of career and technology courses, a student must complete all prerequisite coursework in order to enroll for the applied STEM course. SB 1620 also provides criteria for approving applied STEM courses.

SB 1620 requires the State Board for Educator Certification to propose rules indicating that in order for an individual to receive certification to teach an applied STEM course, the individual must pass a certification exam, have at least an associate degree from an accredited institution of higher education, and have at least three years of work experience in the occupation for which the applied STEM course is intended to prepare the student.

Finally, SB 1620 requires the Coordinating Board to work with institutions of higher education to ensure that academic credit for an applied STEM course may be applied toward relevant degree programs offered by these institutions. In addition, the Coordinating Board must include applied STEM courses in its review of courses considered for approval by a public junior college or public technical institute.

Impact: SB 1620 impacts UT System institution charter schools because students may be able to fulfill certain academic requirements by taking approved applied STEM courses, to the extent that UT System institution charter schools offer those courses. In order for UT System institution charter schools to offer those courses, the courses will not only have to be approved by the SBOE, but the charter schools also will have to ensure that they have individuals on staff who are certified to teach applied STEM courses.

SB 1620 also impacts UT System institutions in that they will be involved with the Coordinating Board in ensuring that academic credit for an applied STEM course may be

applied toward relevant degree programs. Therefore, UT System institutions will have a vested interest in ensuring that the applied STEM courses that are approved at UT System institution charter schools are relevant to the degree programs offered at their institutions.

Effective: June 17, 2011

Neera Chatterjee

[SB 1788](#) by Patrick and Huberty

Relating to planning for students enrolled in public school special education programs.

SB 1788 requires the Texas Education Agency (TEA) to develop a model form by December 1, 2011, that will be used to develop a special needs student's individualized education program. The model form must be posted on the TEA's website. SB 1788 also provides that the written statement of a student's individualized education program may be required to include only information included in the model form.

SB 1788 also provides that the state transition planning contemplated in Section 29.011, Education Code, must begin no later than when the student reaches 14 years of age.

Impact: SB 1788 impacts UT System institution charter schools because it requires a new form that the charter schools must follow to comply with the individualized special education requirements articulated in Section 29.005, Education Code. UT System institution charter school administrators and employees who work with special needs students should be aware of the forthcoming new model form and should be prepared to develop individualized education plans that comply with the new form's requirements. UT System institution charter schools should also be prepared to provide the transition planning services contemplated in Section 29.011, Education Code, to students no later than when the student reaches 14 years of age.

Effective: June 17, 2011

Zeena Angadicheril

[HB 34](#) by Branch, et al. and Shapiro, et al.

Relating to including in the public high school curriculum instruction in methods of paying for post-secondary education and training.

HB 34 provides that beginning with the 2013-2014 school year, the Texas essential knowledge and skills shall require instruction in personal financial literacy, including instruction in methods for paying for college and other postsecondary education and training. Pursuant to HB 34, each school district and open-enrollment charter school that offers a high school program must provide students with instruction in personal financial literacy in any course meeting the requirements for an economics credit. It further requires that the mandatory instruction include guidance on completing the application for federal student aid provided by the US Department of Education. A school district or

charter school may satisfy the requirements of HB 34 by using an existing state, federal, private, or non-profit program that provides this instruction to students for free. In addition, school districts and charter schools must ensure that their dual-credit students receive the personal financial literacy instruction described by HB 34.

HB 34 requires the State Board of Education to approve materials that provide for this instruction no later than August 31, 2012.

Impact: HB 34 impacts UT System institution charter schools by requiring the schools to incorporate instruction related to methods for paying for college and post-secondary education and training into their personal financial literacy curriculum. UT System institution charter schools should monitor the State Board of Education and keep apprised of the board's decision on materials for the required instruction. As an alternate method of satisfying the requirements of HB 34, UT System institution charter schools may want to evaluate existing state, federal, private, or non-profit programs and determine whether any existing program could be used to provide the required instruction to charter school students.

Effective: June 17, 2011

Zeena Angadicheril

[HB 675](#) by Lucio III, et al. and Lucio

Relating to football helmet safety requirements in public schools.

HB 675 provides that school districts are prohibited from using a helmet that is sixteen years old or older, and requires school districts to ensure that all helmets ten years old or older are reconditioned at least once every two years. School districts will be responsible for maintaining and making available to parents of students documentation evidencing that these requirements have been met.

HB 675 also authorizes the University Interscholastic League (UIL) to adopt rules to implement these provisions, subject to approval by the commissioner of education.

These provisions apply beginning with the 2012-2013 school year.

Impact: HB 675 will have a direct impact on the University of Texas at Austin, which operates the UIL. Under HB 675, the UIL is authorized to adopt rules related to football helmet safety requirements.

Effective: September 1, 2011

Alan Marks

[HB 692](#) by Farias and Van de Putte

Relating to high school graduation requirements for a student who is unable to participate in physical activity due to disability or illness.

HB 692 revises the recommended and advanced high school program requirements by adding a section that will allow students who are unable to participate in physical activity due to disability or illness to substitute one academic credit in English language arts, mathematics, science, social studies, or one academic elective credit in place of the physical education credit requirement. It provides that the credit allowed to be substituted under HB 692 may not also be used to satisfy a graduation requirement other than the completion of the contemplated physical education credit. HB 692 requires that the determination regarding a student's ability to participate in physical activities be made by the student's designated admission, review and dismissal committee (ARD Committee) (if one is assigned to the student under Chapter 29, Education Code) or by a committee assigned to the student pursuant to Section 504 of the Rehabilitation Act of 1973 (504 Committee). If a student has neither an ARD Committee nor a Section 504 Committee, the school district is to establish a committee of individuals with appropriate knowledge regarding the student to approve substitutions.

Impact: HB 692 impacts UT System institution charter schools because it changes the physical education curriculum requirements for students who are unable to participate in physical activity due to disability or illness. HB 692 requires the appointment of a committee to review physical education substitution requests for students who do not have an ARD or 504 Committee. UT System institution charter schools should be aware of HB 692.

Effective: June 17, 2011

Zeena Angadicheril

[HB 1386](#) by Coleman, et al. and Ellis

Relating to the public health threat presented by youth suicide and the qualification of certain persons serving as marriage and family therapists in school districts.

HB 1386 requires, in relevant part, that the Department of State Health Services (DSHS) and the Texas Education Agency (TEA) provide an annual list of recommended best practice-based early mental health intervention and suicide programs for implementation in public elementary, junior high, middle, and high schools. The programs on the list must include training for counselors, teachers, nurses, administrators, and other staff, as well as law enforcement officers and social workers who regularly interact with the students. The training must focus on recognizing students who are at risk of committing suicide, as well as recognizing students displaying early warning signs and a possible need for early mental health intervention, and intervening effectively with those students.

In developing the list of programs, the DSHS and TEA must consider any existing suicide prevention method developed by a school district and any online course based on

the best practices recognized by the Substance Abuse and Mental Health Services Administration or the Suicide Prevention Resource Center.

The board of trustees of each school district may adopt a policy concerning early mental health intervention and suicide prevention. The policy may establish a procedure for providing notice to parents and guardians, a reporting mechanism where certain individuals in the district are designated as liaison officers, and counseling alternatives for a parent or guardian to consider. The policy must prohibit the use, without prior consent of a parent or guardian, of a medical screening of a student in identifying whether the student may be in need of mental health or suicide intervention. The policy must be included in the annual student handbook and in the district improvement plan.

HB 1386 applies beginning with the 2012-2013 school year.

Impact: UT System institution charter schools will receive DSHS's and TEA's annual list of recommended best practices-based early mental health and suicide prevention programs for use in elementary, junior high, middle and high schools. UT System institution charter schools will then be able to select a program or programs from the list for implementation. Further, UT System institution charter schools may develop policies relating to early mental health and suicide prevention.

Effective: June 17, 2011

Neera Chatterjee

[HB 1610](#) by Gonzales, et al. and Patrick, Dan

Relating to educator misconduct and employment sanctions for certain misconduct; providing a penalty.

HB 1610 streamlines the process for terminating the employment of a teacher who has been convicted of a felony, received deferred adjudication for a felony offense, or violated a condition imposed by the court before the time of community supervision ended. It authorizes school districts and open-enrollment charter schools to suspend the offending employee without pay, void the employee's contract, and terminate the employment as soon as practicable.

HB 1610 provides that the superintendent or head of a charter school must complete an investigation of an educator who is believed to have engaged in certain misconduct, despite the fact that the educator resigned before the investigation was completed.

HB 1610 also articulates certain procedures that an open-enrollment charter school or school district must follow if the school or district receives notice or otherwise becomes aware that a person who holds a teaching certificate on its campus has been convicted of certain felonies or of an offense that requires the defendant to register as a sex offender, and if the victim is under 18 years of age. In such instances, the school district or charter school must immediately remove the person from campus if the individual's certificate

was revoked. If the person is employed under a probationary, continuing, or term contract, the school district or charter school must suspend the individual without pay, inform the individual that the contract is void, and terminate employment as soon as practicable.

If a school district or charter school becomes aware that an employee employed by the district or school under a probationary, continuing, or term contract has been convicted of or received deferred adjudication for a felony offense, the school district or charter school may suspend the individual without pay, inform the individual that the contract is void, and terminate employment as soon as practicable.

HB 1610 provides that any action taken by the school district or charter school to suspend an employee, void a contract, or terminate employment is not subject to appeal, and the notice and hearing requirements also do not apply to the action.

HB 1610 also adds certain provisions to the Penal Code to make it a punishable offense for an employee who holds a teacher certificate to engage in certain sexual behavior with a person the employee knows is: (1) enrolled in a public school in the same school district as the school where the employee works; or (2) a student participant in an educational activity that is sponsored by a school district or school and where the employee is providing educational services. HB 1610 also adds a provision to the Penal Code to make it a punishable offense for an employee of a public or private school to engage in the online solicitation of a minor.

HB 1610 provides an affirmative defense to the prosecution for an employee who: (1) is not more than three years older than the enrolled person at the time of the offense; and (2) was in a relationship with the enrolled person that preceded the employee's employment at the school.

HB 1610 applies beginning with the 2011-2012 school year.

Impact: HB 1610 impacts UT System institution charter schools because it defines procedures that UT System institution charter schools must follow if they receive notice or otherwise become aware that a person holding a teaching certificate on campus has been convicted of a felony under Title 5, Penal Code, or of an offense that requires the person to register as a sex offender. UT System institution charter schools should monitor the criminal history of its teachers, and be prepared to promptly discipline teachers who engage in certain prohibited conduct. UT System institution charter schools should provide training to notify teachers and administrators of the new punishable offenses and streamlined discipline process.

Effective: September 1, 2011

Zeena Angadicheril

[HB 1907](#) by Madden and Whitmire

Relating to notification requirements concerning offenses committed by students and school district discretion over admission or placement of certain students.

HB 1907 outlines the oral and written notice that a law enforcement agency or prosecutor's office must provide to a superintendent (or designee) of a school district if a student within that district has been arrested for, been convicted of, or received deferred adjudication or deferred prosecution relating to a felony offense or certain enumerated misdemeanors. The superintendent is required to provide immediate notice to all personnel who have responsibility for or supervision of the student.

A parole, probation, or community supervision office or other agency that has jurisdiction over such a student who transfers from a school or otherwise returns to a school other than the one in which he or she was enrolled must notify the superintendent of the school district to which the student transfers or returns of the circumstances.

In addition, if a school district board of trustees learns of a failure of the superintendent to provide the required notice, the board of trustees shall report the failure to the State Board for Educator Certification. If the superintendent of a school district in which the student is enrolled learns of a failure of the head of the law enforcement agency (or designee) to provide the required notice, the superintendent is required to report the failure to the Commission on Law Enforcement Officer Standards and Education. If a juvenile court judge or official designated by the juvenile board learns that a prosecutor's office has failed to provide the required notice, it must report the failure to the elected prosecuting attorney responsible for the operation of the office. Finally, if a supervisor of a parole, probation, or community supervision department officers learns of an officer's failure to provide the required notice, the individual must report the failure to the director of the entity that employs the officer. HB 1907 applies only to an offense committed or conduct that occurs on or after September 1, 2011.

Impact: HB 1907 impacts UT System institution charter schools because the timing and content of the notice they receive under Section 15.27, Code of Criminal Procedure, may change. In addition, UT System institution charter schools will need to ensure that they provide the required notice to all personnel who have responsibility for or supervision of the students described in HB 1907 and that they report any failures in providing the required notice to the appropriate entities.

Effective: September 1, 2011

Neera Chatterjee

[HB 2135](#) by Hochberg, et al. and Patrick

Relating to the administration of end-of-course and other assessment instruments to certain public school students enrolled below the high school level.

Pursuant to HB 2135, a student does not have to be assessed on a fifth or eighth grade assessment instrument in a subject listed under Section 39.023, Education Code, if the student is enrolled in fifth or eighth grade and: (1) is completing a course in the subject intended for students above the student's grade level and will be administered an assessment instrument under Section 39.023; or (2) is enrolled in a course for high school credit and will be administered an end-of-course assessment on the subject. In addition, such a student cannot be denied promotion on the basis of failure to perform satisfactorily on assessment instrument that is not required to be administered.

Similarly, students need not be assessed in a subject at the student's grade level if the student: (1) is completing a course in the subject intended for students above the student's grade level and will be administered an assessment instrument under Section 39.023; or (2) is enrolled in a course for high school credit and will be administered an end-of-course assessment on the subject. In addition, such a student cannot be denied promotion on the basis of failure to perform satisfactorily on an assessment instrument that is not required to be administered.

In reporting the results of assessment instruments, scores will be aggregated in a manner in which the performance of a student enrolled below the high school level on an assessment instrument required under Section 39.023 will be included with results relating to other students enrolled at the same grade level. Finally, the commissioner may award a campus a distinction designation if it has significant numbers of students below the ninth grade that perform satisfactorily on end-of-course assessment instruments administered under Section 39.023(c).

HB 2135 applies beginning with the 2011-2012 school year.

Impact: HB 2135 impacts UT System institution charter schools primarily by allowing certain students who are not yet in high school but are enrolled in a class for high school credit to take an end-of-course test in place of the new grade-level test under the new academic assessment program, the State of Texas Assessments on Academic Readiness (STAAR).

Effective: June 17, 2011

Neera Chatterjee

[HB 2909](#) by Branch and Shapiro

Relating to increasing awareness in this state of the importance of higher education.

HB 2909 renames a week-long campaign aimed at increasing awareness among middle, junior high, and high school students of the importance of higher education from

“Education: Go Get It” to “Generation Texas.” The campaign is administered by the State Board of Education. HB 2909 also authorizes the appointment of three additional members to the P-16 Council.

Additionally, HB 2909 requires the public awareness campaign conducted by the Coordinating Board to include information related to college readiness standards and expectations and also requires the inclusion of information that was previously optional. Finally, HB 2909 requires the Coordinating Board to coordinate with the Texas Education Agency, P-16 Councils, and other appropriate entities, including businesses, in implementing the public awareness campaign.

Impact: The University of Texas-University Charter School should be aware of HB 2909 since it is required to provide students with information regarding the pursuit of higher education under the “Generation Texas” campaign.

Effective: June 17, 2011

Esther L. Hajdar

[HB 2971](#) by Smith, Todd and Davis, Wendy

Relating to the confidentiality of documents evaluating the performance of public school teachers and administrators.

HB 2971 makes confidential a document evaluating the performance of a teacher or administrator at an open-enrollment charter school regardless of whether the individual is certified under the Education Code. However, an open-enrollment charter school may provide a copy of an evaluation of a teacher or administrator to a school district or other open-enrollment charter school to which the individual has applied for employment. The provision applies to documents created before, on, or after the effective date of HB 2971.

Impact: HB 2971 impacts UT System institution charter schools by making evaluations of teachers and administrators at those schools confidential.

UT System public information officers should be aware of HB 2971.

Effective: June 17, 2011

Neera Chatterjee

[HB 3468](#) by Patrick, Diane, et al. and Shapiro

Relating to the assessment of public school students for college readiness and developmental education courses to prepare students for college-level coursework.

HB 3468 requires the Texas Education Agency (TEA), in consultation with the Coordinating Board, to conduct a study of best practices for programs offering early assessments of high school students to determine their college readiness, identify any

deficiencies in college readiness, and provide intervention to address any deficiencies before high school graduation. HB 3468 identifies items to be reviewed during the study including, for example, end-of-course assessment instruments; statewide assessment models being proposed by the Coordinating Board; summer bridge programs; college preparatory courses for credit toward high school graduation; developmental education programs; dual credit courses; and program costs and effectiveness.

The TEA must submit a written report with recommendations concerning early assessments of college readiness and early intervention to the governor, lieutenant governor, and other key members of the legislature by December 1, 2012.

HB 3468 also requires the TEA, in consultation with the Coordinating Board, to review the standardized assessment mechanism for participants in adult education programs and recommend necessary changes.

HB 3468 also amends the Texas Success Initiative, which is related to developmental education for students not prepared for college-level work. It requires the Coordinating Board to encourage institutions of higher education to offer various types of developmental coursework, and authorizes the Coordinating Board to adopt rules to implement this provision. It also requires the Coordinating Board, in consultation with institutions of higher education, to conduct another study to analyze assessment instruments, differentiated placements, funding formulas as applied to developmental coursework, and the statutory exemptions to the Texas Success Initiative requirements. The Coordinating Board must submit a written report with recommendations relating to a statewide diagnostic standard assessment instrument to the governor, lieutenant governor, and other key members of the legislature by December 1, 2012.

Finally, HB 3468 requires the Coordinating Board, based on its study and report, to submit recommendations for changes in the funding formulas for developmental education programs in its periodic review of the general formula funding for institutions of higher education. This provision applies beginning with periodic reviews submitted on or after December 1, 2012; it expires January 1, 2015.

Impact: UT System institutions should identify appropriate personnel to monitor the actions of the TEA and the Coordinating Board relating to these topics and any rules the Coordinating Board may adopt under HB 3468. Institutions should also be prepared to provide data or information as requested by the TEA or the Coordinating Board.

Effective: June 17, 2011

Esther L. Hajdar

SB 1 – **First Called Session** by Duncan, et al. and Pitts

Relating to certain state fiscal matters; providing penalties.

SB 1, First Called Session, is composed of approximately 70 articles and 262 pages, designed primarily to make changes to the manner of distribution and methods of

providing revenue for the support of public schools. SB 1 has little direct effect on higher education or UT System. Many of the other provisions of the bill adjust the schedule for payment of various taxes and fees, moving payments from the following biennium to the current biennium (requiring prepayment followed by a reconciliation) or delaying transfers from general revenue to a special fund, all with a purpose of increasing the amount held in general revenue during the fiscal biennium ending August 31, 2013. This includes prepayment of alcoholic beverage taxes (Article 10) and sales taxes (Article 13).

The following describes matters of interest to higher education, even though most of the described provisions generally have no direct impact on higher education or UT System.

Article 1 defers foundation school fund payments to school districts (and therefore charter schools) from August 2013 to September 2013, moving the cost of those payments to the following fiscal biennium.

Article 17 transfers from the comptroller of public accounts to the Coordinating Board a report on the physician education loan repayment assistance program under Subchapter J, Chapter 61, Education Code.

Article 20 eliminates the statutory requirement that the secretary of state produce bound copies of the “session laws” after each session of the legislature.

Article 21 authorizes the attorney general to charge a fee for the electronic filing of documents with the attorney general.

Article 23 continues the Department of Information Resources (DIR) in operation for the next two years (the DIR sunset bill from the regular session having been vetoed). SB 1 provides DIR authority to employ best value purchasing for information technology commodity items. It also authorizes DIR to set and charge a fee to each entity that receives services from DIR.

Article 27 eliminates the statutory authority of the Commission on State Emergency Communications to establish a regional poison control center in Harris County and authorizes the commission to standardize the operations of and implement management controls to improve the efficiency of regional poison control centers.

Article 28 expands the use of three tobacco settlement funds (not those managed by UT System) to pay principal and interest on bonds issued by the Cancer Prevention and Research Institute of Texas (CPRIT).

Article 34 requires the Legislative Budget Board (LBB) to conduct public hearings on expenditure reduction plans requested by leadership, and agencies to provide to the LBB plans in response to such a request. In addition, Article 34 requires the comptroller of public accounts to publish online a schedule of all revenue to the state from fees authorized by statute (implicitly including higher education fees).

Article 50 limits eligibility for education aide tuition exemptions to persons seeking teacher certification in subject areas experiencing teacher shortages, as determined by the Texas Education Agency.

Article 54 removes the comptroller of public accounts as an ex officio member of the Texas Guaranteed Student Loan Board and reduces the board from 10 to nine members. It also authorizes the governor to name the chair of the board.

Articles 42 and 65 relate to correctional health care. Article 42 changes the composition of the correctional managed health care committee, reducing the committee to five voting members plus the state Medicaid director as a nonvoting member, and reducing the term of office to four years. Article 42 also transfers from the committee to the Texas Department of Criminal Justice (TDCJ) the responsibility to contract for correctional managed care and requires TDCJ, in cooperation with the committee, to contract for a biennial review of expenditures. Article 65 requires TDCJ to adopt policies designed to manage inmate populations based on similar health conditions. It requires each inmate to pay an annual \$100 health services fee instead of a co-pay. It requires TDCJ to make over-the-counter medicines available to inmates and requires TDCJ, in cooperation with UT Medical Branch at Galveston (UTMB) and Texas Tech University Health Sciences Center, to develop and implement, not later than January 1, 2012, a training program for corrections medications aides. It further exempts from end-stage renal disease licensing requirements any clinics or hospitals providing dialysis in correctional managed care.

Article 71 authorizes the Health and Human Services Commission to apply for a federal Medicaid waiver relating to benefits for individuals with chronic health conditions.

Impact: In general, SB 1 has little direct impact on UT System or its institutions. No amendments to rules or policies are necessary, nor are changes to catalogues, websites, or notices. Institutional business offices should be aware of the described provisions of SB 1.

State payments to campus charter schools will be briefly delayed from August to September of 2013.

Offices filing documents electronically with the attorney general, such as campus legal counsel, and offices receiving services from DIR will pay fees not previously paid.

Financial aid offices should be aware of the changes to qualifications for the educational aide tuition exemption, and should monitor the Texas Education Agency for rules determining which areas of teacher certification will qualify an individual for the exemption.

UTMB is directly affected by the described changes to correctional managed care.

The Southeast Texas Poison Center at UTMB and the South Texas Poison Center at UT Health Science Center at San Antonio should monitor changes in policies and procedures of the Commission on State Emergency Communications.

Effective: Each of the described provisions takes effect September 28, 2011, as does the bill generally. Some provisions have specified later effective dates.

Steve Collins

SB 6 – First Called Session by Shapiro and Eissler, et al.

Relating to the foundation curriculum, the establishment of the instructional materials allotment, and the adoption, review, and purchase of instructional materials and technological equipment for public schools; providing penalties.

SB 6, First Called Session, changes references in Title 2 of the Education Code from “textbook” to “instructional materials,” a term that is defined in Section 31.002, Education Code, as being content that conveys the essential knowledge and skills of a subject in the public school curriculum through a medium or combination of media for conveying information to a student. SB 6 expressly states that open-enrollment charter schools will be entitled to the instructional materials allotment under Chapter 31 in the same way that a school district is entitled to such allotment and is subject to Chapter 31 as if it were a school district.

SB 6 also outlines in detail the instructional material allotment each school may receive, describes what the allotment may and may not be used for, modifies the schedule of the State Board of Education’s (SBOE) review of instructional materials, and details the procedures that schools must follow to receive their allotted funds.

More specifically, the commissioner of education has the authority to determine the amount of the allotment per student each year, and a school district or open-enrollment charter school may request an adjustment of the allotment based on an increase or decrease in student enrollment during the school year for which the allotment is provided.

With regard to the SBOE’s adopted instructional material list, SB 6 creates a single list of instructional materials and removes the “conforming” and “non-conforming” lists. The list includes each instructional material submitted for the subject and grade level that contains at least half of the elements of the essential skills and knowledge of the subject and grade level in the student and teacher versions of the instructional material. With regard to open-source instructional material, not later than 90 days after open-source material is submitted, the SBOE may review the material and must post board comments regarding the open-source instructional material on the list and distribute the comments to school districts.

Under SB 6, school districts have the authority (as opposed to the SBOE) to purchase, with its allotment, or otherwise acquire instructional materials for use in bilingual education classes. The commissioner of education must adopt rules regarding those purchases. Further, any instructional material purchased pursuant to Chapter 31 for a school district or open-enrollment charter school is the property of the district or school (and not the state). Open-enrollment charter schools and school districts must make requisitions for instructional materials using an online requisition program maintained by the commissioner of education. In addition, open-enrollment charter schools and school

districts may sell printed instructional materials that the SBOE or commissioner discontinues for use as well as electronic instructional materials and technological equipment owned by the school or district. Any funds received must be used to purchase instructional materials and technological equipment.

Publishers or manufacturers of instructional materials no longer need to maintain a depository of instructional material. Further, SB 6 removes the provision that under certain circumstances, the delivery of instructional materials must be free of charge. In addition, certain institutions of higher education or public technical institutes that provide open-source instructional materials are not considered publishers or manufacturers for purposes of the relevant provision.

The commissioner of education may establish a program to award grants to schools to lend students equipment necessary to access and use electronic instructional materials. Equipment purchased by a school district or open-enrollment charter school through the grant program is the property of the district or school. The provision allowing the establishment of the grant program expires September 1, 2015.

SB 6 also outlines the amount of funds that should be set aside for the instructional materials fund, how this amount is calculated, and how distribution of the fund must be made.

Because SB 6 take effect immediately, Section 11(a) of HB 4, 82nd Legislature, Regular Session, has no effect and the \$184,000,000 described in that subsection is allocated to fund the instructional materials allotment. Further, to the extent that there is any conflict, SB 6 prevails over Section 11(b) of HB 4, 82nd Legislature, Regular Session.

Finally, SB 6 repeals a number of provisions, primarily in Chapter 31, relating to issues such as the limitation on the cost that may be paid out of the state textbook fund, the selection and purchase of supplemental textbooks, textbook credits, entitlements if there is a shortage of requisitioned textbooks, and the disposition of textbooks.

Impact: SB 6 impacts UT System institution charter schools because it describes the instructional materials allotment that charter schools may receive, including how the funds are allocated, what the funds may be used for, and other procedures that must be followed. SB 6 is particularly important to UT System institution charter schools because not only are they expressly entitled to the instructional materials allotment under Chapter 31, Education Code, but they are also subject to Chapter 31 as if they were a school district, meaning that they are subject to the many requirements, reporting and otherwise, and restrictions found in Chapter 31.

Effective: July 19, 2011

Neera Chatterjee

SB 8 – **First Called Session** by Shapiro, et al. and Eissler

Relating to the flexibility of the board of trustees of a school district in the management and operation of public schools in the district.

SB 8, First Called Session, revises Section 38.101, Education Code, to require that school districts annually assess the physical fitness of students enrolled in grades three or higher in a course that satisfies the curriculum requirements for physical education.

SB 8 also amends the Texas public information law to provide that a school district that receives a public information request from a requestor who, within the preceding 180 days, accepted but failed to pay written itemized charges from a previous request may require the requestor to pay the estimated charges for the request before the request is fulfilled.

SB 8 also eliminates the wage increase that was previously required for certain professional staff of open-enrollment charter schools.

The remaining provisions of SB 8 specify changes to Chapter 21, Education Code, in order to impose less burdensome restrictions on a school district's decision-making power on a wide range of issues, including hiring and termination matters, furlough programs, school operations, salary reductions, and resource allocation.

Impact: The change to Section 38.101 impacts UT System institution charter schools, as the schools must assess the physical fitness of students as required by SB 8.

Further, UT System institution charter schools will no longer be required to pay certain professional staff mandatory wage increases. Classroom teachers and full-time speech pathologists, librarians, counselors or school nurses employed by a UT System charter school should be notified, as this change directly impacts their salaries.

Finally, UT System institution charter schools will be able to wait until they are paid in full before processing a public information request from a requestor who previously accepted but failed to pay invoice charges. Public information officers at UT System institutions with charter schools should be aware of this provision.

The numerous changes to Chapter 21, Education Code, do not impact UT System institution charter schools, as the affected provisions in Chapter 21 do not apply to charter schools.

Effective: July 19, 2011

Zeena Angadicheril

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Medical Education

SB 29 by Zaffirini and Branch

Relating to the eligibility of certain postdoctoral fellows and graduate students to participate in health benefit programs at public institutions of higher education.

SB 29 clarifies that post-doctoral fellows with stipends from a fellowship are eligible to participate in the UT System employee group insurance program (EGIP) (or the Employees Retirement System of Texas or the Texas A&M EGIPS, as applicable), but only as non-employee members. It also makes graduate students with fellowships that exceed \$10,000 per year eligible to participate in the EGIP, also as non-employee members. A member of either group:

- is eligible to participate in the UT System EGIP only if the fellow or student is currently receiving a stipend from a fellowship;
- is required to pay the entire cost of the premium for EGIP coverage unless the individual's employing institution elects to make contributions toward the coverage from sources other than funds appropriated from the general revenue fund;
- is not considered to be a UT System employee by virtue of participation in the EGIP; and
- can obtain EGIP coverage for eligible dependents.

Institutions are required to identify and notify all eligible individuals that they may apply for the coverage.

Impact: UT System may begin to voluntarily enroll these individuals for the plan year beginning September 1, 2011, and must enroll them beginning January 1, 2012. Since these individuals are not UT System employees, they will not be eligible for state premium sharing, nor can they participate in the cafeteria plan that would allow payment of the individual's out-of-pocket portion of the premium to be paid from non-taxable salary. In addition, they cannot participate in the UT FLEX medical and dependent savings account plans or any retirement plans.

Institutions must develop policies for notifying and enrolling these individuals and their non-eligible dependents and determining if institutional money other than funds used to pay premiums for employee members of the EGIP will be used to pay some or all of these individuals' EGIP premiums. The UT System Office of Employee Benefits will also need to amend the plan document for the self-funded medical plan and existing policies and plan descriptions and future contracts to include these potential participants in the EGIP.

Effective: September 1, 2011. However, the new provisions will apply only to plans renewed on or after January 1, 2012, unless the respective governing boards decide to voluntarily adopt them earlier.

Barbara Holthaus

[SB 794](#) by Nelson, et al. and King, Susan, et al.

Relating to the use of money from the permanent fund for health-related programs to provide grants to nursing education programs.

SB 794 extends for four additional years (to 2015) the “temporary” authority for the corpus of the Permanent Fund for Nursing, Allied Health, and other Health Related Programs, part of the tobacco settlement, to be spent for programs preparing students for initial licensure as registered nurses or programs preparing qualified faculty members with a master’s or doctoral degree for nursing education. Rather than letting the temporary authority expire, the legislature has consistently rolled the expiration date forward.

By extending current law, SB 794 also has the effect of limiting grants from the fund to nursing programs, thereby excluding grants for allied health or other health-related education.

Impact: UT System nursing programs benefit from the expenditures from this fund. The availability of the funds may result in increased nursing program enrollment.

Effective: June 17, 2011

Steve Collins

[HB 1380](#) by Truitt and Rodriguez

Relating to the graduate medical training requirements for certain foreign medical school graduates applying for a license to practice medicine in this state.

HB 1380 amends the law relating to the graduate medical training requirements for certain foreign medical school graduates applying for a license to practice medicine in this state. Under prior law, international medical graduates could not receive a medical license until they completed three full years of residency training. In contrast, physicians who graduate from United States medical schools are eligible for a Texas license after completing only one year of residency.

HB 1380 allows certain foreign medical school graduates to obtain a medical license if they have completed at least two years of graduate medical training in the United States or Canada that was approved by the Texas Medical Board.

Impact: UT System medical residency programs should educate their current residents who are graduates of foreign medical schools about HB 1380, and should amend materials used in recruiting graduates of foreign medical schools.

Effective: September 1, 2011

Lannis Temple

[HB 2908](#) by Branch, et al. and Zaffirini

Relating to providing graduate medical education positions for Texas medical school graduates.

HB 2908 attempts to address the increased need for medical professionals in Texas by requiring the Coordinating Board to perform an assessment of the adequacy of opportunities for graduates of medical schools in Texas to enter graduate medical education (GME) in Texas.

In this assessment, the Coordinating Board must:

- compare the number of first year GME positions annually available with the number of medical school graduates;
- perform a statistical analysis of trends and projections of the number of medical school graduates and first year GME positions in Texas;
- develop methods and strategies for achieving a ratio for the number of first year GME positions to the number of medical school graduates in Texas of at least 1.1 to 1;
- evaluate current and projected physician workforce needs of the state based on total number and specialty; and
- examine whether Texas should ensure that a first year GME position is created for every new medical student position created.

Impact: The findings of the assessment mandated by HB 2908 could have a significant impact on graduate medical education and the number of GME positions available in Texas. Therefore, it could significantly impact UT System health institution residency programs.

Effective: September 1, 2011

Melodie E. Krane

Health Professions

[SB 189](#) by Nelson and Zerwas

Relating to the eligibility of certain aliens for a license to practice medicine in this state.

SB 189 attempts to place physicians in areas designated by the US Department of Health and Human Services as a medically underserved area or as a health professional shortage area. To that end, applicants for a medical license who are not United States citizens or aliens lawfully admitted for permanent residence in the United States are required to prove to the Texas Medical Board (TMB) that the applicant has practiced or agrees to practice medicine as a condition of the license for at least three years in such medically underserved areas. The TMB may limit the license to practice only in those areas.

SB 189 specifically does not prohibit the TMB from issuing to such an applicant a license to practice medicine at a graduate medical training program outside medically underserved or professional shortage areas.

SB 189 takes effect September 1, 2011. However, the TMB must adopt rules not later than May 1, 2012, and the change in law applies only to an application for an initial license made on or after September 1, 2012.

Impact: SB 189 impacts those UT System health institutions with physicians applying for medical licenses who are not US citizens or are not lawfully admitted for permanent residence in the US. The TMB will be soliciting input regarding its rules before the May 1, 2012, deadline for adoption.

Effective: September 1, 2011

Chuck Johnstone

[SB 192](#) by Nelson and Howard, Donna, et al.

Relating to patient advocacy activities by nurses and certain other persons; providing an administrative penalty.

SB 192 expands legal protections for a nurse or a person who advises that nurse when reporting violations under the Nursing Practice Act. It prohibits suspension, termination, discipline, discrimination, or retaliation against a person who reports a violation in good faith or against a person who advises a nurse of the nurse's right to report, to request a peer review committee determination, or to refuse to engage in certain conduct. A person who violates the above prohibition may be assessed an administrative penalty not to exceed \$25,000, and also may be subject to a cause of action for the violation.

Impact: UT System institutions should be aware of the protections afforded not only to nurses but also to individuals advising nurses concerning reported violations under the Nursing Practice Act.

Effective: September 1, 2011

Chuck Johnstone

[SB 193](#) by Nelson and King, Susan, et al.

Relating to the regulation of the practice of nursing.

SB 193 authorizes the Texas Board of Nursing (board) to develop a standardized error classification system for use by a nursing peer review committee in evaluating the conduct of a nurse and requires the board to make the system available to the committee at no cost. It provides that information collected as part of an error classification system is a record of the nursing peer review committee and is confidential. SB 193 authorizes a nursing peer review committee to report to the board the information collected using the error classification system, but prohibits the committee from reporting to the board information that includes the identity of an individual nurse or patient.

SB 193 provides that information the board receives that identifies a specific patient, nurse, or health care facility is confidential and not subject to disclosure under the Texas public information law. It requires the board to remove the identifying information before making the remaining information available to the public. It also establishes that the provisions relating to the error classification system do not affect the obligation or authority of a nursing peer review committee to disclose certain written or oral communications and certain records and proceedings of the committee.

SB 193 amends the practice of nursing in other ways. First, SB 193 clarifies a provision establishing that an act by a person does not constitute a violation of provisions of law prohibiting retaliation against a nurse who refuses to engage in certain conduct if a nursing peer review committee determines that the act or omission the nurse refused to engage in was not conduct reportable to the board, a minor incident, or a violation of existing protection laws or a board rule.

Secondly, SB 193 extends the protection of confidentiality given to certain information that a person submits to the board for a petition for a declaratory order of eligibility for a nursing license or for an application for an initial license or a license renewal to apply to: (1) information, including diagnosis and treatment, regarding a person's physical or mental condition or intemperate use of drugs or alcohol; (2) information regarding a person's criminal history; and (3) any other information in the petition for declaratory order of eligibility.

Third, SB 193 requires the board by rule to permit a person under the age of 65 whose license is on inactive status and who was in good standing with the board on the date the license became inactive to use, as applicable, a specific title indicating the person's status as a retired nurse or another appropriate title approved by the board.

Impact: UT System nursing peer review committees should be notified that the Texas Board of Nursing is now authorized to develop a standardized error classification system for use by a nursing peer review committee in evaluating the conduct of a nurse.

UT System nurses should also be aware of the amendments impacting the practice of nursing.

Effective: September 1, 2011

Lannis Temple

[SB 227](#) by Nelson and King, Susan

Relating to the nondisciplinary resolution of certain complaints filed against physicians.

Before the enactment of SB 227, the Texas Medical Board had only two options for resolving a complaint against a physician: dismissal of the complaint or disciplinary action. SB 227 adds a more educational and corrective option by allowing the board to resolve the investigation of a complaint against a physician through a remedial plan that would give the physician an opportunity to learn and improve the physician's practice.

SB 227 prohibits the remedial plan from containing a provision that revokes, suspends, limits, or restricts a person's license or other authorization to practice medicine or assesses an administrative penalty against a person.

SB 227 prohibits a remedial plan from being imposed to resolve a complaint concerning a patient death, the commission of a felony, or a matter in which the physician engaged in inappropriate sexual behavior or contact with a patient or became financially or personally involved with a patient in an inappropriate manner, or in a matter in which the appropriate resolution may involve a restriction on the manner in which a license holder practices medicine. SB 227 prohibits the board from issuing a remedial plan to resolve a complaint against a license holder if the license holder has previously entered into a remedial plan with the board for the resolution of a different complaint against the physician.

SB 227 authorizes the board to assess a fee against a license holder participating in a remedial plan in an amount necessary to recover the costs of administering the plan. It also requires the board to adopt rules necessary to implement SB 227 not later than January 1, 2012. Finally, SB 227 establishes that a remedial plan is public information and that, in civil litigation, a remedial plan is a settlement agreement under the Texas Rules of Evidence.

Impact: Each UT System health institution should be aware that the Texas Medical Board will be adopting rules by January 1, 2012, authorizing the board to resolve a complaint against a physician through a remedial plan, and UT System physicians should be aware of these rules when the board adopts them.

Effective: September 1, 2011

Lannis Temple

SB 263 by Carona and Kolkhorst

Relating to the revocation, suspension, or restriction of the license of a physician placed on deferred adjudication community supervision or arrested for certain offenses.

Revocation of a medical license is required when a physician is convicted of violating some drug laws. However, before SB 263, Texas law permitted a physician who was arrested or placed on deferred adjudication for child molestation to continue to practice medicine.

SB 263 requires the Texas Medical Board to revoke a physician's license if the physician is placed on deferred adjudication community supervision for child molestation charges. It also authorizes a disciplinary panel to suspend or restrict the license of a physician arrested for child molestation charges. Finally, SB 263 prohibits the board from granting probation to a person who has had a license revoked, canceled, or suspended because of a felony conviction for child molestation unless it is found, based on substantial evidence, that it would be in the best interest of the public to grant probation.

Impact: UT System physicians, residents, fellows, and medical students should be aware of SB 263.

Effective: September 1, 2011

Lannis Temple

SB 533 by Davis and Gallego

Relating to the minimum standards for the certifications of sexual assault training programs and sexual assault nurse examiners and for certification renewal by those entities.

SB 533 authorizes the attorney general to adopt rules related to certification renewal for a sexual assault advocate training program and for a sexual assault nurse examiner.

Prior law authorized the attorney general to adopt rules establishing minimum standards for the certification for two years of a sexual assault advocate training program and for a sexual assault nurse examiner, but it did not explicitly authorize the attorney general to adopt rules establishing minimum standards for certification renewal upon expiration of the two-year period.

Impact: To the extent that any UT System institutions operate a sexual assault advocate training program or employ a sexual assault nurse examiner, those institutions should be aware of SB 533 and the rules to be adopted by the attorney general by December 1, 2011, relating to the certification renewal process for those programs and examiners.

Effective: September 1, 2011

Lannis Temple

[SB 663](#) by Nichols, et al. and Anchia

Relating to the continuation and functions of the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments; providing an administrative penalty.

The State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments (committee) regulates fitters and dispensers of hearing instruments who measure human hearing for the purposes of selecting, adapting, or selling hearing aids. The committee is administratively attached to the Department of State Health Services (DSHS).

SB 663 is the committee's sunset bill. It adopts the Sunset Advisory Commission recommendations to continue the committee until September 1, 2017, and includes several statutory modifications to improve the committee's licensing practices and consistency of its operations.

SB 663 requires the committee and the State Board of Examiners for Speech-Language Pathology and Audiology to jointly adopt rules to establish requirements for each sale of a hearing instrument. The rules must address the information and other provisions required in each written contract for the purchase of a hearing instrument, records that must be retained, and guidelines for the 30-day trial period during which a person may cancel the purchase of a hearing instrument. The rules must also require that the written contract and 30-day trial period information provided to a purchaser of a hearing instrument be in plain language designed to be easily understood by the average consumer.

SB 663 also authorizes the committee to add oral or practical tests to the written examination of applicants for a license to dispense hearing instruments.

Impact: Any UT System institution that employs a person who fits or dispenses hearing instruments should be aware of SB 663 and the resulting adopted rules.

Effective: September 1, 2011

Lannis Temple

[SB 822](#) by Watson and Zerwas

Relating to expedited credentialing of certain physicians by managed care plans.

SB 822 makes expedited credentialing available for physicians who are newly hired by medical schools or health science centers. This credentialing permits physicians to bill for services as network providers for certain managed care plans.

Impact: UT System institutions that employ physicians who are credentialed by managed care networks will be able to obtain expedited credentialing. This permits institutions to accelerate revenues for newly hired physicians.

Effective: September 1, 2011

Barbara Holthaus

SB 1661 by Duncan and Hunter

Relating to the regulation of health organizations certified by the Texas Medical Board; imposing an administrative penalty.

While Texas is one of the few states that continues to enforce some form of prohibition on the corporate practice of medicine, exemptions have been granted that allow certain types of health organizations, such as non-profit organizations certified by the Texas Medical Board that were organized for a purpose in the public interest, such as research, education or public health, to employ physicians. SB 1661 protects the independent medical judgment of a physician employed by these types of health organizations by prohibiting the organizations from interfering with, controlling, or otherwise directing a physician's professional judgment.

SB 1661 requires such a health organization to adopt, maintain, and enforce policies to ensure that a physician employed by the health organization exercises independent medical judgment when providing care to patients, including policies relating to credentialing, quality assurance, utilization review, and peer review.

SB 1661 requires the policies, including any amendments to the policies, to be developed by the board of directors or board of trustees, as applicable, of the health organization and approved by an affirmative vote. The policies must be drafted and interpreted in a manner that reserves the sole authority to engage in the practice of medicine to a physician participating in the health organization, regardless of the physician's employment status with the health organization. These provisions take effect January 1, 2012.

SB 1661 establishes that a physician employed by such a health organization retains independent medical judgment in providing care to patients and prohibits the health organization from disciplining the physician for reasonably advocating for patient care.

SB 1661 authorizes, rather than requires, the Texas Medical Board to revoke the board's certification of a health organization on a determination that the organization is established, organized, or operated in violation of or with the intent to violate the Medical Practice Act and authorizes an administrative penalty against the health organization.

Impact: To the extent that UT System currently uses or may in the future use health organizations covered by SB 1661, those organizations should be aware of SB 1661.

Effective: September 1, 2011, except that provisions relating to health organization policies take effect January 1, 2012

Lannis Temple

[HB 680](#) by Schwertner, et al. and Huffman

Relating to complaints filed with the Texas Medical Board.

HB 680 makes a number of significant changes to the handling of complaints about physicians by the Texas Medical Board. First, HB 680 limits the board to only considering complaints that occurred within the last seven years, unless the complaint involves a minor. In that case, the board may consider a complaint until the minor patient reaches 21 years of age or seven years after the alleged incident, whichever occurs later. Prior law had no statute of limitations for a complaint.

Secondly, the board may no longer accept anonymous complaints. If the complaint is from an insurance agent, insurer, pharmaceutical company, or third party administrator, the board must notify the physician of the name and address of that complainant within 15 days of receipt unless to do so would jeopardize an investigation. Under prior law, anonymous complaints were acceptable and a physician was never told of a complainant's identity.

Third, HB 680 changes the deadline by which the Texas Medical Board is required to complete a preliminary investigation of a complaint filed with the board to not later than the 45th day after the date of receipt, rather than the 30th day.

Fourth, HB 680 changes the deadline by which board rules governing informal proceedings must require the board to give notice to the license holder of the time and place of a meeting to not later than the 45th day before the date the meeting is held, rather than the 30th day. HB 680 allows a physician to file a rebuttal before this meeting until 15 business days before the meeting, rather than five business days before the meeting.

Fifth, HB 680 permits a physician to request that an informal settlement conference hearing be recorded. Upon such a request, the board must record the proceeding and may charge the physician a fee to cover the cost of this recording. This recording becomes part of the investigative file and may not be released unless authorized by law.

Sixth, HB 680 requires the board to issue final orders after a contested case based on the administrative judge's findings of fact and conclusions of law. Under prior law, the board was not required to follow those findings of fact and conclusions of law. The board is able to obtain judicial review of any such findings of fact or conclusions of law and retains sole discretion on the appropriate action or sanction for each contested case.

Impact: HB 680 impacts UT System physicians, who could be subject to a complaint filed with the Texas Medical Board. Each UT System health institution should be aware of HB 680, as well as UT System physicians, fellows, and residents.

Effective: September 1, 2011

Lannis Temple

[HB 1380](#) by Truitt and Rodriguez

Relating to the graduate medical training requirements for certain foreign medical school graduates applying for a license to practice medicine in this state.

HB 1380 amends the law relating to the graduate medical training requirements for certain foreign medical school graduates applying for a license to practice medicine in this state. Under prior law, international medical graduates could not receive a medical license until they completed three full years of residency training. In contrast, physicians who graduate from United States medical schools are eligible for a Texas license after completing only one year of residency.

HB 1380 allows certain foreign medical school graduates to obtain a medical license if they have completed at least two years of graduate medical training in the United States or Canada that was approved by the Texas Medical Board.

Impact: UT System medical residency programs should educate their current residents who are graduates of foreign medical schools about HB 1380, and should amend materials used in recruiting graduates of foreign medical schools.

Effective: September 1, 2011

Lannis Temple

[HB 1566](#) by Coleman and Gallegos

Relating to the authority of counties to appoint, contract for, or employ physicians, dentists, or other health care providers for county jails.

HB 1566 provides statutory authority for county commissioners to appoint, contract for, or employ licensed physicians, dentists, or other health care providers to provide health care services to inmates in the custody of a sheriff. It is intended to clarify that certain governmental entities are not violating the prohibition against the corporate practice of medicine by employing such health care providers.

Impact: While HB 1566 has no direct impact on UT System health institutions providing health care services to county jails, it does provide authority to the county commissioners court to employ health care providers and addresses assertions that those contracts violate the Medical Practice Act.

Effective: June 17, 2011

Chuck Johnstone

[HB 1567](#) by Coleman and Gallegos

Relating to the authority of certain counties to appoint, contract for, or employ physicians, dentists, or other health care providers for county jails.

HB 1567 provides statutory authority for county commissioners in a county with a population of 3.3 million or more to appoint, contract for, or employ licensed physicians, dentists, or other health care providers to provide health care services to inmates in the custody of a sheriff. It is intended to clarify that certain governmental entities are not violating the prohibition against the corporate practice of medicine by employing such health care providers.

Impact: While HB 1567 has no direct impact on UT System health institutions providing health care services to county jails, it does provide authority to the described county commissioners court to employ health care providers and addresses assertions that those contracts violate the Medical Practice Act.

Effective: June 17, 2011

Chuck Johnstone

[HB 2703](#) by Truitt and Uresti

Relating to the regulation of orthotists and prosthetists.

HB 2703 amends the Texas Orthotics and Prosthetics Act to correct inconsistencies between statutes governing the delegated authority of nurse practitioners and physician assistants, as well as making the state laws consistent with federal laws and guidelines. In the past, nurse practitioners and physician assistants were authorized to write prescriptions for orthotic and prosthetic services under the delegation and supervision of a licensed physician. However, the Texas Board of Orthotics and Prosthetics recently issued an advisory note that indicated the long held practice of accepting prescriptions for orthotics and prosthetics treatment from nurse practitioners and physician assistants, even under the delegation and supervision of a licensed physician, is not allowed under the Texas Orthotics and Prosthetics Act. As a result, licensed orthotic and prosthetic professionals have not been able to legally measure, design, fabricate, assemble, fit, adjust, or service an orthosis or prosthesis without an order from a licensed physician, chiropractor, or podiatrist.

HB 2703 amends the Texas Orthotics and Prosthetics Act to authorize an advanced practice nurse or a physician assistant acting under the delegation and supervision of a licensed physician to order a person licensed as an orthotist or prosthetist to make or design an orthotics or prosthetics device.

Impact: UT System health institutions involved in orthotics and prosthetics should be aware of HB 2703.

Effective: September 1, 2011

Lannis Temple

[HB 2975](#) by Hunter, et al. and Harris

Relating to continuing education for physicians and nurses regarding the treatment of tick-borne diseases.

HB 2975 encourages a physician licensed under the Medical Practice Act who submits an application for renewal of a license to practice medicine and whose practice includes the treatment of tick-borne diseases, and encourages a nurse whose practice includes the treatment of tick-borne diseases, to include continuing medical education (CME) in the treatment of tick-borne diseases among their hours of completed continuing medical education.

HB 2975 also requires the Texas Medical Board and Texas Board of Nursing to use a stakeholder process to approve accredited CME courses that represent an appropriate spectrum of relevant medical treatment, including courses that have been approved in other states.

Lastly, in the event that a physician or nurse is investigated by their respective board regarding their choice of clinical care, HB 2975 requires the board to consider the participation of the physician or nurse within the prior two years in the CME course for the treatment of tick-borne diseases.

Impact: All UT System physicians and nurses who treat tick-borne diseases should be aware of HB 2975, and UT System employees who present CME courses for physicians or nurses should be notified that the Texas Medical Board and the Texas Board of Nursing will be adopting rules related to CME courses on tick-borne diseases.

Effective: September 1, 2011

Lannis Temple

Pharmacists and Drugs

[SB 594](#) by Van de Putte, et al. and Zerwas

Relating to the regulation of prescriptions for controlled substances, including certain procedures applicable to electronic prescriptions for Schedule II controlled substances.

SB 594 allows a practitioner to electronically prescribe a controlled substance listed in Schedule II. Under prior law, only an official written prescription form was permitted.

Electronic prescriptions must contain the prescribing practitioner's electronic signature (or other federally authorized secure method of validation) and must specify numerically the quantity of the controlled substance prescribed. A dispensing pharmacist is required to record the identity of the dispensing pharmacist in an electronic prescription record.

The Department of Public Safety (DPS) must adopt rules for providing a patient's identification number on the official prescription form or record.

SB 594 also provides that electronic prescription records filed with the DPS are excepted from disclosure under the Texas public information law (Chapter 552, Government Code).

Impact: Health care practitioners at UT System institutions should be aware that they may now electronically prescribe Schedule II controlled substances.

Effective: September 1, 2011

Chuck Johnstone

[**SB 1273**](#) by Williams and Hamilton, et al.

Relating to the lawful manufacture, distribution, and possession of and prescriptions for controlled substances under the Texas Controlled Substances Act.

SB 1273 amends the Texas Controlled Substances Act (Chapter 481, Health and Safety Code). Among other things, it requires each dispensing pharmacist to send all information required by the director of the Department of Public Safety (DPS) to the DPS by the seventh day after the date the prescription is completely filled. Prior law required that information to be sent by the 15th day after the last day of the month.

Impact: UT System pharmacists should be aware of SB 1273.

Effective: September 1, 2011

Karen Lundquist

[**SB 1438**](#) by Van de Putte and Hopson

Relating to the program for impaired pharmacists and disciplinary proceedings conducted by the Texas State Board of Pharmacy.

SB 1438 improves the efficiency in the disciplinary process for impaired pharmacists. Disciplinary proceedings are initiated by the Texas State Board of Pharmacy (TSBP) and formally adjudicated by hearing in the State Office of Administrative Hearings (SOAH).

SB 1438 provides clarity as to any possible ambiguity in existing statutory language by making all types of records related to the impaired pharmacist program for pharmacists, pharmacist applicants, and pharmacy students confidential and not subject to disclosure,

subpoena, or discovery. Under prior law, any information that was disclosed during a SOAH disciplinary hearing, including some types of information relating to impaired pharmacists, may have been subject to public disclosure. This may have deterred impaired pharmacists from seeking treatment for personal health issues.

SB 1438 stipulates that a pharmacist refusing a TSBP-ordered health examination will have a hearing before a TSBP panel and has the burden of proof at this hearing.

SB 1438 increases efficiency by authorizing a smaller TSBP panel to handle temporary suspension/restriction hearings, increases responsiveness by permitting temporary suspension/restriction hearings by telephone conference call, and increases flexibility by allowing TSBP to render a temporary initial decision and issue license restrictions instead of full suspensions. Further, it clarifies that SOAH will issue a proposal for a decision on final disciplinary actions. Prior law was unclear as to the purpose of the required SOAH hearing following the temporary suspension.

Impact: UT System pharmacists, pharmacist applicants, pharmacy students, and relevant UT System human resources departments should be aware of SB 1438.

Effective: June 17, 2011

Lannis Temple

[HB 1137](#) by Darby, et al. and Estes

Relating to the transmission of records regarding over-the-counter sales of ephedrine, pseudoephedrine, and norpseudoephedrine and a person's civil liability for certain acts arising from the sale of those products.

HB 1137 attempts to remedy the deficiencies of paper record-keeping systems with regard to preventing the diversion of nonprescription ephedrine, pseudoephedrine, or norpseudoephedrine (PSE) into illegal methamphetamine production by requiring a business establishment *before* completing an over-the-counter sale of PSE to transmit certain required information into a real-time electronic logging system.

A business establishment may not sell PSE to a purchaser who is younger than 16 years of age as indicated on a driver's license or other government-issued identification, and may not sell to a purchaser more than 3.6 grams of PSE in any calendar day, or more than 9 grams of PSE within any 30-day period.

The administration of the electronic logging system is free to business establishments.

The State Board of Pharmacy may grant a business establishment a temporary exemption (not to exceed 180 days) from the requirement of using a real-time electronic logging system under HB 1137.

HB 1137 applies only to over-the-counter sales of PSE that are completed on or after January 1, 2012. A business establishment is not required to use the real-time electronic logging system before that date.

Impact: Business establishments on campuses at UT System institutions that sell over-the-counter products containing ephedrine, pseudoephedrine, and norpseudoephedrine must comply with HB 1137.

Effective: September 1, 2011

Chuck Johnstone

HB 2069 by Naishtat and Lucio

Relating to the authority of a pharmacist to dispense up to a 90-day supply of dangerous drugs and accelerate refills.

HB 2069 permits a pharmacist to dispense up to a 90-day supply of a dangerous drug as long as the patient has a valid prescription for dispensing a lesser amount followed by periodic refills of that amount. In order to dispense in this manner, the following conditions must be met:

- the total quantity of dosage units dispensed does not exceed the total quantity authorized by the prescriber on the original prescription, including refills;
- the patient consents and the physician has been notified electronically or by telephone;
- the physician has not indicated on the prescription that dispensing in the initial amount with periodic refills is medically necessary;
- the dangerous drug is not a psychotropic drug; and
- the patient is at least 18 years of age.

Impact: Since HB 2069 is permissive, pharmacists are not required to dispense in this manner. UT System institutions with pharmacies should consider adopting an institutional policy about dispensing in this manner since drug inventories, with potential for cost reduction, would be affected if dispensing for a 90-day period. Student health centers should carefully consider their procedures since this dispensing option requires that patients be at least 18 years of age.

Effective: September 1, 2011

Melodie Krane

[HB 2229](#) by Coleman, et al. and Ellis

Relating to the creation of the Texas HIV Medication Advisory Committee.

Because the existing HIV Medication Program Advisory Committee was created by rule adopted by the Health and Human Services Commission (HHSC), the committee's existence was not codified and could terminate. The committee is significant, as it advises the Department of State Health Services (DSHS) on its HIV Medication Program, which provides medications for treating HIV and other similar diseases to lower income individuals.

HB 2229 codifies the eleven-person Texas HIV Medication Advisory Committee to review, evaluate, and make recommendations regarding the DSHS HIV Medication Program. It also requires HHSC to appoint members to the committee, and requires the committee to follow certain operational guidelines, including filing an annual report.

Impact: HB 2229 requires that the committee have membership which includes four physicians involved in the treatment of HIV, one administrator from a public, nonprofit hospital, and one pharmacist. Any of those members could come from UT System institutions. In addition, the existence of the committee is important, as it influences decisions involving the availability of expensive medications for the treatment of lower income individuals presenting themselves to UT System health care professionals.

Effective: September 1, 2011

Chuck Johnstone

Medical Services

[SB 1616](#) by West and Gallego, et al.

Relating to the collection, storage, preservation, analysis, retrieval, and destruction of biological evidence.

SB 1616 provides standards for the collection, storage, preservation, analysis, retrieval, and destruction of biological evidence by a governmental or public entity or an individual, including a law enforcement agency, prosecutor's office, court, public hospital, or crime laboratory. Biological evidence includes the contents of a sexual assault examination kit or any item that contains any identifiable biological material collected as part of an investigation of an alleged felony offense or conduct constituting a felony offense that could reasonably be used to identify a person committing the offense or engaging in the conduct or to exclude a person from those who could have committed the offense or engaged in the conduct constituting the offense.

These entities must ensure that biological evidence collected in an investigation or prosecution of a felony offense or conduct constituting a felony offense is retained and preserved for at least 40 years or until the applicable statute of limitations has expired, if there is an unapprehended actor associated with the offense. In a case in which a defendant has been convicted, placed on deferred adjudication community supervision, or adjudicated as having engaged in delinquent conduct and there are no additional unapprehended actors associated with the offense, then biological evidence must be retained and preserved as follows, depending on the applicable situation:

- Until the inmate is executed, dies, or is released on parole, if the defendant is convicted of a capital felony;
- Until the defendant dies, completes the defendant's sentence, or is released on parole or mandatory supervision, if the defendant is sentenced to a term of confinement or imprisonment in the Texas Department of Criminal Justice;
- Until the defendant completes the term of community supervision, including deferred adjudication community supervision, if the defendant is placed on community supervision;
- Until the defendant dies, completes the defendant's sentence, or is released on parole, mandatory supervision, or juvenile probation, if the defendant is committed to the Texas Youth Commission; or
- Until the defendant completes the defendant's term of juvenile probation, if the defendant is placed on juvenile probation.

The Department of Public Safety (DPS), after consultation with various agencies, experts, and organizations, is to adopt standards and rules by September 1, 2012, that specify the manner of collection, storage, preservation, and retrieval of biological evidence. Individuals and entities subject to SB 1616 are not required to comply with these standards before January 1, 2013.

SB 1616 applies to biological evidence in possession of an individual or entity on June 17, 2011.

Impact: SB 1616 and rules adopted by DPS may affect the handling of biological evidence by campus police offices. Additionally, UT System hospitals and their employees who staff hospital emergency rooms and may be involved in the collection of biological evidence or employees who are involved in the analysis of biological evidence will need to comply with SB 1616 and with DPS rules. Policies and training should be reviewed for compliance.

Effective: June 17, 2011

Melodie Krane

SB 1636 by Davis, Wendy, et al. and McClendon

Relating to the collection, analysis, and preservation of sexual assault or DNA evidence.

In general, SB 1636 establishes a timeline and procedures for the collection, analysis, and preservation of sexual assault or DNA evidence by law enforcement agencies. “Law enforcement agency” is defined as a state or local law enforcement agency with jurisdiction over the investigation of a sexual assault.

SB 1636 amends the Government Code to prohibit a failure by the Department of Public Safety (DPS) to expunge a DNA record from serving as the sole grounds for a court to exclude evidence derived from the contents of the record in a criminal proceeding.

SB 1636 prohibits the release of evidence collected under the Sexual Assault Prevention and Crisis Services Act unless a signed written consent to release is obtained in accordance with the bill’s provisions. Medical, law enforcement, DPS, and laboratory personnel who handle sexual assault evidence must maintain the chain of custody from the time the evidence is collected until the evidence is destroyed.

With regard to physical evidence in an active criminal case for sexual assault, a law enforcement agency that receives sexual assault evidence must submit that evidence to a public accredited crime laboratory for analysis by the 30th day after the date on which the evidence was received and provide to the laboratory the following signed, written certification: “This evidence is being submitted by (name of person making submission) in connection with a criminal investigation.” The laboratory must complete the analysis as soon as practicable, if personnel and resources are available. DPS and applicable public accredited crime laboratories may contract with private accredited crime laboratories subject to quality assurance reviews.

On the request of any appropriate person, after analysis of biological evidence by an accredited crime laboratory and any quality assurance reviews, DPS must compare the DNA profile obtained with DNA profiles in state and federal databases.

Written consent is required for the release of evidence contained in an evidence collection kit with signature as follows:

- By the survivor, for survivors 14 years of age or older;
- By the survivor’s parent or guardian or an employee of the Department of Family and Protective Services, for survivors younger than 14 years of age; or
- By the survivor’s personal representative, for deceased survivors.

SB 1636 also addresses written consent by incapacitated persons, the specificity of any written consent, the withdrawal of consent, and the extent to which re-disclosure is permitted.

DPS must ensure that any unanalyzed sexual assault evidence in the possession of a law enforcement agency that is collected on or after August 1, 2011, is analyzed in accordance with the time frames set out in SB 1636. For evidence collected before August 1, 2011, DPS must analyze the evidence as nearly as possible to the time frames set out by SB 1636.

For law enforcement agencies in possession of sexual assault evidence that has not been submitted for laboratory analysis, the following deadlines apply:

- By October 15, 2011, the agency must submit a list to DPS of the agency's active criminal cases in which sexual assault evidence has not been submitted for analysis.
- By April 1, 2012, subject to laboratory storage space availability, the agency must submit to DPS or a public accredited crime laboratory all sexual assault evidence in active criminal cases that has not been submitted for analysis (and specific follow-up information must be sent to DPS).

DPS may request additional funding to accomplish the duties required by SB 1636 and must report projected timelines for completion of laboratory analyses. By September 1, 2014, to the extent funding is available, DPS must complete the required database comparisons.

SB 1636 does not apply to sexual assault evidence collected before September 1, 1996.

Impact: SB 1636 and rules adopted by DPS may affect the handling of sexual assault evidence by campus police offices. Additionally, UT System hospitals and their employees who may be involved in the collection of sexual assault evidence or employees who are involved in the analysis of sexual assault evidence will need to comply with SB 1636 and with DPS rules. Policies and training should be reviewed for compliance.

Effective: September 1, 2011

Melodie Krane

[HB 15](#) by Miller, Sid, et al. and Patrick, Dan, et al.

Relating to informed consent to an abortion.

HB 15 amends the law that prohibits the performance of an abortion without the woman's informed consent. Under HB 15, informed consent requires that, before performing an abortion procedure, a physician (or in some cases the physician's agent) must:

- Provide the pregnant woman with printed materials prepared by the Department of State Health Services (DSHS);

- At least 24 hours before the procedure, perform a sonogram before any sedative or anesthesia is administered (or at least two hours or more before the procedure if the woman certifies she lives 100 miles or more from the nearest abortion provider). The sonogram may also be performed by a certified sonographer. Before receiving the sonogram, the pregnant woman must complete and certify on a prescribed form that she understands certain facts related to the abortion procedure. The certification must be placed in the woman's medical records and retained by the facility for a specified period of time;
- Display the sonogram images so that the pregnant woman may view them;
- Provide a verbal detailed explanation of the results of the sonogram images; and
- Make audible the heart auscultation for the pregnant woman to hear along with a verbal explanation.

However, HB 15 allows a pregnant woman to decline to view printed materials or sonogram images, to hear the heart auscultation, or, under certain circumstances, to receive the verbal explanation.

HB 15 authorizes a physician to perform an abortion without obtaining informed consent in a medical emergency. The physician must include in the patient's medical record (and transmit to DSHS within thirty days) the physician's certification of the nature of the medical emergency.

HB 15 also requires the physician or the physician's agent to provide certain paternity and child support information to a pregnant woman who chooses not to have an abortion after being provided with a sonogram and other information.

It further provides that during a visit to a facility to fulfill the requirements for a sonogram, the facility may not accept any payment or make a financial agreement for an abortion or abortion-related services other than for payment of the sonogram and other required services.

Hospitals, ambulatory surgical centers, and abortion facilities required to be licensed under the Health and Safety Code must also comply with this law (Subchapter B, Chapter 171, Health and Safety Code). DSHS must make random, unannounced inspections of abortion facilities to ensure compliance.

The Texas Medical Board is required to take appropriate action against any physician who violates specified abortion laws and must refuse to admit to examination or refuse to issue a license or renewal to a person who violates those laws.

HB 15 applies only to an abortion performed on or after the 30th day after the effective date of HB 15.

Impact: To the extent that UT System institutions have physicians who perform abortions, including an abortion in a medical emergency, or to the extent that any

abortions are performed in either ambulatory surgical centers or hospitals of any UT System health institution, HB 15 has a direct impact. Those institutions should update their policies and provide training regarding the new requirements.

Effective: September 1, 2011

Chuck Johnstone

[HB 411](#) by Laubenberg, et al. and Deuell

Relating to the certain newborn and infant screening and follow-up services.

HB 411 addresses the requirements related to both blood testing of newborns for certain medical disorders and hearing testing of newborns and infants for certain audiological disorders.

With regard to newborn blood testing, the law currently requires a physician or other individual attending a birth to draw blood to be used for screening the newborn for specific medical disorders. The blood drawn is sent to the Department of State Health Services (DSHS) which retains the blood samples for authorized purposes. DSHS provides physicians with disclosure notices and forms that must be given to the parents of the newborn to inform them about the agency's retention and use of the blood samples.

HB 411 requires DSHS to destroy all genetic materials retained no later than two years after it receives the materials unless the parent consents to additional disclosure of the materials. If the parent or child later revokes the consent, DSHS must destroy the materials within 60 days of the revocation. HB 411 also changes the current notices that physicians who attend a birth must provide to parents about mandatory blood screening that is performed on all newborns at birth. The new notices must inform the parent of the new requirements under HB 411. In addition to the current requirement that the birth attendant provided verification to DSHS that the notice was provided to the parent, the attendant must also provide any additional related document required by DSHS. HB 411 also further restricts the uses DSHS may permit of the material and requires that de-identified materials can be released by DSHS for public health research only with the parent's consent plus approval by a DSHS internal review board and the DSHS commissioner or designee.

With regard to newborn and infant hearing screening, HB 411 amends the law relating to newborn hearing screenings by state operated birthing facilities, including UT System institutions that provide obstetrical care. These birthing facilities, through programs certified by DSHS, are now required to perform (rather than "offer" as required by prior law) hearing screenings on newborns before discharge. A parent may decline the screening; however, the birthing facility is required to inform the parents of the law requiring screening and of their right to decline it. DSHS will prescribe a form for use by the facility for parents who wish to decline the screening. A midwife who attends a birth must also inform the mother of the availability of hearing screening. For those newborns with abnormal results, a second screening must be performed within 30 days and for those with continued abnormal results, additional services, including a diagnostic exam

and early childhood intervention services, are required. All hearing screenings, diagnostic exams, and intervention services must be performed in accordance with the standard of care established by the Joint Committee on Infant Hearing. In addition, audiologists who perform diagnostic audiological newborn and infant evaluations coordinated by DSHS are required to report hearing evaluation results to the newborn's or infant's parent, primary caregiver, or other provider as well as DSHS. The provider must access the information, tracking, and reporting system to provide the required information related to newborn screening that the provider is required to conduct.

Impact: With regard to the sections of HB 411 affecting newborn blood screening, UT System institutions that provide obstetrical services will be required to provide the amended notices that will be prescribed by DSHS about the blood screenings, and will be required to submit documents requested by DSHS in connection with the screenings. Procedures to ensure that institutional staff comply with the requirements will have to be developed and delivered. With regard to the sections affecting newborn hearing screening, UT System institutions that provide obstetrical care and audiological services to children will be required to perform the screening and do the required follow-up testing and provide the information about the testing to DSHS. Procedures for compliance and staff training about the new requirements will have to be developed and delivered. DSHS has rulemaking authority with regard to both of these types of screening, and affected institutions may want to track and comment during the rulemaking process.

Effective: June 17, 2011, except the provisions concerning the notices for newborn blood screening, the destruction requirement for genetic materials, and the requirements related to release for outside public research take effect June 1, 2012. Compliance with the new hearing screening requirement is not required until January 1, 2012.

Barbara Holthaus

[HB 1009](#) by Callegari and Hegar

Relating to procedures for obtaining informed consent before certain postmortem examinations or autopsies.

HB 1009 provides that, effective January 1, 2012, a physician may not perform an autopsy unless a written informed consent is first obtained from any the following classes in descending priority:

- the spouse of the deceased;
- the guardian of the deceased or the executor or administrator of the deceased's estate;
- the adult children of the deceased;
- the parents of the deceased; and

- the adult siblings of the deceased.

A person with lower priority may not give consent if a person of a higher priority class is reasonably available. Any member of a particular class is authorized to give consent unless another member of the class files an objection, in which case consent may be given only by a majority of the members of the class who are reasonably available.

Other noteworthy items:

- A physician may perform an autopsy as authorized by the medical examiner, justice of the peace, or county judge if the physician was unable to contact a person authorized to give consent after due diligence.
- The consent-giver may request that a physician at another hospital perform the autopsy or review any existing autopsy. In this event, the consent-giver is responsible for the additional costs of those services.
- Before obtaining consent, hospital representatives must inform consent-givers of their rights to request another physician to review or perform an autopsy.
- By December 31, 2011, the commissioner of state health services must prescribe an easily understandable written consent form that explains the autopsy procedure and provides the consent-giver with the opportunity to place restrictions or special limitations on the autopsy.
- The informed consent requirements do not apply to an autopsy ordered by the Texas Department of Criminal Justice or determined by a justice of the peace or medical examiner to be required by law.

Impact: Physicians at UT System health institutions that perform autopsies will be required to obtain informed consent before performing autopsies as provided by HB 1009.

Effective: September 1, 2011, except Sections 3 and 4 take effect January 1, 2012.

Chuck Johnstone

[HB 1983](#) by Kolkhorst, et al. and Nelson

Relating to certain childbirths occurring before the 39th week of gestation.

HB 1983 requires the Health and Human Services Commission (HHSC) to achieve cost savings with improved outcomes by implementing quality initiatives that are evidence-based, tested, and fully consistent with established standards of care to reduce the number of elective or non-medically indicated induced deliveries or cesarean sections performed on covered Medicaid assistance patients before the 39th week of gestation. It also requires HHSC to coordinate with physicians, hospitals, managed care organizations, and its billing contractor to develop a process to collect information on the number of induced

deliveries and cesarean sections. HHSC must conduct a study of the quality initiatives and submit a written report to the legislature by December 1, 2012.

HB 1983 also requires hospitals that provide obstetrical services to collaborate with physicians in developing quality initiatives to reduce the number of elective or nonmedically indicated induced deliveries or cesarean sections before the 39th week of gestation. This requirement applies to hospitals licensed under Chapter 241, Health and Safety Code.

Impact: While existing rules and standards of care address concerns related to induced deliveries or cesarean sections before the 39th week of gestation, UT System health institutions, physicians, and providers should expect additional guidance from HHSC under its quality initiatives.

Effective: September 1, 2011

Walter Mosher

[HB 2102](#) by Hernandez Luna, et al. and Ellis

Relating to the requirement that certain mammography reports contain information regarding supplemental breast cancer screening.

HB 2102 requires mammography facilities certified by or on behalf of the US Food & Drug Administration (FDA) to provide each patient, upon completion of a mammogram, with a notice that states:

- “If your mammogram demonstrates that you have dense breast tissue, which could hide abnormalities, and you have other risk factors for breast cancer that have been identified, you might benefit from supplemental screening tests that may be suggested by your ordering physician.
- “Dense breast tissue, in and of itself, is a relatively common condition. Therefore, this information is not provided to cause undue concern, but rather to raise your awareness and to promote discussion with your physician regarding the presence of other risk factors, in addition to dense breast tissue.
- “A report of your mammography results will be sent to you and your physician. You should contact your physician if you have any questions or concerns regarding this report.”

Impact: UT System institutions that provide mammograms and are certified by the US FDA will be required to provide the form notices to all mammogram recipients. This may require development of the form, development of procedures or policies for dissemination of the forms, and training for staff responsible for providing the notices. Staff and physicians at institutions who treat patients who receive the notice may require training for responding to questions and concerns from patients who receive these

notices. HB 2102 does not impact the UT System self-funded employee plans administered by the Office of Employee Benefits.

Effective: September 1, 2011; however, compliance with the notice requirement is not required until January 1, 2012.

Barbara Holthaus

[HB 2904](#) by Zerwas and Zaffirini

Relating to the administration of the Glenda Dawson Donate Life-Texas Registry.

HB 2904 seeks to increase organ donations by requiring the Department of State Health Services (DSHS) to contract by January 1, 2012, with a nonprofit organization to establish and maintain a statewide donor registry. Although HB 2904 abolishes the Texas Organ, Tissue, and Eye Donor Council and its associated registry, the nonprofit organization's registry will continue to be called the Glenda Dawson Donate Life-Texas Registry. The nonprofit organization is required to submit an annual written report to DSHS that includes an accounting of monies expended by the nonprofit organization. Under HB 2904, the nonprofit organization must encourage medical and nursing schools to include mandatory organ donation education in their curricula.

To offset the costs of the registry, county assessor-collectors must collect an additional fee of \$1 during the registration or renewal of registration of a motor vehicle, and the Department of Public Safety (DPS) must collect an additional fee of \$1 for the issuance or renewal of a license, including a duplicate license or a personal identification card.

For any person who applies in person, by mail, or over the Internet or by other electronic means for the issuance or renewal of a license or a personal identification card, the DPS must provide that person with an opportunity to consent to be included in the registry.

Impact: UT System institutions with organ transplant programs should be aware that DSHS will be contracting with a nonprofit organization to establish and maintain a statewide donor registry, and should also be aware of other provisions of HB 2904.

Effective: September 1, 2011

Chuck Johnstone

[HB 3336](#) by Coleman and Deuell

Relating to information regarding pertussis for parents of newborn children.

HB 3336 requires those who provide care to pregnant women, including hospitals, birthing centers, physicians, nurse midwives, or midwives, to provide educational information in English and Spanish on pertussis disease and the availability of a vaccine against pertussis. The information to be provided specifically includes the Centers for

Disease Control (CDC) recommendation that parents receive the vaccine Tdap during the post-partum period to protect against transmission of pertussis.

Impact: All UT System hospitals, birthing centers, physicians, nurse midwives, and midwives are required to comply with HB 3336 by providing pertussis related information. Policies and training should be updated accordingly.

Effective: June 17, 2011

Melodie Krane

SB 7 – First Called Session by Nelson, et al. and Zerwas

Relating to the administration, quality, and efficiency of health care, health and human services, and health benefits programs in this state; creating an offense; providing penalties.

SB 7 contains numerous provisions reforming the delivery of health care services in Texas. Some of the provisions are intended to move the state toward market reforms in a manner that is independent of federal reform efforts. Similarly, and as part of the state's health reform initiatives, the Medicaid provisions are designed to reorganize coverage to low-income families and children and to seek quality of care improvements at lower costs.

Some of the major provisions of SB 7 are as follows:

- (1) Texas Institute of Health Care Quality and Efficiency. SB 7 creates the Texas Institute of Health Care Quality and Efficiency (institute) to “improve health care quality, accountability, education, and cost containment in this state by encouraging health care provider collaboration, effective health care delivery models, and coordination of health care services.” The institute is composed of 15 members appointed by the governor, including representatives of various state agencies (including systems of higher education), health care providers, payors, consumers, and health care quality experts. Administrative provisions include terms of office, conflicts of interests, administrative support, board immunity, and funding. The institute provides recommendations on: (1) improving the state's quality and efficiency of health care delivery; (2) improving the reporting, consolidation, and transparency of health information; and (3) implementing and supporting health care collaborative payment and delivery systems. This includes conducting a study, making recommendations, and assisting the legislature in developing a statewide plan. Section 3.01.
- (2) Health Care Collaboratives. According to the Centers for Medicare and Medicaid Services, an accountable care organization (ACO) is “an organization of health care providers that agrees to be accountable for the quality, cost, and overall care of Medicare beneficiaries who are enrolled in the traditional fee-for-service program.” ACOs are an integral component of the federal health reform initiatives under the Patient Protection and Affordable Care Act that will be used to consolidate providers, healthcare facilities, and healthcare delivery systems

with the goal of achieving higher quality of care at lower costs. As an independent initiative, the Texas Legislature created health care collaboratives (HCC), which are comparable to ACOs. Under SB 7, an HCC is defined as an entity that arranges medical services for, and accepts payment from, insurers, HMOs, and other payors and that has been certified by the Texas Department of Insurance. Before providing services, an HCC is required to obtain a certificate of authority from the Texas Attorney General's antitrust division and be deemed not likely to reduce competition due to its size or composition. As part of the application process, the HCC must provide updated financial statements, service area maps, list of participating providers, and evaluation of costs, among other information. Exceptions to these requirements includes existing entities already licensed, such as managed care plans, physicians solely engaged in the practice of medicine, medical schools and health science centers, and other entities licensed under the Health and Safety Code that employ physicians. Additional details include applicability of insurance laws, confidentiality of application and related filings, renewal process, exceptions for individuals who do not want to maintain health insurance coverage, formation, governance, and operation of HCCs, general powers and duties of HCCs, policies for quality and cost of health care services, complaint systems, and regulations of HCCs. Section 4.01.

- (3) Interstate Health Care Compact. SB 7 also authorizes the creation of a health care compact between Texas and at least one other state to permit an interstate collaboration of managing state health programs and resources, such as state Medicaid services. Interstate compacts are authorized under Article 1, Section 10 of the US Constitution. To facilitate the creation and management of the health care compact, SB 7 establishes an Interstate Advisory Health Care Commission to evaluate the appropriate regulations and policies, to coordinate with other states, and to seek congressional approval. Provisions also include resolutions and purpose of the compact, pledges of joint commitments from member states, reservation of legislative powers and state control, and funding, among other details. Section 12.01.
- (4) Statewide Standardized Patient Risk Identification System. SB 7 directs the Department of State Health Services (DSHS) to coordinate with hospitals to develop a statewide standardized patient risk identification system to identify a patient with a specific risk while obtaining treatment at a hospital. Section 5.01.
- (5) Hospital Infection Reporting. SB 7 enables the state to report hospital infection data to federal oversight agencies, along with permitting access to that data by the public. Provisions also address disclosure details between state and federal entities. Sections 6.01-6.03, 6.07- 6.09, and 6.11.
- (6) Preventable Error Reporting. SB 7 implements certain reporting requirements to state and federal agencies for potentially preventable events occurring at hospitals and long-term care facilities. Section 6.05.

- (7) Texas Emergency and Trauma Education Partnership Program. SB 7 establishes a program that provides grants to train physicians in graduate medical education programs and in nurses training programs specializing in emergency and trauma care. The grants are intended to assist in increasing the availability of emergency and trauma doctors and nurses to meet the state's need for this specialty care. Sections 9.01-9.02.
- (8) Establishment of Adult Stem Cell Bank. SB 7 directs the Health and Human Services Commission (HHSC) to establish eligibility criteria for the creation and operation of an autologous adult stem cell bank if HHSC determines that it would be cost-effective and improve quality of care and health benefits. Section 14.01.

SB 7 also does the following:

- (1) Implements provisions to protect residents at long-term care facilities against neglect, abuse, or exploitation.
- (2) Expands the definition of assisted living facilities to authorize delivery of skilled nursing services to coordinate care outside with community support services agencies, delegation of personal care services, assessment of care required, and delivery of care for minor illness, injury, or emergency. Section 1.08.
- (3) Provides restrictions on financial awards from the DSHS to family planning providers related to using award money on elective abortions. Section 1.19.
- (4) Prohibits illegal aliens from enrolling in the state supplemental nutrition assistance program. Section 1.21.
- (5) Transfers duties and responsibilities of the Texas Health Care Information Council to DSHS. Also includes provisions relating to coordination, confidentiality, and disclosure of data with federal and state agencies or other entities. Sections 7.02-7.06.
- (6) Requires health care facilities and hospitals to establish a vaccine policy and vaccine preventable diseases program to protect patients from preventable vaccine diseases or injuries. Also addresses procedures for employee compliance, facility penalties for non-compliance, and access during public health disasters. Sections 8.02-8.04.
- (7) Prohibits a contractual requirement by health plans for institutional providers to agree to enter into an exclusive preferred provider arrangement. Section 10.01.
- (8) Prohibits health plans from denying payment for chiropractic services if therapeutic modalities comply with state laws, are recognized treatment within the scope of practice and by other providers, and are deemed medically necessary by the plan. These provisions do not apply to workers compensation plans, self-insured employee benefit plans, and Medicaid managed care and child health plans. Section 11.01.

- (9) Prohibits the use of tax revenues for abortions except for medical emergencies, and defines “medical emergency.” Section 15.01.

SB 7 also provides the following Medicaid initiatives:

- (1) Directs HHSC to implement cost effective and objective utilization rules for Medicaid covered acute nursing services, which includes home health skilled nursing services, home health aide services, and private duty nursing services. Also directs HHSC to implement an electronic visit verification system to verify and document delivery of Medicaid acute nursing services. Section 1.01.
- (2) Similarly directs HHSC to evaluate and consider implementing an age and diagnosis appropriate assessment for Medicaid covered therapy services, which includes occupational, physical, and speech therapy services. Section 1.01.
- (3) Requires all children of same family unit to be enrolled in the same Medicaid managed care plan. Section 1.02.
- (4) Authorizes an external quality review organization to evaluate and study the quality of care and patient satisfaction of Medicaid services provided to enrollees. Section 1.02.
- (5) Creates a Patient-Centered Medical Home, which is a medical relationship between a primary care physician and a child or adult in which the patient obtains comprehensive primary care and in which all care is coordinated through the designated physician. The medical home is intended to increase clinical quality and efficiency, improve patient and physician satisfaction, and improve overall care coordination and integration. Section 1.02.
- (6) Directs HHSC to provide certain preferences for the award of contracts to managed care organization located in South Texas. Section 1.02.
- (7) Directs HHSC to ensure Medicaid managed care organizations provide payment incentives to health care providers for promoting preventive services that exceed minimum established standards. Section 1.02.
- (8) Directs background checks for managed care pharmacy benefits managers when considering approval of subcontracts for prescription drug benefits under Medicaid. Section 1.02.
- (9) Requires Medicaid managed care contracts to include certain terms and conditions relating to the location and availability of medical directors, appeals within the region, submission of a detailed plan describing how access and services will be provided, quality and outcomes measures, outpatient pharmacy benefit plans, and no-cost disclosure of discounts, rebates, and related incentives to HHSC. Section 1.02.

- (10) Requires Medicaid managed care organizations to establish a single portal for electronic claims submissions by participating network providers. Section 1.02.
- (11) Requires Medicaid managed care medical directors to have and maintain a license to practice medicine in Texas. Section 1.02.
- (12) Directs HHSC to implement a verification of identify program to prevent duplicate participation of the same recipient in the various Medicaid programs. Section 1.04.
- (13) Implements streamlining and efficiency initiatives for conducting program certifications, billing audits, integrating administrative and contracting efforts, and utilization review of long-term care under the Medicaid federal waiver provisions. Section 1.06.
- (14) Expands the Medicaid billing coordination and information collection activities to reduce administration and program costs. Section 1.06.
- (15) Implements an electronic visit verification system to verify and document delivery of long-term care by Medicaid providers. Section 1.07.
- (16) Directs HHSC to study and report on physician incentive programs to reduce hospital emergency room use for non-emergent conditions under the Medicaid medical assistance program. The report is due to the governor and Legislative Budge Board by August 31, 2013. Also permits HHSC to implement an incentive program if cost effective. Section 1.09.
- (17) Establishes cost-sharing provisions for Medicaid recipients for non-emergency care provided at hospital emergency rooms. Section 1.09.
- (18) Establishes an advisory committee to assist HHSC in improving outcomes and reducing Medicaid costs by implementing reimbursement incentives and rules relating to potentially preventable hospital admissions, emergency room visits, complications, and ancillary services. Similar provisions apply to Medicaid managed care organizations and home health services. Section 1.12.
- (19) Implements common performance measures and pay-for-performance incentives for nursing facilities covered by Medicaid. Section 1.13.
- (20) Establishes a requirement that HHSC verify the immigration status of Medicaid applicants and their sponsors, to the extent permitted by federal law. Section 1.17.
- (21) Directs HHSC to adopt certain rules requiring electronic submission of durable medical equipment under the Medicaid medical assistance program. Section 1.18.
- (22) Directs HHSC to seek federal waiver authorization for Medicaid reform so as to implement alternate methods of providing health services to low-income persons. Waivers requests should be designed to provide flexibility in determining

Medicaid eligibility and benefits tailored to meet the demographic, public health, clinical, and cultural needs of the state. Additionally, waivers should seek to encourage use of private market plans over public health plans and create a culture of shared financial responsibility similar to private health plans. Section 13.01.

Impact: UT System and its health institutions are impacted by SB 7, the Texas Legislature's comprehensive state health care reform initiative. Like federal health reform efforts under the Patient Protection and Affordable Care Act where market reform for payors, providers, and patients is taking place, SB 7 is intended to transform health care services in Texas, improve the cost and quality of care provided by private and public health care delivery system, and reorganize Medicaid coverage and reimbursement. Accordingly, administrators, executives, and providers within UT System and its health institutions should generally be aware of these state health reform efforts and identify those initiatives that may affect their respective institutions, as further guidance from state health agencies is anticipated.

Effective: September 28, 2011 (except that certain repealers take effect September 1, 2014)

Walter Mosher

Correctional Managed Care

[HB 1128](#) by Menendez and Van de Putte

Relating to consent to certain medical treatments by a surrogate decision-maker on behalf of certain inmates.

Health care providers affiliated with a county or municipal jail can now use essentially the same process involving receiving consent from surrogate decision-makers pursuant to the Consent to Medical Treatment Act in order to make medical treatment decisions on behalf of adult inmates. This process applies to inmate patients who are comatose, incapacitated, or otherwise mentally or physically incapable of communication.

The surrogate decision-maker's authority lasts only 120 days or until the patient is released, and it cannot be used for psychotropic medication, involuntary inpatient mental health services, or psychiatric services to restore competency to stand trial.

Impact: Health care providers at UT System institutions that provide health care at county or municipal jails can use surrogate decision-makers to give consent for medical treatment procedures for inmate patients who are comatose, incapacitated, or otherwise incapable of communication.

Effective: September 1, 2011

Chuck Johnstone

HB 1908 by Madden and Whitmire

Relating to student loan repayment assistance for certain providers of correctional health care.

HB 1908 adds to the list of physicians who are eligible to receive student loan repayment assistance from the Coordinating Board those physicians providing health care services to clients confined in correctional facilities operated by or under contract with the Texas Youth Commission (TYC) or offenders confined in correctional facilities operated by or under contract with any division of the Texas Department of Criminal Justice (TDCJ).

To qualify, the physician must be one of the first 10 physicians to apply for the grant, and must satisfy rules adopted by the Coordinating Board and the Correctional Managed Health Care Committee. Those rules must be adopted by December 1, 2011.

Impact: UT System institutions providing health care services to TYC clients or TDCJ offenders may find that HB 1908 aids them in recruiting physicians to work in correctional managed health care.

Effective: June 17, 2011

Chuck Johnstone

SB 1 – **First Called Session** by Duncan, et al. and Pitts

Relating to certain state fiscal matters; providing penalties.

SB 1, First Called Session, is composed of approximately 70 articles and 262 pages, designed primarily to make changes to the manner of distribution and methods of providing revenue for the support of public schools. SB 1 has little direct effect on higher education or UT System. Many of the other provisions of the bill adjust the schedule for payment of various taxes and fees, moving payments from the following biennium to the current biennium (requiring prepayment followed by a reconciliation) or delaying transfers from general revenue to a special fund, all with a purpose of increasing the amount held in general revenue during the fiscal biennium ending August 31, 2013. This includes prepayment of alcoholic beverage taxes (Article 10) and sales taxes (Article 13).

The following describes matters of interest to higher education, even though most of the described provisions generally have no direct impact on higher education or UT System.

Article 1 defers foundation school fund payments to school districts (and therefore charter schools) from August 2013 to September 2013, moving the cost of those payments to the following fiscal biennium.

Article 17 transfers from the comptroller of public accounts to the Coordinating Board a report on the physician education loan repayment assistance program under Subchapter J, Chapter 61, Education Code.

Article 20 eliminates the statutory requirement that the secretary of state produce bound copies of the “session laws” after each session of the legislature.

Article 21 authorizes the attorney general to charge a fee for the electronic filing of documents with the attorney general.

Article 23 continues the Department of Information Resources (DIR) in operation for the next two years (the DIR sunset bill from the regular session having been vetoed). SB 1 provides DIR authority to employ best value purchasing for information technology commodity items. It also authorizes DIR to set and charge a fee to each entity that receives services from DIR.

Article 27 eliminates the statutory authority of the Commission on State Emergency Communications to establish a regional poison control center in Harris County and authorizes the commission to standardize the operations of and implement management controls to improve the efficiency of regional poison control centers.

Article 28 expands the use of three tobacco settlement funds (not those managed by UT System) to pay principal and interest on bonds issued by the Cancer Prevention and Research Institute of Texas (CPRIT).

Article 34 requires the Legislative Budget Board (LBB) to conduct public hearings on expenditure reduction plans requested by leadership, and agencies to provide to the LBB plans in response to such a request. In addition, Article 34 requires the comptroller of public accounts to publish online a schedule of all revenue to the state from fees authorized by statute (implicitly including higher education fees).

Article 50 limits eligibility for education aide tuition exemptions to persons seeking teacher certification in subject areas experiencing teacher shortages, as determined by the Texas Education Agency.

Article 54 removes the comptroller of public accounts as an ex officio member of the Texas Guaranteed Student Loan Board and reduces the board from 10 to nine members. It also authorizes the governor to name the chair of the board.

Articles 42 and 65 relate to correctional health care. Article 42 changes the composition of the correctional managed health care committee, reducing the committee to five voting members plus the state Medicaid director as a nonvoting member, and reducing the term of office to four years. Article 42 also transfers from the committee to the Texas Department of Criminal Justice (TDCJ) the responsibility to contract for correctional managed care and requires TDCJ, in cooperation with the committee, to contract for a biennial review of expenditures. Article 65 requires TDCJ to adopt policies designed to manage inmate populations based on similar health conditions. It requires each inmate to pay an annual \$100 health services fee instead of a co-pay. It requires TDCJ to make

over-the-counter medicines available to inmates and requires TDCJ, in cooperation with UT Medical Branch at Galveston (UTMB) and Texas Tech University Health Sciences Center, to develop and implement, not later than January 1, 2012, a training program for corrections medications aides. It further exempts from end-stage renal disease licensing requirements any clinics or hospitals providing dialysis in correctional managed care.

Article 71 authorizes the Health and Human Services Commission to apply for a federal Medicaid waiver relating to benefits for individuals with chronic health conditions.

Impact: In general, SB 1 has little direct impact on UT System or its institutions. No amendments to rules or policies are necessary, nor are changes to catalogues, websites, or notices. Institutional business offices should be aware of the described provisions of SB 1.

State payments to campus charter schools will be briefly delayed from August to September of 2013.

Offices filing documents electronically with the attorney general, such as campus legal counsel, and offices receiving services from DIR will pay fees not previously paid.

Financial aid offices should be aware of the changes to qualifications for the educational aide tuition exemption, and should monitor the Texas Education Agency for rules determining which areas of teacher certification will qualify an individual for the exemption.

UTMB is directly affected by the described changes to correctional managed care.

The Southeast Texas Poison Center at UTMB and the South Texas Poison Center at UT Health Science Center at San Antonio should monitor changes in policies and procedures of the Commission on State Emergency Communications.

Effective: Each of the described provisions takes effect September 28, 2011, as does the bill generally. Some provisions have specified later effective dates.

Steve Collins

Medical Records

[SB 156](#) by Huffman

Relating to health care data collected by the Department of State Health Services and access to certain confidential patient information within the department, including data and confidential patient information concerning bleeding and clotting disorders, and other issues related to bleeding and clotting disorders.

SB 156 creates a Bleeding Disorders Advisory Council within the Department of State Health Services (DSHS) to conduct studies and advise DSHS and the Texas Department of Insurance on data submitted to or collected by DSHS. This is part of the data DSHS collects under Chapter 108, Health & Safety Code, from Texas hospitals and providers about patient care provided by the hospitals as well as billing for that care and other laws relating to hemophilia. The advisory council will advise on DSHS's disclosure of that data within and outside of DSHS and other issues affecting the health and wellness of persons living with blood clotting disorders.

SB 156 also clarifies portions of the Health and Safety Code that authorize DSHS to take over the functions of the Texas Health Care Information Council (council). The council collects data from Texas hospitals about patient care provided by the hospitals as well as billing for that care. Much of the data, in de-identified form, is used by various state and private entities for research on health care services and costs. Data must now be accepted in the format developed by the American National Standards Association.

SB 156 clarifies that certain data that is not publically available (i.e., has not been de-identified) can be used by DSHS programs and the Departments of Aging and Disability Service, Assistive and Rehabilitative Services, and Family and Protective Services if the receiving agencies have appropriate safeguards to maintain the confidentiality of the data and the use is approved by an institutional review board created within DSHS (in place of the review panel that previously existed and that approved requests for public use data) to approve use of data that has not been de-identified for use by DSHS programs. All such data remains subject to the same confidentiality provisions that apply to DSHS.

Any data so disclosed by DSHS programs remains confidential. Such disclosures are exempt from otherwise applicable confidentiality requirements. The release of identifying data about physicians is not authorized by this law.

SB 156 also changes the format in which hospitals may report data to the council to a format that conforms to changes in data reporting required by the federal Health Care Reform Act.

Impact: Programs and providers who treat individuals with blood clotting disorders or who perform research in this area may be interested in serving on or working with the Bleeding Disorders Advisory Council.

Some of the data collected by DSHS under Chapter 108, Health and Safety Code, that can be disclosed by the DSHS institutional review board may be data gathered from hospitals operated by or on behalf of UT System. The change in the format used for reporting the data may affect hospitals operated by or staffed by UT System institutions that provide reports to the council. In addition, it is possible that some institutions may collaborate with DSHS programs that access data pursuant to SB 156, although SB 156 continues to prohibit agencies other than DSHS from accessing data that is not de-identified.

Effective: June 17, 2011

Barbara Holthaus

SB 1907 by Wentworth and Geren

Relating to access to certain archaic information.

SB 1907 adds a new provision to the Texas public information law (Chapter 552, Government Code), whereby information that is not confidential but is excepted from required disclosure under Subchapter C becomes available to the public on or after the 75th anniversary of the date the information was originally created or received by the governmental body (except as provided by other law). This provision does not limit a governmental body's authority to establish record retention policies for records under applicable law.

SB 1907 also amends Section 201.009, Local Government Code, to allow public inspection of a birth record as well as other records to which public access is denied under the Texas public information law if still in existence 75 years after creation or receipt. Finally, SB 1907 amends Section 159.002, Occupations Code, to keep medical records confidential under that provision for only 75 years if they are requested for historical research purposes.

Impact: SB 1907 impacts UT System and its institutions by making certain records available to the public if they are still in existence 75 years after they were created or received. UT System's public information officers should be aware of SB 1907.

Effective: September 1, 2011

Neera Chatterjee

HB 118 by McClendon and Uresti

Relating to requiring the provision of notice by certain hospitals regarding patients' medical records.

Under certain circumstances, licensed hospitals are allowed to dispose of a medical record on or after the 10th anniversary of the date on which the patient who is the subject of the record was last treated in the hospital. Some exceptions are made to this retention requirement for the records of minors and for records relating to any matter in litigation. On occasion, a patient who is unaware of the existing record retention law may request copies of his or her medical records after the 10-year retention period has passed and the record has been lawfully disposed of by the hospital.

HB 118 requires a hospital covered by Chapter 241, Health and Safety Code, to provide written notice to a patient or the patient's legally authorized representative that the hospital may authorize the disposal of medical records relating to the patient on or after the dates specified by provisions governing the preservation of records unless the records relate to any matter that is involved in litigation if the hospital knows the litigation has not been finally resolved. It requires the notice to be provided to the patient or the patient's legally authorized representative not later than the date on which the patient who is or will be the subject of a medical record is treated, except in an emergency

treatment situation. HB 118 also requires the notice in an emergency treatment situation to be provided to the patient or the patient's legally authorized representative as soon as it is reasonably practicable following the emergency treatment situation.

Impact: UT System hospitals are exempt from the requirements of HB 118, as are all hospitals maintained or operated by the state or a state agency. (Section 241.004, Health and Safety Code.) Although HB 118 does not impact UT System hospitals, it may be useful information for UT System physicians, residents and fellows who also work in hospitals that are not exempt from HB 118.

Effective: September 1, 2011

Lannis Temple

[HB 300](#) by Kolkhorst, et al. and Nelson

Relating to the privacy of protected health information; providing administrative, civil, and criminal penalties.

HB 300 takes effect September 1, 2012, and provides the following:

- HB 300 confirms that medical records held by state agencies that are also required to comply with the Health Insurance Portability and Accessibility Act (HIPAA) are confidential under Texas law and are not subject to disclosure under the Texas public information law.
- HB 300 makes changes to the current state breach reporting statute (Section 521.053, Business and Commerce Code). It clarifies that notices must be sent to any person whose "sensitive personal information" is the subject of a breach, not just to Texas residents. If a breach notice is provided to the resident of another state under the breach notification laws of that state, compliance with the Texas state law breach notice requirements is deemed to have occurred. HB 300 also adds increased criminal penalties for identity theft as defined in Chapter 521.
- HB 300 also requires certain covered entities, as defined in Chapter 181, Health and Safety Code, including many already subject to HIPAA, as well as other entities, to comply with both HIPAA *and* the requirements added by HB 300 to Chapter 181, some of which are more restrictive than the comparable terms of the HIPAA privacy rule. Under these new requirements:
 - All covered entities are now required to provide a training program to employees about state and federal law concerning protected health information (PHI) as it relates to the employing entity's business and the employing entity's scope of employment. The training must be provided within 60 days after the date of hire and repeated at least once every two years. The employee must sign a verification that he or she received the training and the employer must retain the verification.

- Covered entities are prohibited from providing any PHI in exchange for direct or indirect remuneration to anyone other than another covered entity, or an entity defined in Section 602.001, Insurance Code (essentially all fully-funded insurance plans, HMOS, third party administrators, and agents that are licensed by the Texas Department of Insurance), and only then for the purpose of treatment, payment, health care operations, or an insurance or HMO function described in Section 602.053, Insurance Code, or as permitted or required by state or federal law. When PHI is transferred for a purpose listed in Section 602.053, the remuneration may not exceed the cost of preparing or transmitting the PHI.
- Covered entities (except entities described in Section 602.001, Insurance Code, that are not subject to HIPAA, such as life insurance or auto insurance companies) are required to provide notices to and obtain authorizations from persons whose PHI the covered entity will be disclosing electronically. However, authorizations are not required if the proposed release is to another covered entity for the purpose of payment, treatment, or health care operations or to perform an insurance or HMO function described in Section 602.053, or as permitted or required by state or federal law. The attorney general must adopt a standard authorization form for use by covered entities by January 1, 2013.
- All health care providers that use an electronic health records system must provide requested electronic health records to a patient within 15 business days after receipt of a request from the patient if the system is capable of providing such a record, unless the patient agrees to accept the record in some other form. The provider does not need to provide PHI that HIPAA would exempt from disclosure. The executive commissioner of the Health and Human Services Commission (HHSC), in consultation with the Department of State Health Services (DSHS), the Texas Medical Board, and the Texas Department of Insurance (TDI), may recommend by rule a standard format for the release of those records.
- The attorney general and state licensing agencies will receive and enforce complaints against covered entities for violations of Chapter 181. Potential sanctions and fines are increased significantly. In some cases penalties may run as high as \$1.5 million annually.
- HHSC, in coordination with the attorney general, the Texas Health Services Authority, and TDI, may also request the US Secretary of Health and Human Services to audit covered entities subject to HIPAA and must monitor audit results. Additionally, HHSC may request a licensing agency to audit a licensee of that agency for suspected patterns of violations of Chapter 181.
- The attorney general is required to maintain a website that provides:

- Information about consumer privacy rights concerning protected health information under state and federal law; and
 - A list of state agencies that regulate covered entities, the agencies' contact information, and details about the agencies' complaint enforcement processes.
- The attorney general is required to submit annual reports, which de-identifies any complainant's PHI, to the legislature about consumer complaints received by all state agencies. Each agency that receives those complaints must report information required by the attorney general for the compilation of the report.
- Finally, HB 300 requires the Texas Health Services Authority, a non-profit corporation previously created by law, to develop and recommend privacy and security standards for the sharing of electronic health care records by health care providers, state agencies, insurers, and other parties involved in health care and health care payment for adoption by HHSC. HHSC, in conjunction with the authority and the Texas Medical Board, is required to prepare a study on the maintenance and security of electronic PHI created by covered entities that cease to operate and to make recommendations to appropriate standing committees of the legislature. A task force is also created to make recommendations for handling electronic records of covered entities that cease to operate. HHSC is required to adopt the standards for the sharing of electronic health care records by health care providers, state agencies, insurers, and other parties involved in health care and health care payment by January 1, 2013.

Impact: All UT System institutions will continue to withhold PHI that is requested under the Texas public information law. Many UT System institutions are "covered entities" or contain covered entities that are subject to HIPAA and will be subject to the new requirements established by HB 300. As these requirements are analyzed by the Office of General Counsel and other offices involved with privacy and security compliance, specific guidance will be provided to assist UT System institutions in understanding what changes will be required to existing policies and practices to ensure compliance with HB 300, once it takes effect in September of 2012, as well as the final changes to the HIPAA privacy, security, and breach regulations which are expected to be released before the end of 2011.

Effective: September 1, 2012

Barbara Holthaus

[HB 2488](#) by Scott and Harris

Relating to access to a child's medical records by the child's attorney *ad litem*, guardian *ad litem*, or amicus attorney.

HB 2488 requires a medical records custodian to provide an attorney *ad litem*, guardian *ad litem*, or amicus attorney appointed to represent a child pursuant to a general court

order with immediate access to the child's medical records if the appointee has been appointed by an order that permits the appointee to have immediate access to the child or information about the child. However, the appointee may not access records of the child's drug or alcohol treatment records that are confidential under 42 USC § 290dd. In that case, any release must comply with the applicable federal regulations that govern access to those records. Such disclosures do not affect the confidentiality of the record. The custodian may charge a fee for records provided to an appointee as prescribed by Section 159.008, Occupations Code. The appointee may not re-disclose the records except as permitted by a court order or other applicable law and must destroy the records upon termination of the appointment.

Impact: UT System institutions that maintain medical records will be required to provide patients records in compliance with this new requirement. Policies may need to be changed and records custodians will need to be trained. In addition, procedures should be developed to expeditiously obtain review by legal counsel to determine if an order is sufficient to permit the release of the records.

Effective: May 30, 2011

Barbara Holthaus

Payment for Medical Services

[SB 822](#) by Watson and Zerwas

Relating to expedited credentialing of certain physicians by managed care plans.

SB 822 makes expedited credentialing available for physicians who are newly hired by medical schools or health science centers. This credentialing permits physicians to bill for services as network providers for certain managed care plans.

Impact: UT System institutions that employ physicians who are credentialed by managed care networks will be able to obtain expedited credentialing. This permits institutions to accelerate revenues for newly hired physicians.

Effective: September 1, 2011

Barbara Holthaus

[HB 438](#) by Thompson, et al. and Carona, et al.

Relating to health benefit plan coverage for orally administered anticancer medications.

HB 438 requires many health plans, but not the UT System uniform employee health plan administered by the Office of Employee Benefits, to provide coverage for orally administered anticancer medications on the same basis as the plan provides coverage for

intravenously administered anticancer (IVA) medications or injections of anticancer medications. If a health plan subject to HB 438 authorizes the administration of orally administered medication, the cost to plan participants for that medication may not be greater than the out-of-pocket costs they would pay under the plan for a chemotherapy or other cancer treatment visit.

HB 438 also adds a provision that prohibits affected health plans from reclassifying anti-cancer medication (such as calling it a “service” rather than a pharmacy benefit) to avoid complying with the coverage requirements of HB 438. An affected health plan is also prohibited from complying with HB 438 by increasing the co-payments, co-insurance, or other out-of-pocket costs already charged for IVA. If a plan increases co-payments or co-insurance for anticancer medication, the same increases must be imposed across the board for all other comparable medical or pharmacy benefits offered under the plan.

Impact: By making oral medications more readily available and cheaper to individual patients with health insurance plans subject to HB 438, UT System institutions that provide cancer treatment may have more flexibility in deciding how to treat patients. It will not impact the UT System uniform employee health plan administered by the Office of Employee Benefits.

Effective: September 1, 2011. However, only plans that take effect on or after January 1, 2012, must comply with its terms.

Barbara Holthaus

SB 7 – First Called Session by Nelson, et al. and Zerwas

Relating to the administration, quality, and efficiency of health care, health and human services, and health benefits programs in this state; creating an offense; providing penalties.

SB 7 contains numerous provisions reforming the delivery of health care services in Texas. Some of the provisions are intended to move the state toward market reforms in a manner that is independent of federal reform efforts. Similarly, and as part of the state’s health reform initiatives, the Medicaid provisions are designed to reorganize coverage to low-income families and children and to seek quality of care improvements at lower costs.

Some of the major provisions of SB 7 are as follows:

- (1) Texas Institute of Health Care Quality and Efficiency. SB 7 creates the Texas Institute of Health Care Quality and Efficiency (institute) to “improve health care quality, accountability, education, and cost containment in this state by encouraging health care provider collaboration, effective health care delivery models, and coordination of health care services.” The institute is composed of 15 members appointed by the governor, including representatives of various state agencies (including systems of higher education), health care providers, payors, consumers, and health care quality experts. Administrative provisions include terms of office, conflicts of interests, administrative support, board immunity, and

funding. The institute provides recommendations on: (1) improving the state's quality and efficiency of health care delivery; (2) improving the reporting, consolidation, and transparency of health information; and (3) implementing and supporting health care collaborative payment and delivery systems. This includes conducting a study, making recommendations, and assisting the legislature in developing a statewide plan. Section 3.01.

- (2) Health Care Collaboratives. According to the Centers for Medicare and Medicaid Services, an accountable care organization (ACO) is “an organization of health care providers that agrees to be accountable for the quality, cost, and overall care of Medicare beneficiaries who are enrolled in the traditional fee-for-service program.” ACOs are an integral component of the federal health reform initiatives under the Patient Protection and Affordable Care Act that will be used to consolidate providers, healthcare facilities, and healthcare delivery systems with the goal of achieving higher quality of care at lower costs. As an independent initiative, the Texas Legislature created health care collaboratives (HCC), which are comparable to ACOs. Under SB 7, an HCC is defined as an entity that arranges medical services for, and accepts payment from, insurers, HMOs, and other payors and that has been certified by the Texas Department of Insurance. Before providing services, an HCC is required to obtain a certificate of authority from the Texas Attorney General's antitrust division and be deemed not likely to reduce competition due to its size or composition. As part of the application process, the HCC must provide updated financial statements, service area maps, list of participating providers, and evaluation of costs, among other information. Exceptions to these requirements includes existing entities already licensed, such as managed care plans, physicians solely engaged in the practice of medicine, medical schools and health science centers, and other entities licensed under the Health and Safety Code that employ physicians. Additional details include applicability of insurance laws, confidentiality of application and related filings, renewal process, exceptions for individuals who do not want to maintain health insurance coverage, formation, governance, and operation of HCCs, general powers and duties of HCCs, policies for quality and cost of health care services, complaint systems, and regulations of HCCs. Section 4.01.
- (3) Interstate Health Care Compact. SB 7 also authorizes the creation of a health care compact between Texas and at least one other state to permit an interstate collaboration of managing state health programs and resources, such as state Medicaid services. Interstate compacts are authorized under Article 1, Section 10 of the US Constitution. To facilitate the creation and management of the health care compact, SB 7 establishes an Interstate Advisory Health Care Commission to evaluate the appropriate regulations and policies, to coordinate with other states, and to seek congressional approval. Provisions also include resolutions and purpose of the compact, pledges of joint commitments from member states, reservation of legislative powers and state control, and funding, among other details. Section 12.01.

- (4) Statewide Standardized Patient Risk Identification System. SB 7 directs the Department of State Health Services (DSHS) to coordinate with hospitals to develop a statewide standardized patient risk identification system to identify a patient with a specific risk while obtaining treatment at a hospital. Section 5.01.
- (5) Hospital Infection Reporting. SB 7 enables the state to report hospital infection data to federal oversight agencies, along with permitting access to that data by the public. Provisions also address disclosure details between state and federal entities. Sections 6.01-6.03, 6.07- 6.09, and 6.11.
- (6) Preventable Error Reporting. SB 7 implements certain reporting requirements to state and federal agencies for potentially preventable events occurring at hospitals and long-term care facilities. Section 6.05.
- (7) Texas Emergency and Trauma Education Partnership Program. SB 7 establishes a program that provides grants to train physicians in graduate medical education programs and in nurses training programs specializing in emergency and trauma care. The grants are intended to assist in increasing the availability of emergency and trauma doctors and nurses to meet the state's need for this specialty care. Sections 9.01-9.02.
- (8) Establishment of Adult Stem Cell Bank. SB 7 directs the Health and Human Services Commission (HHSC) to establish eligibility criteria for the creation and operation of an autologous adult stem cell bank if HHSC determines that it would be cost-effective and improve quality of care and health benefits. Section 14.01.

SB 7 also does the following:

- (1) Implements provisions to protect residents at long-term care facilities against neglect, abuse, or exploitation.
- (2) Expands the definition of assisted living facilities to authorize delivery of skilled nursing services to coordinate care outside with community support services agencies, delegation of personal care services, assessment of care required, and delivery of care for minor illness, injury, or emergency. Section 1.08.
- (3) Provides restrictions on financial awards from the DSHS to family planning providers related to using award money on elective abortions. Section 1.19.
- (4) Prohibits illegal aliens from enrolling in the state supplemental nutrition assistance program. Section 1.21.
- (5) Transfers duties and responsibilities of the Texas Health Care Information Council to DSHS. Also includes provisions relating to coordination, confidentiality, and disclosure of data with federal and state agencies or other entities. Sections 7.02-7.06.

- (6) Requires health care facilities and hospitals to establish a vaccine policy and vaccine preventable diseases program to protect patients from preventable vaccine diseases or injuries. Also addresses procedures for employee compliance, facility penalties for non-compliance, and access during public health disasters. Sections 8.02-8.04.
- (7) Prohibits a contractual requirement by health plans for institutional providers to agree to enter into an exclusive preferred provider arrangement. Section 10.01.
- (8) Prohibits health plans from denying payment for chiropractic services if therapeutic modalities comply with state laws, are recognized treatment within the scope of practice and by other providers, and are deemed medically necessary by the plan. These provisions do not apply to workers compensation plans, self-insured employee benefit plans, and Medicaid managed care and child health plans. Section 11.01.
- (9) Prohibits the use of tax revenues for abortions except for medical emergencies, and defines “medical emergency.” Section 15.01.

SB 7 also provides the following Medicaid initiatives:

- (1) Directs HHSC to implement cost effective and objective utilization rules for Medicaid covered acute nursing services, which includes home health skilled nursing services, home health aide services, and private duty nursing services. Also directs HHSC to implement an electronic visit verification system to verify and document delivery of Medicaid acute nursing services. Section 1.01.
- (2) Similarly directs HHSC to evaluate and consider implementing an age and diagnosis appropriate assessment for Medicaid covered therapy services, which includes occupational, physical, and speech therapy services. Section 1.01.
- (3) Requires all children of same family unit to be enrolled in the same Medicaid managed care plan. Section 1.02.
- (4) Authorizes an external quality review organization to evaluate and study the quality of care and patient satisfaction of Medicaid services provided to enrollees. Section 1.02.
- (5) Creates a Patient-Centered Medical Home, which is a medical relationship between a primary care physician and a child or adult in which the patient obtains comprehensive primary care and in which all care is coordinated through the designated physician. The medical home is intended to increase clinical quality and efficiency, improve patient and physician satisfaction, and improve overall care coordination and integration. Section 1.02.
- (6) Directs HHSC to provide certain preferences for the award of contracts to managed care organization located in South Texas. Section 1.02.

- (7) Directs HHSC to ensure Medicaid managed care organizations provide payment incentives to health care providers for promoting preventive services that exceed minimum established standards. Section 1.02.
- (8) Directs background checks for managed care pharmacy benefits managers when considering approval of subcontracts for prescription drug benefits under Medicaid. Section 1.02.
- (9) Requires Medicaid managed care contracts to include certain terms and conditions relating to the location and availability of medical directors, appeals within the region, submission of a detailed plan describing how access and services will be provided, quality and outcomes measures, outpatient pharmacy benefit plans, and no-cost disclosure of discounts, rebates, and related incentives to HHSC. Section 1.02.
- (10) Requires Medicaid managed care organizations to establish a single portal for electronic claims submissions by participating network providers. Section 1.02.
- (11) Requires Medicaid managed care medical directors to have and maintain a license to practice medicine in Texas. Section 1.02.
- (12) Directs HHSC to implement a verification of identify program to prevent duplicate participation of the same recipient in the various Medicaid programs. Section 1.04.
- (13) Implements streamlining and efficiency initiatives for conducting program certifications, billing audits, integrating administrative and contracting efforts, and utilization review of long-term care under the Medicaid federal waiver provisions. Section 1.06.
- (14) Expands the Medicaid billing coordination and information collection activities to reduce administration and program costs. Section 1.06.
- (15) Implements an electronic visit verification system to verify and document delivery of long-term care by Medicaid providers. Section 1.07.
- (16) Directs HHSC to study and report on physician incentive programs to reduce hospital emergency room use for non-emergent conditions under the Medicaid medical assistance program. The report is due to the governor and Legislative Budget Board by August 31, 2013. Also permits HHSC to implement an incentive program if cost effective. Section 1.09.
- (17) Establishes cost-sharing provisions for Medicaid recipients for non-emergency care provided at hospital emergency rooms. Section 1.09.
- (18) Establishes an advisory committee to assist HHSC in improving outcomes and reducing Medicaid costs by implementing reimbursement incentives and rules relating to potentially preventable hospital admissions, emergency room visits,

complications, and ancillary services. Similar provisions apply to Medicaid managed care organizations and home health services. Section 1.12.

- (19) Implements common performance measures and pay-for-performance incentives for nursing facilities covered by Medicaid. Section 1.13.
- (20) Establishes a requirement that HHSC verify the immigration status of Medicaid applicants and their sponsors, to the extent permitted by federal law. Section 1.17.
- (21) Directs HHSC to adopt certain rules requiring electronic submission of durable medical equipment under the Medicaid medical assistance program. Section 1.18.
- (22) Directs HHSC to seek federal waiver authorization for Medicaid reform so as to implement alternate methods of providing health services to low-income persons. Waivers requests should be designed to provide flexibility in determining Medicaid eligibility and benefits tailored to meet the demographic, public health, clinical, and cultural needs of the state. Additionally, waivers should seek to encourage use of private market plans over public health plans and create a culture of shared financial responsibility similar to private health plans. Section 13.01.

Impact: UT System and its health institutions are impacted by SB 7, the Texas Legislature's comprehensive state health care reform initiative. Like federal health reform efforts under the Patient Protection and Affordable Care Act where market reform for payors, providers, and patients is taking place, SB 7 is intended to transform health care services in Texas, improve the cost and quality of care provided by private and public health care delivery system, and reorganize Medicaid coverage and reimbursement. Accordingly, administrators, executives, and providers within UT System and its health institutions should generally be aware of these state health reform efforts and identify those initiatives that may affect their respective institutions, as further guidance from state health agencies is anticipated.

Effective: September 28, 2011 (except that certain repealers take effect September 1, 2014)

Walter Mosher

Medicaid and Indigent Health Care

[SB 78](#) by Nelson and Laubenberg

Relating to adverse licensing, listing, or registration decisions by certain health and human services agencies.

SB 78 implements agency record keeping and tracking requirements for health and human services agencies when issuing licenses, listing, and registering certain entities,

such as youth camps, home and community services agencies, hospitals, assisted living facilities, special care facilities, chemical dependent treatment facilities, mental health facilities, and child and adult care facilities. It also identifies certain data elements that must be provided and kept on file for application processing, background investigations, and related adverse decision making. SB 78 further authorizes the denial of licensing, listing, registration, or related decisions if agency records indicate that the applicant was previously involved in an incident where an individual was harmed physically or mentally, was financially exploited, or for any other reason the agency deems the applicant is unfit to fulfill the obligations of the license, listing, or registration.

Impact: SB 78 does not directly impact UT System or its institutions since it applies to private individuals or entities seeking state authorization to provide social services, community health support services, hospital care, or other specialized care of individuals. However, UT System health institutions should be aware of these efforts to monitor, track, and deter applicants that are potentially unfit to fulfill the obligations of a license, listing, or registration in providing health, social, and community services for the general public.

Effective: September 1, 2011

Walter Mosher

[**SB 293**](#) by Watson, et al. and Davis, John

Relating to telemedicine medical services, telehealth services, and home telemonitoring services provided to certain Medicaid recipients.

Medicaid does not pay for daily home health visits or physician visits for daily monitoring of a patient's key vital signs. However, this information is vital in the management of intractable chronic conditions to prevent acute exacerbations and expensive emergency room visits or hospitalizations. SB 293 requires Medicaid to create a fee structure for reimbursement of telehealth services. SB 293 defines "telehealth service" as a health service, other than a telemedicine medical services, that is delivered by a licensed or certified health professional acting within the scope of the health professional's license or certification who does not perform a telemedicine medical service and that requires the use of advanced telecommunications technology, other than telephone or facsimile technology. It also defines "telemedicine medical service." A nurse or other healthcare professional could collect this daily data through the telehealth services and use it in coordination with a physician for a patient's care and treatment.

As to home telemonitoring services, SB 293 requires the Health and Human Services Commission to first establish that a statewide program that permits reimbursement under the state Medicaid program for such services would be cost-effective and feasible. Under that condition, the executive commissioner would then be required by rule to establish a home telemonitoring service program for persons diagnosed with specific conditions. If, after implementation, the commission determines that the program established under this section is not cost-effective, the commission may discontinue the program and stop

providing reimbursement authority for home telemonitoring services. In any event, the reimbursement authority for home telemonitoring services expires on September 1, 2015.

Additionally, SB 293 ensures that clinical information gathered by a home health agency or hospital while providing home telemonitoring services is shared with the patient's physician and that the program does not duplicate existing disease management program services.

SB 293 requires the commission to establish separate provider identifiers and modifiers for telehealth service providers and home telemonitoring service providers and also to report by December 1 of each even-numbered year to the speaker of the house and the lieutenant governor on the effects of telemedicine medical services, telehealth services, and home telemonitoring services on the Medicaid program.

Impact: UT System health institutions should study the commission's rules on telehealth services to determine if those services will be provided by UT System healthcare providers, and if the commission establishes rules for home telemonitoring services, UT System hospitals should determine whether they will provide those services.

Effective: September 1, 2011

Lannis Temple

[SB 303](#) by Nichols and Scott, et al.

Relating to health care services provided or paid by certain hospital districts.

SB 303 authorizes a hospital district to recover the value of fraudulently obtained health care services from a county resident, and authorizes the filing of liens in certain circumstances.

SB 303 also requires a person who applies for or receives health care services to inform the hospital district within 30 days of learning of any unsettled tort claim, private accident or health insurance coverage, or injury that may be caused by the act of another person.

Impact: Presumably hospital districts will have more money to spend for indigent care, and this will benefit UT System institutions that provide health care to eligible county residents pursuant to contracts with hospital districts.

Effective: September 1, 2011

Chuck Johnstone

SB 304 by Nichols and Creighton

Relating to employment services programs for certain residents receiving services from public hospitals or hospital districts.

SB 304 authorizes a public hospital or hospital district to establish a program consistent with procedures used by the Health and Human Services Commission to require an applicant for indigent health care assistance to register for work with the Texas Workforce Commission.

At least 30 days before the program is established, the public hospital or hospital district must notify applicants and eligible residents of the requirements of the employment services program.

Impact: By requiring county residents to participate in a work program, fewer residents will be eligible for indigent health care and presumably hospital districts will have more money to spend for indigent care of truly eligible residents. This will benefit those UT System institutions that provide health care to eligible county residents pursuant to contracts with hospital districts.

Effective: June 17, 2011

Chuck Johnstone

SB 420 by Deuell, et al. and Taylor, Van

Relating to determining eligibility for indigent health care.

SB 420 permits the Department of State Health Services to consider the income and resources of a sponsor for a lawful resident alien (permanent resident) when applying for indigent health care coverage.

Impact: SB 420 does not directly impact on UT System or its health institutions. However, health administrators and providers should be aware that the income and resources of sponsors (e.g., spouses, parents) for legal resident aliens are now considered when determining Medicaid eligibility.

Effective: May 28, 2011

Walter Mosher

SB 688 by Nichols and Creighton

Relating to the investigation, prosecution, and punishment of criminal Medicaid fraud and certain other offenses related to Medicaid fraud.

SB 688 provides that Medicaid fraud is a third degree felony offense for filing 25-49 fraudulent claims and is a second degree felony for filing 50 or more fraudulent claims.

It also provides a criminal offense for the exploitation of a child, elderly individual, or disabled person, which is the illegal or improper use of a child, elderly individual, or disabled individual or their resources for monetary or personal benefit, profit, or gain. Furthermore, SB 688 defines “high managerial agent” for purposes of the criminal offense of Medicaid fraud as a director, officer, or employee who is authorized to act on behalf of a provider, and enhances the punishment for those persons. SB 688 also addresses procedures for investigating and prosecuting Medicaid fraud.

Impact: Since SB 688 addresses individuals engaged in criminal conduct, there is no direct impact on UT System or its institutions. However, employees at UT System health institutions should be aware of SB 688.

Effective: September 1, 2011

Walter Mosher

SB 874 by Fraser and Craddick

Relating to establishing a separate provider type for prosthetic and orthotic providers under the medical assistance program.

SB 874 requires the Health and Human Services Commission (HHSC) to establish a separate provider type for prosthetic and orthotic providers and prohibits HHSC from classifying them under the durable medical equipment (DME) provider type for provider enrollment purposes under the Medicaid medical assistance program.

Impact: UT System health institutions should anticipate new guidance from HHSC on prosthetic, orthotic, and DME authorization and billing practices for Medicaid covered patients and, accordingly, should plan administrative and billing adjustments.

Effective: May 9, 2011

Walter Mosher

HB 1720 by Davis, John and Patrick, Dan, et al.

Relating to certain facilities and care providers, including providers under the state Medicaid program and to improving health care provider accountability and efficiency under the child health plan and Medicaid programs; providing penalties.

HB 1720 implements improvements to facilitate the detection, auditing, and recovery of payments in Medicaid fraud and abuse investigations. These include:

- authorization to conduct a criminal history review of providers under the Medicaid medical assistance program;

- requiring that the national provider identifier of the source provider is documented for any referrals;
- payment holds for suspected fraudulent or willful misrepresentation involving Medicaid;
- Medicaid managed care entity requirements for reporting suspected fraud cases;
- coordination of payment recovery;
- suspending provider participation in the Medicaid program for failure to repay overpayments;
- application, licensure, and compliance matters of home and community support services;
- criminal background checks and employee discharges of financial management services entities servicing the Department of Aging and Disability Services;
- coordination of criminal history and data sharing between state agencies for Medicaid services; and
- administrative penalties for licensees of adult day care centers.

Impact: HB 1720 does not directly impact UT System and its institutions. However, administrators and providers should generally be aware of the legislature's efforts to eliminate health care fraud in the Medicaid programs, in addition to the initiatives aimed at protecting the elderly and disabled persons.

Effective: September 1, 2011

Walter Mosher

[HB 1983](#) by Kolkhorst, et al. and Nelson

Relating to certain childbirths occurring before the 39th week of gestation.

HB 1983 requires the Health and Human Services Commission (HHSC) to achieve cost savings with improved outcomes by implementing quality initiatives that are evidence-based, tested, and fully consistent with established standards of care to reduce the number of elective or non-medically indicated induced deliveries or cesarean sections performed on covered Medicaid assistance patients before the 39th week of gestation. It also requires HHSC to coordinate with physicians, hospitals, managed care organizations, and its billing contractor to develop a process to collect information on the number of induced deliveries and cesarean sections. HHSC must conduct a study of the quality initiatives and submit a written report to the legislature by December 1, 2012.

HB 1983 also requires hospitals that provide obstetrical services to collaborate with physicians in developing quality initiatives to reduce the number of elective or nonmedically indicated induced deliveries or cesarean sections before the 39th week of gestation. This requirement applies to hospitals licensed under Chapter 241, Health and Safety Code.

Impact: While existing rules and standards of care address concerns related to induced deliveries or cesarean sections before the 39th week of gestation, UT System health institutions, physicians, and providers should expect additional guidance from HHSC under its quality initiatives.

Effective: September 1, 2011

Walter Mosher

[HB 2245](#) by Zerwas, et al. and Nelson

Relating to physician incentive programs to reduce hospital emergency room use for non-emergent conditions by Medicaid recipients.

HB 2245 directs the Health and Human Services Commission to conduct a study to evaluate physician incentive programs that attempt to reduce hospital emergency room use for non-emergent conditions by patients covered by the medical assistance program. The study will evaluate the cost effectiveness of each component of a physician incentive program for both the Medicaid fee-for-service or primary care case management model. The study must be submitted to the governor and Legislative Budget Board by August 31, 2012.

HB 2245 further authorizes the commission to adopt rules to establish a physician incentive program to reduce the use of hospital emergency room services for non-emergent conditions under the medical assistance program.

Impact: Since the patient population of several UT System health institutions includes patients covered under the Medicaid medical assistance and child health programs, this study may involve evaluating physician incentive programs adopted by UT System institutions. Additionally, any physician incentive program adjustments implemented by the commission may affect the operations of the emergency rooms at UT System health care facilities. Accordingly, UT System health institutions and emergency care providers should be aware of HB 2245.

Effective: September 1, 2011

Walter Mosher

[HB 2315](#) by Coleman and Deuell

Relating to a county's general revenue levy for indigent health care.

HB 2315 amends the general revenue levy provisions for indigent health care. The definition of "general revenue levy" in prior law excluded property taxes dedicated to construction and maintenance of farm-to-market roads, flood control, or maintenance of public roads. Under HB 2315, property taxes dedicated to the payment of principal or interest on county debt are excluded from the definition of "general revenue levy."

Impact: HB 2315 does not directly impact UT System or its health institutions. However, health institutions should generally be aware of the legislature's effort to increase funds for indigent care.

Effective: June 17, 2011

Walter Mosher

[HB 2610](#) by Guillen, et al. and Deuell

Relating to facilitating access to certain public assistance benefits programs and health care providers and services through a community-based navigator program and through promotoras and community health workers.

HB 2610 authorizes the Health and Human Services Commission (HHSC) to implement a community-based navigator program that enables volunteers to assist individuals applying online for public assistance benefits, such as Medicaid. It also expands the existing promotora or community health worker program by creating an advisory committee to advise the Department of State Health Services (DSHS) concerning these health facilitators and by requiring DSHS to conduct a study and submit a report to the legislature concerning promotoras and community health workers.

Impact: SB 2610 does not directly impact UT System or its institutions. However, UT System health institutions should generally be aware of the role of these community or faith-based health facilitators for patients enrolled in the medical assistance program.

Effective: September 1, 2011

Walter Mosher

[HB 2636](#) by Kolkhorst, et al. and Nelson

Relating to a council to study neonatal intensive care units.

HB 2636 requires the Health and Human Services Commission (HHSC) to establish the Neonatal Intensive Care Unit Council (council) to study and make recommendations regarding neonatal intensive care operating standards and Medicaid reimbursement. The council must:

- develop operational standards for neonatal intensive care units;
- develop accreditation processes for Medicaid reimbursement;
- recommend best practices in order to lower neonatal intensive care admissions; and
- submit a report concerning its recommendations by January 1, 2013 to HHSC, the governor, and legislative leadership.

The council expires June 1, 2013.

Impact: HB 2636 requires the council to have membership that includes 10 physicians variously involved in the treatment of infants as well as three representatives from certain hospitals. Any of those members could come from a UT System health institution. In addition, the existence of the council is important, as it develops standards and protocols for neonatal intensive care units and maps strategies for accessing Medicaid funds.

Effective: September 1, 2011

Chuck Johnstone

[HB 2722](#) by Perry and Duncan

Relating to the state Medicaid program as the payor of last resort.

HB 2722 requires the Health and Human Services Commission to adopt rules to ensure that Medicaid is the payor of last resort and provides reimbursement for services only if, and to the extent, other adequate public or private sources of payment are not available.

Impact: Since existing regulations establish that Medicaid is payor of last resort, there is no impact on UT System or its health institutions. However, health institutions should be aware that the Health and Human Services Commission may issue new guidance to ensure the applicability and administration of this payor of last resort provision.

Effective: June 17, 2011

Walter Mosher

[HB 2903](#) by Zerwas, et al. and Deuell

Relating to the program of all-inclusive care for the elderly.

HB 2903 directs the commissioner of the Health and Human Services Commission to implement a program of all-inclusive care for the elderly (PACE) and to ensure the program is available as an alternative to Medicaid managed care plans. Additionally, it

directs the commissioner to ensure that Medicaid managed care organizations consider the PACE program for referring Medicaid covered patient to nursing homes and long-term care facilities. HB 2903 also enables the PACE program to coordinate with other entities to obtain discount prescription drugs.

Impact: HB 2903 does not directly impact UT System and its health institutions. However, UT System health institutions should generally be aware of this new type of Medicaid program designed to provide covered elderly patients with all-inclusive care.

Effective: September 1, 2011

Walter Mosher

SB 1 – **First Called Session** by Duncan, et al. and Pitts

Relating to certain state fiscal matters; providing penalties.

SB 1, First Called Session, is composed of approximately 70 articles and 262 pages, designed primarily to make changes to the manner of distribution and methods of providing revenue for the support of public schools. SB 1 has little direct effect on higher education or UT System. Many of the other provisions of the bill adjust the schedule for payment of various taxes and fees, moving payments from the following biennium to the current biennium (requiring prepayment followed by a reconciliation) or delaying transfers from general revenue to a special fund, all with a purpose of increasing the amount held in general revenue during the fiscal biennium ending August 31, 2013. This includes prepayment of alcoholic beverage taxes (Article 10) and sales taxes (Article 13).

The following describes matters of interest to higher education, even though most of the described provisions generally have no direct impact on higher education or UT System.

Article 1 defers foundation school fund payments to school districts (and therefore charter schools) from August 2013 to September 2013, moving the cost of those payments to the following fiscal biennium.

Article 17 transfers from the comptroller of public accounts to the Coordinating Board a report on the physician education loan repayment assistance program under Subchapter J, Chapter 61, Education Code.

Article 20 eliminates the statutory requirement that the secretary of state produce bound copies of the “session laws” after each session of the legislature.

Article 21 authorizes the attorney general to charge a fee for the electronic filing of documents with the attorney general.

Article 23 continues the Department of Information Resources (DIR) in operation for the next two years (the DIR sunset bill from the regular session having been vetoed). SB 1 provides DIR authority to employ best value purchasing for information technology

commodity items. It also authorizes DIR to set and charge a fee to each entity that receives services from DIR.

Article 27 eliminates the statutory authority of the Commission on State Emergency Communications to establish a regional poison control center in Harris County and authorizes the commission to standardize the operations of and implement management controls to improve the efficiency of regional poison control centers.

Article 28 expands the use of three tobacco settlement funds (not those managed by UT System) to pay principal and interest on bonds issued by the Cancer Prevention and Research Institute of Texas (CPRIT).

Article 34 requires the Legislative Budget Board (LBB) to conduct public hearings on expenditure reduction plans requested by leadership, and agencies to provide to the LBB plans in response to such a request. In addition, Article 34 requires the comptroller of public accounts to publish online a schedule of all revenue to the state from fees authorized by statute (implicitly including higher education fees).

Article 50 limits eligibility for education aide tuition exemptions to persons seeking teacher certification in subject areas experiencing teacher shortages, as determined by the Texas Education Agency.

Article 54 removes the comptroller of public accounts as an ex officio member of the Texas Guaranteed Student Loan Board and reduces the board from 10 to nine members. It also authorizes the governor to name the chair of the board.

Articles 42 and 65 relate to correctional health care. Article 42 changes the composition of the correctional managed health care committee, reducing the committee to five voting members plus the state Medicaid director as a nonvoting member, and reducing the term of office to four years. Article 42 also transfers from the committee to the Texas Department of Criminal Justice (TDCJ) the responsibility to contract for correctional managed care and requires TDCJ, in cooperation with the committee, to contract for a biennial review of expenditures. Article 65 requires TDCJ to adopt policies designed to manage inmate populations based on similar health conditions. It requires each inmate to pay an annual \$100 health services fee instead of a co-pay. It requires TDCJ to make over-the-counter medicines available to inmates and requires TDCJ, in cooperation with UT Medical Branch at Galveston (UTMB) and Texas Tech University Health Sciences Center, to develop and implement, not later than January 1, 2012, a training program for corrections medications aides. It further exempts from end-stage renal disease licensing requirements any clinics or hospitals providing dialysis in correctional managed care.

Article 71 authorizes the Health and Human Services Commission to apply for a federal Medicaid waiver relating to benefits for individuals with chronic health conditions.

Impact: In general, SB 1 has little direct impact on UT System or its institutions. No amendments to rules or policies are necessary, nor are changes to catalogues, websites, or notices. Institutional business offices should be aware of the described provisions of SB 1.

State payments to campus charter schools will be briefly delayed from August to September of 2013.

Offices filing documents electronically with the attorney general, such as campus legal counsel, and offices receiving services from DIR will pay fees not previously paid.

Financial aid offices should be aware of the changes to qualifications for the educational aide tuition exemption, and should monitor the Texas Education Agency for rules determining which areas of teacher certification will qualify an individual for the exemption.

UTMB is directly affected by the described changes to correctional managed care.

The Southeast Texas Poison Center at UTMB and the South Texas Poison Center at UT Health Science Center at San Antonio should monitor changes in policies and procedures of the Commission on State Emergency Communications.

Effective: Each of the described provisions takes effect September 28, 2011, as does the bill generally. Some provisions have specified later effective dates.

Steve Collins

SB 7 – **First Called Session** by Nelson, et al. and Zerwas

Relating to the administration, quality, and efficiency of health care, health and human services, and health benefits programs in this state; creating an offense; providing penalties.

SB 7 contains numerous provisions reforming the delivery of health care services in Texas. Some of the provisions are intended to move the state toward market reforms in a manner that is independent of federal reform efforts. Similarly, and as part of the state's health reform initiatives, the Medicaid provisions are designed to reorganize coverage to low-income families and children and to seek quality of care improvements at lower costs.

Some of the major provisions of SB 7 are as follows:

- (1) Texas Institute of Health Care Quality and Efficiency. SB 7 creates the Texas Institute of Health Care Quality and Efficiency (institute) to “improve health care quality, accountability, education, and cost containment in this state by encouraging health care provider collaboration, effective health care delivery models, and coordination of health care services.” The institute is composed of 15 members appointed by the governor, including representatives of various state agencies (including systems of higher education), health care providers, payors, consumers, and health care quality experts. Administrative provisions include terms of office, conflicts of interests, administrative support, board immunity, and funding. The institute provides recommendations on: (1) improving the state's quality and efficiency of health care delivery; (2) improving the reporting, consolidation, and transparency of health information; and (3) implementing and

supporting health care collaborative payment and delivery systems. This includes conducting a study, making recommendations, and assisting the legislature in developing a statewide plan. Section 3.01.

- (2) Health Care Collaboratives. According to the Centers for Medicare and Medicaid Services, an accountable care organization (ACO) is “an organization of health care providers that agrees to be accountable for the quality, cost, and overall care of Medicare beneficiaries who are enrolled in the traditional fee-for-service program.” ACOs are an integral component of the federal health reform initiatives under the Patient Protection and Affordable Care Act that will be used to consolidate providers, healthcare facilities, and healthcare delivery systems with the goal of achieving higher quality of care at lower costs. As an independent initiative, the Texas Legislature created health care collaboratives (HCC), which are comparable to ACOs. Under SB 7, an HCC is defined as an entity that arranges medical services for, and accepts payment from, insurers, HMOs, and other payors and that has been certified by the Texas Department of Insurance. Before providing services, an HCC is required to obtain a certificate of authority from the Texas Attorney General’s antitrust division and be deemed not likely to reduce competition due to its size or composition. As part of the application process, the HCC must provide updated financial statements, service area maps, list of participating providers, and evaluation of costs, among other information. Exceptions to these requirements includes existing entities already licensed, such as managed care plans, physicians solely engaged in the practice of medicine, medical schools and health science centers, and other entities licensed under the Health and Safety Code that employ physicians. Additional details include applicability of insurance laws, confidentiality of application and related filings, renewal process, exceptions for individuals who do not want to maintain health insurance coverage, formation, governance, and operation of HCCs, general powers and duties of HCCs, policies for quality and cost of health care services, complaint systems, and regulations of HCCs. Section 4.01.
- (3) Interstate Health Care Compact. SB 7 also authorizes the creation of a health care compact between Texas and at least one other state to permit an interstate collaboration of managing state health programs and resources, such as state Medicaid services. Interstate compacts are authorized under Article 1, Section 10 of the US Constitution. To facilitate the creation and management of the health care compact, SB 7 establishes an Interstate Advisory Health Care Commission to evaluate the appropriate regulations and policies, to coordinate with other states, and to seek congressional approval. Provisions also include resolutions and purpose of the compact, pledges of joint commitments from member states, reservation of legislative powers and state control, and funding, among other details. Section 12.01.
- (4) Statewide Standardized Patient Risk Identification System. SB 7 directs the Department of State Health Services (DSHS) to coordinate with hospitals to develop a statewide standardized patient risk identification system to identify a patient with a specific risk while obtaining treatment at a hospital. Section 5.01.

- (5) Hospital Infection Reporting. SB 7 enables the state to report hospital infection data to federal oversight agencies, along with permitting access to that data by the public. Provisions also address disclosure details between state and federal entities. Sections 6.01-6.03, 6.07- 6.09, and 6.11.
- (6) Preventable Error Reporting. SB 7 implements certain reporting requirements to state and federal agencies for potentially preventable events occurring at hospitals and long-term care facilities. Section 6.05.
- (7) Texas Emergency and Trauma Education Partnership Program. SB 7 establishes a program that provides grants to train physicians in graduate medical education programs and in nurses training programs specializing in emergency and trauma care. The grants are intended to assist in increasing the availability of emergency and trauma doctors and nurses to meet the state's need for this specialty care. Sections 9.01-9.02.
- (8) Establishment of Adult Stem Cell Bank. SB 7 directs the Health and Human Services Commission (HHSC) to establish eligibility criteria for the creation and operation of an autologous adult stem cell bank if HHSC determines that it would be cost-effective and improve quality of care and health benefits. Section 14.01.

SB 7 also does the following:

- (1) Implements provisions to protect residents at long-term care facilities against neglect, abuse, or exploitation.
- (2) Expands the definition of assisted living facilities to authorize delivery of skilled nursing services to coordinate care outside with community support services agencies, delegation of personal care services, assessment of care required, and delivery of care for minor illness, injury, or emergency. Section 1.08.
- (3) Provides restrictions on financial awards from the DSHS to family planning providers related to using award money on elective abortions. Section 1.19.
- (4) Prohibits illegal aliens from enrolling in the state supplemental nutrition assistance program. Section 1.21.
- (5) Transfers duties and responsibilities of the Texas Health Care Information Council to DSHS. Also includes provisions relating to coordination, confidentiality, and disclosure of data with federal and state agencies or other entities. Sections 7.02-7.06.
- (6) Requires health care facilities and hospitals to establish a vaccine policy and vaccine preventable diseases program to protect patients from preventable vaccine diseases or injuries. Also addresses procedures for employee compliance, facility penalties for non-compliance, and access during public health disasters. Sections 8.02-8.04.

- (7) Prohibits a contractual requirement by health plans for institutional providers to agree to enter into an exclusive preferred provider arrangement. Section 10.01.
- (8) Prohibits health plans from denying payment for chiropractic services if therapeutic modalities comply with state laws, are recognized treatment within the scope of practice and by other providers, and are deemed medically necessary by the plan. These provisions do not apply to workers compensation plans, self-insured employee benefit plans, and Medicaid managed care and child health plans. Section 11.01.
- (9) Prohibits the use of tax revenues for abortions except for medical emergencies, and defines “medical emergency.” Section 15.01.

SB 7 also provides the following Medicaid initiatives:

- (1) Directs HHSC to implement cost effective and objective utilization rules for Medicaid covered acute nursing services, which includes home health skilled nursing services, home health aide services, and private duty nursing services. Also directs HHSC to implement an electronic visit verification system to verify and document delivery of Medicaid acute nursing services. Section 1.01.
- (2) Similarly directs HHSC to evaluate and consider implementing an age and diagnosis appropriate assessment for Medicaid covered therapy services, which includes occupational, physical, and speech therapy services. Section 1.01.
- (3) Requires all children of same family unit to be enrolled in the same Medicaid managed care plan. Section 1.02.
- (4) Authorizes an external quality review organization to evaluate and study the quality of care and patient satisfaction of Medicaid services provided to enrollees. Section 1.02.
- (5) Creates a Patient-Centered Medical Home, which is a medical relationship between a primary care physician and a child or adult in which the patient obtains comprehensive primary care and in which all care is coordinated through the designated physician. The medical home is intended to increase clinical quality and efficiency, improve patient and physician satisfaction, and improve overall care coordination and integration. Section 1.02.
- (6) Directs HHSC to provide certain preferences for the award of contracts to managed care organization located in South Texas. Section 1.02.
- (7) Directs HHSC to ensure Medicaid managed care organizations provide payment incentives to health care providers for promoting preventive services that exceed minimum established standards. Section 1.02.

- (8) Directs background checks for managed care pharmacy benefits managers when considering approval of subcontracts for prescription drug benefits under Medicaid. Section 1.02.
- (9) Requires Medicaid managed care contracts to include certain terms and conditions relating to the location and availability of medical directors, appeals within the region, submission of a detailed plan describing how access and services will be provided, quality and outcomes measures, outpatient pharmacy benefit plans, and no-cost disclosure of discounts, rebates, and related incentives to HHSC. Section 1.02.
- (10) Requires Medicaid managed care organizations to establish a single portal for electronic claims submissions by participating network providers. Section 1.02.
- (11) Requires Medicaid managed care medical directors to have and maintain a license to practice medicine in Texas. Section 1.02.
- (12) Directs HHSC to implement a verification of identify program to prevent duplicate participation of the same recipient in the various Medicaid programs. Section 1.04.
- (13) Implements streamlining and efficiency initiatives for conducting program certifications, billing audits, integrating administrative and contracting efforts, and utilization review of long-term care under the Medicaid federal waiver provisions. Section 1.06.
- (14) Expands the Medicaid billing coordination and information collection activities to reduce administration and program costs. Section 1.06.
- (15) Implements an electronic visit verification system to verify and document delivery of long-term care by Medicaid providers. Section 1.07.
- (16) Directs HHSC to study and report on physician incentive programs to reduce hospital emergency room use for non-emergent conditions under the Medicaid medical assistance program. The report is due to the governor and Legislative Budge Board by August 31, 2013. Also permits HHSC to implement an incentive program if cost effective. Section 1.09.
- (17) Establishes cost-sharing provisions for Medicaid recipients for non-emergency care provided at hospital emergency rooms. Section 1.09.
- (18) Establishes an advisory committee to assist HHSC in improving outcomes and reducing Medicaid costs by implementing reimbursement incentives and rules relating to potentially preventable hospital admissions, emergency room visits, complications, and ancillary services. Similar provisions apply to Medicaid managed care organizations and home health services. Section 1.12.

- (19) Implements common performance measures and pay-for-performance incentives for nursing facilities covered by Medicaid. Section 1.13.
- (20) Establishes a requirement that HHSC verify the immigration status of Medicaid applicants and their sponsors, to the extent permitted by federal law. Section 1.17.
- (21) Directs HHSC to adopt certain rules requiring electronic submission of durable medical equipment under the Medicaid medical assistance program. Section 1.18.
- (22) Directs HHSC to seek federal waiver authorization for Medicaid reform so as to implement alternate methods of providing health services to low-income persons. Waivers requests should be designed to provide flexibility in determining Medicaid eligibility and benefits tailored to meet the demographic, public health, clinical, and cultural needs of the state. Additionally, waivers should seek to encourage use of private market plans over public health plans and create a culture of shared financial responsibility similar to private health plans. Section 13.01.

Impact: UT System and its health institutions are impacted by SB 7, the Texas Legislature’s comprehensive state health care reform initiative. Like federal health reform efforts under the Patient Protection and Affordable Care Act where market reform for payors, providers, and patients is taking place, SB 7 is intended to transform health care services in Texas, improve the cost and quality of care provided by private and public health care delivery system, and reorganize Medicaid coverage and reimbursement. Accordingly, administrators, executives, and providers within UT System and its health institutions should generally be aware of these state health reform efforts and identify those initiatives that may affect their respective institutions, as further guidance from state health agencies is anticipated.

Effective: September 28, 2011 (except that certain repealers take effect September 1, 2014)

Walter Mosher

Public Health

[SB 501](#) by West and Dukes

Relating to the disproportionality of certain groups in the juvenile justice, child welfare, health, and mental health systems and the disproportionality of the delivery of certain services in the education system.

SB 501 abolishes the Health Disparities Task Force and creates in its place a new Interagency Council for Addressing Disproportionality. The council examines the disproportionate treatment of children in the juvenile justice, child welfare, and mental health systems, examines the disproportionate delivery of educational services to children

who are members of a racial or ethnic minority group, and assists the Health and Human Services Commission (HHSC) in eliminating health and health access disparities. It is required to submit a report with findings, recommendations, and an implementation plan to address disproportionate representation of children who are members of a racial or ethnic minority group in the use of children's services.

The council is composed of 18 members, with the executive commissioner of HHSC appointing two representatives from the medical community. The council is abolished December 1, 2013.

Impact: Strategies developed by the council to eliminate health and health access disparities could ultimately impact UT System health institutions. Additionally, it is possible that an employee of a health institution would be appointed to serve on the council.

Effective: May 21, 2011

Karen Lundquist

[SB 969](#) by Nelson and Kolkhorst

Relating to the establishment of the Public Health Funding and Policy Committee within the Department of State Health Services.

SB 969 allows an array of local health officials to communicate concerns regarding public health funding decisions through the Public Health Funding and Policy Committee (committee) within the Department of State Health Services (DSHS). The nine-member committee is composed of representatives from regional and local health departments, public health authorities, and schools of public at institutions of higher education. Members must be appointed by the commissioner of state health services no later than October 1, 2011.

The committee is charged with making annual recommendations to DSHS regarding:

- funding of core local public health functions;
- ways to improve the overall public health; and
- methods for enhancing the relationship between DSHS and local health entities.

Annually, the committee must report to the governor, lieutenant governor, and speaker of the house concerning implementation of SB 969.

SB 969 also prescribes the duties of DSHS regarding the committee's recommendations, and requires DSHS to develop a plan to transition from contractual agreements with local health entities to cooperative agreements.

Impact: SB 969 requires the committee to have membership that includes two members from schools of public health at institutions of higher education. Those members could come from a UT System health institution. In addition, the work of the

committee may impact UT System institutions that are involved in the administration and provision of local public health services by impacting funding recommendations and improvement initiatives.

Effective: September 1, 2011

Chuck Johnstone

SB 1107 by Davis, Wendy, et al. and Howard, Charlie

Relating to the vaccination against bacterial meningitis of entering students at public and private or independent institutions of higher education.

SB 1107 requires all entering students at public, private, or independent institutions of higher education to provide to the institution a certificate signed by a health practitioner or an official immunization record evidencing that the student has received a bacterial meningitis vaccination dose or booster during the five-year period preceding the date established by the Coordinating Board. This requirement applies only to entering students enrolling in public, private, or independent institutions of higher education on or after January 1, 2012. (Prior law required the vaccination only for students residing or applying to reside on campus.)

An “entering student” includes a new student (a first-time student or a transfer student), as well as a student who previously attended an institution of higher education before January 1, 2012, and who is enrolling in the same or another institution following a break in enrollment of at least one fall or spring semester. It does not include a student who is enrolled only in online or other distance education courses, or who is 30 years of age or older.

The Coordinating Board must adopt rules to administer the law, including rules requiring the vaccination by the 10th day before the first day of a semester or other term in which the student initially enrolls unless the student is granted an extension by the institution as provided by Coordinating Board rule. The rules must authorize an institution to extend the compliance date to not later than the 10th day after the first day of the semester or other term in which the student initially enrolls.

Institutions are required to provide to entering students, with the registration materials that the institution provides before initial enrollment, written notice of the right of the student or of a parent or guardian of the student to claim an exemption from the vaccination requirement in the manner prescribed by law (injurious to health, reasons of conscience), and of the importance of consulting a physician about the need for immunization to prevent the disease.

Impact: UT System institutions should monitor the Coordinating Board’s adoption of rules to implement SB 1107, and should adopt procedures for accepting and reviewing the certificates or immunization records and for granting an extension. Additionally, institutions should adopt procedures for notifying students of their right to claim an exemption from the vaccination requirement.

Effective: May 27, 2011

Karen Lundquist

SB 1154 by Uresti and McClendon

Relating to a task force for the development of a strategy to reduce child abuse and neglect and improve child welfare.

SB 1154 establishes a task force to develop a strategy and implement a plan to reduce child abuse and neglect and improve child welfare. The task force consists of nine members: 7 appointed by the governor and two appointed by the lieutenant governor. SB 1154 requires the task force to: (1) identify all existing programs in the state relating to reducing child abuse and neglect or improving child welfare; and (2) identify which of these programs use state money. As part of its duties, the task force must gather information concerning child welfare throughout the state, receive reports and testimony from concerned individuals and entities, and create goals for state policy that would improve child welfare. SB 1154 requires members of the task force to be appointed no later than October 1, 2011. SB 1154 also requires the task force to submit its strategic plan to the governor, lieutenant governor and speaker of the house by December 1, 2012.

SB 1154 also creates the child abuse reduction task force account as an account in the general revenue fund, which may only be appropriated to the task force. It further provides that the task force shall review the funding strategies for the task force and develop proposals for expanding the sources of funds available to finance the activities of the task force.

UT System is one of seven enumerated state agencies required to: (1) provide administrative support to the task force; (2) coordinate administrative responsibilities; (3) share equally in the costs of the task force; and (4) designate a person to serve as the agency liaison with the task force. The other support agencies designated in SB 1154 are the Department of Family and Protective Services, the Department of State Health Services, the Department of Criminal Justice, the Texas Youth Commission, the Texas Juvenile Probation Commission, and the Texas A&M University System. SB 1154 requires the task force to consult with employees of these entities as needed to accomplish the task force's responsibilities.

SB 1154 provides that the task force is abolished September 1, 2013.

Impact: SB 1154 impacts UT System because UT System is designated to provide administrative, financial, and strategic support for the task force. SB 1154 lacks specific details regarding the level of support that UT System will be expected to provide; however, these details will be determined as the task force develops and submits the strategic plan. UT System should designate an individual or department to monitor appointments to and developments of the task force, and should be prepared to provide the required support to the task force.

Effective: June 17, 2011

Zeena Angadicheril

[HB 1615](#) by Brown and Ogden, et al.

Relating to the administering of medications to children in certain facilities; providing criminal penalties.

HB 1615 prohibits persons associated with a child-care facility, including a day-care center and a before-school or after-school program, from administering a medication to a child unless the child's parent or guardian has submitted a document authorizing the facility to administer the medication. The prohibition does not apply in a medical emergency, nor does it apply if the parent or guardian authorizes the facility by telephone to administer a single dose of a medication.

Impact: UT System institutions that have child-care facilities should be aware of HB 1615 and should advise child-care facility employees and volunteers of its provisions.

Effective: September 1, 2011

Karen Lundquist

[HB 2229](#) by Coleman, et al. and Ellis

Relating to the creation of the Texas HIV Medication Advisory Committee.

Because the existing HIV Medication Program Advisory Committee was created by rule adopted by the Health and Human Services Commission (HHSC), the committee's existence was not codified and could terminate. The committee is significant, as it advises the Department of State Health Services (DSHS) on its HIV Medication Program, which provides medications for treating HIV and other similar diseases to lower income individuals.

HB 2229 codifies the eleven-person Texas HIV Medication Advisory Committee to review, evaluate, and make recommendations regarding the DSHS HIV Medication Program. It also requires HHSC to appoint members to the committee, and requires the committee to follow certain operational guidelines, including filing an annual report.

Impact: HB 2229 requires that the committee have membership which includes four physicians involved in the treatment of HIV, one administrator from a public, nonprofit hospital, and one pharmacist. Any of those members could come from UT System institutions. In addition, the existence of the committee is important, as it influences decisions involving the availability of expensive medications for the treatment of lower income individuals presenting themselves to UT System health care professionals.

Effective: September 1, 2011

Chuck Johnstone

[HB 2636](#) by Kolkhorst, et al. and Nelson

Relating to a council to study neonatal intensive care units.

HB 2636 requires the Health and Human Services Commission (HHSC) to establish the Neonatal Intensive Care Unit Council (council) to study and make recommendations regarding neonatal intensive care operating standards and Medicaid reimbursement. The council must:

- develop operational standards for neonatal intensive care units;
- develop accreditation processes for Medicaid reimbursement;
- recommend best practices in order to lower neonatal intensive care admissions; and
- submit a report concerning its recommendations by January 1, 2013 to HHSC, the governor, and legislative leadership.

The council expires June 1, 2013.

Impact: HB 2636 requires the council to have membership that includes 10 physicians variously involved in the treatment of infants as well as three representatives from certain hospitals. Any of those members could come from a UT System health institution. In addition, the existence of the council is important, as it develops standards and protocols for neonatal intensive care units and maps strategies for accessing Medicaid funds.

Effective: September 1, 2011

Chuck Johnstone

[HB 2975](#) by Hunter, et al. and Harris

Relating to continuing education for physicians and nurses regarding the treatment of tick-borne diseases.

HB 2975 encourages a physician licensed under the Medical Practice Act who submits an application for renewal of a license to practice medicine and whose practice includes the treatment of tick-borne diseases, and encourages a nurse whose practice includes the treatment of tick-borne diseases, to include continuing medical education (CME) in the treatment of tick-borne diseases among their hours of completed continuing medical education.

HB 2975 also requires the Texas Medical Board and Texas Board of Nursing to use a stakeholder process to approve accredited CME courses that represent an appropriate spectrum of relevant medical treatment, including courses that have been approved in other states.

Lastly, in the event that a physician or nurse is investigated by their respective board regarding their choice of clinical care, HB 2975 requires the board to consider the participation of the physician or nurse within the prior two years in the CME course for the treatment of tick-borne diseases.

Impact: All UT System physicians and nurses who treat tick-borne diseases should be aware of HB 2975, and UT System employees who present CME courses for physicians or nurses should be notified that the Texas Medical Board and the Texas Board of Nursing will be adopting rules related to CME courses on tick-borne diseases.

Effective: September 1, 2011

Lannis Temple

[HB 3065](#) by Sheffield and Nichols

Relating to the requirement that certain food service establishments post a sign depicting the Heimlich maneuver.

HB 3065 repeals the law that required a food service establishment with a space for eating to post a sign depicting the Heimlich maneuver.

Impact: UT System institutions operating food service establishments are no longer required to post a sign depicting the Heimlich maneuver. HB 3065 does not mandate that these signs be taken down, but continuing research by the Heimlich Institute and American Red Cross indicates that in some situations alternate techniques (e.g., back blows) have been successful in removing foreign body airway obstructions and do not pose the risk of potentially life-threatening complications associated with abdominal thrusts. Therefore, UT System institutions should consider removal of these previously required signs.

Effective: June 17, 2011

Timothy Shaw

[HB 3724](#) by Guillen and Zaffirini, et al.

Relating to the Chronic Kidney Disease Task Force.

HB 3724 makes several changes to the enabling statute for the Chronic Kidney Disease Task Force, including:

- modifying task force duties from developing a state plan regarding chronic kidney disease to coordinating the implementation of the plan through national, state, and local partners;
- modifying task force duties from developing a plan for surveillance and data analysis regarding chronic kidney disease to educating health care professionals on the use of clinical practice guidelines based on the Kidney Disease Outcomes Quality Initiative Clinical Practice Guidelines for Chronic Kidney Disease; and
- extending the sunset provision to August 31, 2013.

Impact: HB 3724 does not directly impact UT System or its institutions, but the work of the task force may affect services to patients with chronic kidney disease.

Effective: September 1, 2011

Melodie E. Krane

Hospitals

[SB 328](#) by Carona and Deshotel

Relating to notice of a hospital lien.

SB 328 requires medical providers to provide an additional notice by mail to all patients against whom a lien is filed. This notice must be mailed within five business days from the date that the lien is recorded in the county records, and must inform the patient that the lien attaches to any cause of action the patient has against any other person for the injuries related to the patient's medical treatment, and that the lien does not attach to real property.

Impact: UT System health institutions that file liens already have procedures in place to send a notification letter to every patient against whom a lien is filed. These institutions will need to amend the notification letters to include the required language as well as insure that letters are sent within the required time period.

Effective: September 1, 2011

Kent Kostka

[SB 335](#) by Fraser and Eiland

Relating to an exemption from regulation as health spas for certain governmental hospitals and clinics.

SB 335 exempts a hospital or clinic owned or operated by a federal or state agency or a political subdivision from regulation under the Health Spa Act.

Impact: UT System institutions with a hospital or a clinic containing a health spa do not have to comply with the administrative regulations imposed under the Health Spa Act.

Effective: September 1, 2011

Chuck Johnstone

[SB 494](#) by Fraser and Craddick

Relating to the authority of certain local governmental entities to borrow money for a public hospital.

SB 494 authorizes a local governmental entity to borrow money for purposes of a hospital owned or operated by the entity at a rate not to exceed the maximum annual percentage rate allowed by law, and provides loan security provisions.

Impact: SB 494 does not directly impact UT System. However, UT System health institutions operating graduate medical education programs with a public hospital owned or operated by a local governmental entity or maintaining other transactional arrangements should be aware that the local governmental entity may now borrow money for the purposes of hospital operations.

Effective: September 1, 2011

Walter Mosher

[HB 118](#) by McClendon and Uresti

Relating to requiring the provision of notice by certain hospitals regarding patients' medical records.

Under certain circumstances, licensed hospitals are allowed to dispose of a medical record on or after the 10th anniversary of the date on which the patient who is the subject of the record was last treated in the hospital. Some exceptions are made to this retention requirement for the records of minors and for records relating to any matter in litigation. On occasion, a patient who is unaware of the existing record retention law may request copies of his or her medical records after the 10-year retention period has passed and the record has been lawfully disposed of by the hospital.

HB 118 requires a hospital covered by Chapter 241, Health and Safety Code, to provide written notice to a patient or the patient's legally authorized representative that the hospital may authorize the disposal of medical records relating to the patient on or after the dates specified by provisions governing the preservation of records unless the records relate to any matter that is involved in litigation if the hospital knows the litigation has not been finally resolved. It requires the notice to be provided to the patient or the patient's legally authorized representative not later than the date on which the patient who is or will be the subject of a medical record is treated, except in an emergency

treatment situation. HB 118 also requires the notice in an emergency treatment situation to be provided to the patient or the patient's legally authorized representative as soon as it is reasonably practicable following the emergency treatment situation.

Impact: UT System hospitals are exempt from the requirements of HB 118, as are all hospitals maintained or operated by the state or a state agency. (Section 241.004, Health and Safety Code.) Although HB 118 does not impact UT System hospitals, it may be useful information for UT System physicians, residents and fellows who also work in hospitals that are not exempt from HB 118.

Effective: September 1, 2011

Lannis Temple

[HB 2636](#) by Kolkhorst, et al. and Nelson

Relating to a council to study neonatal intensive care units.

HB 2636 requires the Health and Human Services Commission (HHSC) to establish the Neonatal Intensive Care Unit Council (council) to study and make recommendations regarding neonatal intensive care operating standards and Medicaid reimbursement. The council must:

- develop operational standards for neonatal intensive care units;
- develop accreditation processes for Medicaid reimbursement;
- recommend best practices in order to lower neonatal intensive care admissions; and
- submit a report concerning its recommendations by January 1, 2013 to HHSC, the governor, and legislative leadership.

The council expires June 1, 2013.

Impact: HB 2636 requires the council to have membership that includes 10 physicians variously involved in the treatment of infants as well as three representatives from certain hospitals. Any of those members could come from a UT System health institution. In addition, the existence of the council is important, as it develops standards and protocols for neonatal intensive care units and maps strategies for accessing Medicaid funds.

Effective: September 1, 2011

Chuck Johnstone

SB 7 – First Called Session by Nelson, et al. and Zerwas

Relating to the administration, quality, and efficiency of health care, health and human services, and health benefits programs in this state; creating an offense; providing penalties.

SB 7 contains numerous provisions reforming the delivery of health care services in Texas. Some of the provisions are intended to move the state toward market reforms in a manner that is independent of federal reform efforts. Similarly, and as part of the state's health reform initiatives, the Medicaid provisions are designed to reorganize coverage to low-income families and children and to seek quality of care improvements at lower costs.

Some of the major provisions of SB 7 are as follows:

- (1) Texas Institute of Health Care Quality and Efficiency. SB 7 creates the Texas Institute of Health Care Quality and Efficiency (institute) to “improve health care quality, accountability, education, and cost containment in this state by encouraging health care provider collaboration, effective health care delivery models, and coordination of health care services.” The institute is composed of 15 members appointed by the governor, including representatives of various state agencies (including systems of higher education), health care providers, payors, consumers, and health care quality experts. Administrative provisions include terms of office, conflicts of interests, administrative support, board immunity, and funding. The institute provides recommendations on: (1) improving the state's quality and efficiency of health care delivery; (2) improving the reporting, consolidation, and transparency of health information; and (3) implementing and supporting health care collaborative payment and delivery systems. This includes conducting a study, making recommendations, and assisting the legislature in developing a statewide plan. Section 3.01.
- (2) Health Care Collaboratives. According to the Centers for Medicare and Medicaid Services, an accountable care organization (ACO) is “an organization of health care providers that agrees to be accountable for the quality, cost, and overall care of Medicare beneficiaries who are enrolled in the traditional fee-for-service program.” ACOs are an integral component of the federal health reform initiatives under the Patient Protection and Affordable Care Act that will be used to consolidate providers, healthcare facilities, and healthcare delivery systems with the goal of achieving higher quality of care at lower costs. As an independent initiative, the Texas Legislature created health care collaboratives (HCC), which are comparable to ACOs. Under SB 7, an HCC is defined as an entity that arranges medical services for, and accepts payment from, insurers, HMOs, and other payors and that has been certified by the Texas Department of Insurance. Before providing services, an HCC is required to obtain a certificate of authority from the Texas Attorney General's antitrust division and be deemed not likely to reduce competition due to its size or composition. As part of the application process, the HCC must provide updated financial statements, service area maps, list of participating providers, and evaluation of costs, among other

information. Exceptions to these requirements includes existing entities already licensed, such as managed care plans, physicians solely engaged in the practice of medicine, medical schools and health science centers, and other entities licensed under the Health and Safety Code that employ physicians. Additional details include applicability of insurance laws, confidentiality of application and related filings, renewal process, exceptions for individuals who do not want to maintain health insurance coverage, formation, governance, and operation of HCCs, general powers and duties of HCCs, policies for quality and cost of health care services, complaint systems, and regulations of HCCs. Section 4.01.

- (3) Interstate Health Care Compact. SB 7 also authorizes the creation of a health care compact between Texas and at least one other state to permit an interstate collaboration of managing state health programs and resources, such as state Medicaid services. Interstate compacts are authorized under Article 1, Section 10 of the US Constitution. To facilitate the creation and management of the health care compact, SB 7 establishes an Interstate Advisory Health Care Commission to evaluate the appropriate regulations and policies, to coordinate with other states, and to seek congressional approval. Provisions also include resolutions and purpose of the compact, pledges of joint commitments from member states, reservation of legislative powers and state control, and funding, among other details. Section 12.01.
- (4) Statewide Standardized Patient Risk Identification System. SB 7 directs the Department of State Health Services (DSHS) to coordinate with hospitals to develop a statewide standardized patient risk identification system to identify a patient with a specific risk while obtaining treatment at a hospital. Section 5.01.
- (5) Hospital Infection Reporting. SB 7 enables the state to report hospital infection data to federal oversight agencies, along with permitting access to that data by the public. Provisions also address disclosure details between state and federal entities. Sections 6.01-6.03, 6.07- 6.09, and 6.11.
- (6) Preventable Error Reporting. SB 7 implements certain reporting requirements to state and federal agencies for potentially preventable events occurring at hospitals and long-term care facilities. Section 6.05.
- (7) Texas Emergency and Trauma Education Partnership Program. SB 7 establishes a program that provides grants to train physicians in graduate medical education programs and in nurses training programs specializing in emergency and trauma care. The grants are intended to assist in increasing the availability of emergency and trauma doctors and nurses to meet the state's need for this specialty care. Sections 9.01-9.02.
- (8) Establishment of Adult Stem Cell Bank. SB 7 directs the Health and Human Services Commission (HHSC) to establish eligibility criteria for the creation and operation of an autologous adult stem cell bank if HHSC determines that it would be cost-effective and improve quality of care and health benefits. Section 14.01.

SB 7 also does the following:

- (1) Implements provisions to protect residents at long-term care facilities against neglect, abuse, or exploitation.
- (2) Expands the definition of assisted living facilities to authorize delivery of skilled nursing services to coordinate care outside with community support services agencies, delegation of personal care services, assessment of care required, and delivery of care for minor illness, injury, or emergency. Section 1.08.
- (3) Provides restrictions on financial awards from the DSHS to family planning providers related to using award money on elective abortions. Section 1.19.
- (4) Prohibits illegal aliens from enrolling in the state supplemental nutrition assistance program. Section 1.21.
- (5) Transfers duties and responsibilities of the Texas Health Care Information Council to DSHS. Also includes provisions relating to coordination, confidentiality, and disclosure of data with federal and state agencies or other entities. Sections 7.02-7.06.
- (6) Requires health care facilities and hospitals to establish a vaccine policy and vaccine preventable diseases program to protect patients from preventable vaccine diseases or injuries. Also addresses procedures for employee compliance, facility penalties for non-compliance, and access during public health disasters. Sections 8.02-8.04.
- (7) Prohibits a contractual requirement by health plans for institutional providers to agree to enter into an exclusive preferred provider arrangement. Section 10.01.
- (8) Prohibits health plans from denying payment for chiropractic services if therapeutic modalities comply with state laws, are recognized treatment within the scope of practice and by other providers, and are deemed medically necessary by the plan. These provisions do not apply to workers compensation plans, self-insured employee benefit plans, and Medicaid managed care and child health plans. Section 11.01.
- (9) Prohibits the use of tax revenues for abortions except for medical emergencies, and defines “medical emergency.” Section 15.01.

SB 7 also provides the following Medicaid initiatives:

- (1) Directs HHSC to implement cost effective and objective utilization rules for Medicaid covered acute nursing services, which includes home health skilled nursing services, home health aide services, and private duty nursing services. Also directs HHSC to implement an electronic visit verification system to verify and document delivery of Medicaid acute nursing services. Section 1.01.

- (2) Similarly directs HHSC to evaluate and consider implementing an age and diagnosis appropriate assessment for Medicaid covered therapy services, which includes occupational, physical, and speech therapy services. Section 1.01.
- (3) Requires all children of same family unit to be enrolled in the same Medicaid managed care plan. Section 1.02.
- (4) Authorizes an external quality review organization to evaluate and study the quality of care and patient satisfaction of Medicaid services provided to enrollees. Section 1.02.
- (5) Creates a Patient-Centered Medical Home, which is a medical relationship between a primary care physician and a child or adult in which the patient obtains comprehensive primary care and in which all care is coordinated through the designated physician. The medical home is intended to increase clinical quality and efficiency, improve patient and physician satisfaction, and improve overall care coordination and integration. Section 1.02.
- (6) Directs HHSC to provide certain preferences for the award of contracts to managed care organization located in South Texas. Section 1.02.
- (7) Directs HHSC to ensure Medicaid managed care organizations provide payment incentives to health care providers for promoting preventive services that exceed minimum established standards. Section 1.02.
- (8) Directs background checks for managed care pharmacy benefits managers when considering approval of subcontracts for prescription drug benefits under Medicaid. Section 1.02.
- (9) Requires Medicaid managed care contracts to include certain terms and conditions relating to the location and availability of medical directors, appeals within the region, submission of a detailed plan describing how access and services will be provided, quality and outcomes measures, outpatient pharmacy benefit plans, and no-cost disclosure of discounts, rebates, and related incentives to HHSC. Section 1.02.
- (10) Requires Medicaid managed care organizations to establish a single portal for electronic claims submissions by participating network providers. Section 1.02.
- (11) Requires Medicaid managed care medical directors to have and maintain a license to practice medicine in Texas. Section 1.02.
- (12) Directs HHSC to implement a verification of identify program to prevent duplicate participation of the same recipient in the various Medicaid programs. Section 1.04.
- (13) Implements streamlining and efficiency initiatives for conducting program certifications, billing audits, integrating administrative and contracting efforts,

and utilization review of long-term care under the Medicaid federal waiver provisions. Section 1.06.

- (14) Expands the Medicaid billing coordination and information collection activities to reduce administration and program costs. Section 1.06.
- (15) Implements an electronic visit verification system to verify and document delivery of long-term care by Medicaid providers. Section 1.07.
- (16) Directs HHSC to study and report on physician incentive programs to reduce hospital emergency room use for non-emergent conditions under the Medicaid medical assistance program. The report is due to the governor and Legislative Budget Board by August 31, 2013. Also permits HHSC to implement an incentive program if cost effective. Section 1.09.
- (17) Establishes cost-sharing provisions for Medicaid recipients for non-emergency care provided at hospital emergency rooms. Section 1.09.
- (18) Establishes an advisory committee to assist HHSC in improving outcomes and reducing Medicaid costs by implementing reimbursement incentives and rules relating to potentially preventable hospital admissions, emergency room visits, complications, and ancillary services. Similar provisions apply to Medicaid managed care organizations and home health services. Section 1.12.
- (19) Implements common performance measures and pay-for-performance incentives for nursing facilities covered by Medicaid. Section 1.13.
- (20) Establishes a requirement that HHSC verify the immigration status of Medicaid applicants and their sponsors, to the extent permitted by federal law. Section 1.17.
- (21) Directs HHSC to adopt certain rules requiring electronic submission of durable medical equipment under the Medicaid medical assistance program. Section 1.18.
- (22) Directs HHSC to seek federal waiver authorization for Medicaid reform so as to implement alternate methods of providing health services to low-income persons. Waivers requests should be designed to provide flexibility in determining Medicaid eligibility and benefits tailored to meet the demographic, public health, clinical, and cultural needs of the state. Additionally, waivers should seek to encourage use of private market plans over public health plans and create a culture of shared financial responsibility similar to private health plans. Section 13.01.

Impact: UT System and its health institutions are impacted by SB 7, the Texas Legislature's comprehensive state health care reform initiative. Like federal health reform efforts under the Patient Protection and Affordable Care Act where market reform for payors, providers, and patients is taking place, SB 7 is intended to transform health care services in Texas, improve the cost and quality of care provided by private and public health care delivery system, and reorganize Medicaid coverage and

reimbursement. Accordingly, administrators, executives, and providers within UT System and its health institutions should generally be aware of these state health reform efforts and identify those initiatives that may affect their respective institutions, as further guidance from state health agencies is anticipated.

Effective: September 28, 2011 (except that certain repealers take effect September 1, 2014)

Walter Mosher

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Funding

SB 5 by Zaffirini and Branch

Relating to the administration and business affairs of public institutions of higher education. (Financial Management)

SB 5 is an omnibus bill that affects a variety of areas of law governing higher education with a purpose of eliminating unfunded mandates, improving efficiency, and providing administrative flexibility to institutions of higher education. This analysis summarizes the provisions relating to financial management.

SB 5 clarifies that funds must be deposited in the institutional depository within seven days of “receipt” under Section 51.003(b), Education Code. (Section 1.01)

SB 5 also amends Section 51.003, Education Code, to permit an institution to maintain a bank account in a foreign depository from which to pay local vendors in support of the institution’s academic and research operations in that country. (Section 1.01)

SB 5 eliminates the separate annual financial report that institutions of higher education were required to submit in a form prescribed by the comptroller and Coordinating Board. Instead, institutions will be required to submit the standard annual financial report required of all state agencies under Section 2101.011, Government Code. (Section 1.02)

SB 5 authorizes an institution of higher education to maintain an unclaimed money fund composed of credit balances of less than \$25 that are presumed abandoned under escheat laws. The institution will hold and account for those funds, and may expend those funds, as other educational and general funds, instead of transferring those funds to the comptroller of public accounts. The institution remains responsible to pay claims. These provisions apply to credit balances held on or after June 17, 2011. (Sections 1.02, 1.07, 1.08)

SB 5 authorizes an institution to make any payment through electronic funds transfer or by electronic pay card. (Section 1.02)

SB 5 requires each institution of higher education to post its “checkbook” on the institution’s Internet website, including for each payment from general revenue or from tuition and fees the amount, date, and purpose of the payment, in addition to the name of the payee. As an alternative to posting that information on the institutional website, an institution may instead provide an easily noticeable, direct link to similar information on the comptroller’s website. (Section 1.03)

SB 5 exempts institutional debt, such as revenue finance system debt, from approval by the Texas Bond Review Board if the state’s general revenue is not pledged to the payment of the debt and the institution’s or system’s debt rating is at least AA-. (Sections 1.05 and 1.06)

SB 5 requires the Legislative Budget Board and the governor's office, in consultation with institutions of higher education, to review the forms for higher education legislative appropriation requests (LARs) to identify opportunities to improve efficiency, provide transparency, and eliminate unnecessary and duplicative requirements. (Section 6.06)

Impact: A UT System institution will be in compliance with the statutory requirement if payments received by a collecting agency through on-line and credit card payments, which of necessity are first deposited into a trust account of the collector, are deposited in the institutional depository within seven days of receipt from the collecting agency.

An institution that opens a bank account with a foreign depository must ensure that the depository meets the statute's requirement that the bank be licensed by a central bank, be annually audited, and meet the capitalization requirements. An institution may not deposit in the account any money other than that collected from students participating in the foreign program.

The requirement for a duplicative annual financial report unique to institutions of higher education is eliminated.

To maintain an unclaimed money fund, an institution is required to adopt procedures for an owner of the credit balance to make a claim and be paid and must maintain a database that permits the public to search for unclaimed funds.

An institution is authorized to make any payment by electronic funds transfer or electronic pay card and thereby save the expense of paper checks. An institution will likely need to adopt procedures for that purpose. Although a house amendment removed an express reference to payment of salary and wages, an institution is not prohibited from paying salary and wages through use of a pay card.

At a minimum, each institution will need to provide the "easily noticeable direct link" to similar "checkbook" information on the comptroller of public accounts' website. The law specifies that the purpose of the link must be "clearly identifiable."

Debt issued by the UT System Office of Finance under the systemwide revenue financing system is no longer subject to approval by the Texas Bond Review Board, which should facilitate the ability of the system to move quickly in the refinance market and otherwise avoid the expense and time requirements of bond review board review and approval.

UT System institutions and System Administration should consider the extent to which they will be proactive in seeking to participate with the LBB, the governor, and other institutions concerning improvement of the LAR forms.

Effective: June 17, 2011

Steve Collins

[SB 773](#) by Zaffirini, et al. and Gallego, et al.

Relating to telecommunications service discounts for educational institutions, libraries, hospitals, and telemedicine centers.

SB 773 adds federally qualified health center service delivery sites to the list of entities qualifying for the telecommunications service discount. SB 773 also decreases the discount, so that private network service contract pricing and tariffs will now be offered at 110 percent of the company's long term incremental cost instead of 105 percent, and moves the sunset date for the discount from 2012 to 2016.

Impact: UT System institutions relying on the telecommunications discount will face higher costs, which should be appropriately budgeted.

Effective: September 1, 2011

Jim Phillips

[SB 794](#) by Nelson, et al. and King, Susan, et al.

Relating to the use of money from the permanent fund for health-related programs to provide grants to nursing education programs.

SB 794 extends for four additional years (to 2015) the "temporary" authority for the corpus of the Permanent Fund for Nursing, Allied Health, and other Health Related Programs, part of the tobacco settlement, to be spent for programs preparing students for initial licensure as registered nurses or programs preparing qualified faculty members with a master's or doctoral degree for nursing education. Rather than letting the temporary authority expire, the legislature has consistently rolled the expiration date forward.

By extending current law, SB 794 also has the effect of limiting grants from the fund to nursing programs, thereby excluding grants for allied health or other health-related education.

Impact: UT System nursing programs benefit from the expenditures from this fund. The availability of the funds may result in increased nursing program enrollment.

Effective: June 17, 2011

Steve Collins

SB 1047 by Jackson and Davis, John

Relating to the eligibility of an innovation and commercialization organization associated with the Lyndon B. Johnson Space Center to receive funding from the Texas Emerging Technology Fund.

SB 1047 includes public institutions of higher education, as well as an innovation and commercialization organization associated with the Lyndon B. Johnson Space Center of the National Aeronautics and Space Administration, in the definition of “research institutions” under the law governing the Texas Emerging Technology Fund (ETF). As a result, the organization associated with the Space Center will be eligible for funding from the ETF.

Impact: SB 1047 broadens the group of entities that private or nonprofit entities can collaborate with when applying for an award from the ETF to specifically include an innovation and commercialization organization associated with the Lyndon B. Johnson Space Center of the National Aeronautics and Space Administration. Thus, SB 1047 could potentially impact any UT System institution applying for funds from the ETF involving such an organization. Also, SB 1047 makes such an organization eligible to receive funding from the ETF. Each technology transfer office at UT System institutions should be aware of this broadened ETF funding opportunity.

Effective: June 17, 2011

BethLynn Maxwell

HB 4 by Pitts, et al. and Ogden

Relating to making supplemental appropriations and giving direction and adjustment authority regarding appropriations.

HB 4 is the supplemental appropriations bill, and generally makes appropriations for the current fiscal year, FY 2011 (as contrasted to HB 1, the general appropriations bill, which makes appropriations for the next biennium), but also includes appropriations that continue into the next fiscal biennium. Under the Texas Constitution, appropriations are limited to a duration of two years.

The primary purpose of HB 4 is to formally enact reductions in appropriations that had previously been directed by legislative and executive leadership. Overall, HB 4 reduces general revenue appropriations for FY 2011 by \$1.1 billion, including reductions for UT System Administration and each of the System institutions.

Section 24 of HB 4 reappropriates the unexpended and unencumbered balances appropriated by the previous legislature to UT Medical Branch at Galveston (UTMB) for reimbursement of expenses for Hurricane Ike recovery. This action permits UTMB to continue to use those funds for a two-year period for the same purposes and subject to the same limitations as the original appropriation.

HB 4 also appropriates, for the fiscal biennium ending August 31, 2013:

- \$5 million to UT Arlington for the Regional Nursing Education Center;
- \$3 million to UT Dallas for the Middle School Brain Years program; and
- \$1.7 million to UT Permian Basin for the College of Engineering.

HB 4 also restores significant funding to UT System health institutions for the biennium ending August 31, 2013:

- \$17.4 million to UT M.D. Anderson Cancer Center (UTMDACC) for institutional operations;
- \$12.6 million to UT Southwestern Medical Center at Dallas (UTSWMC) for institutional operations;
- \$24.1 million to UT Health Science Center at Houston for institutional operations (of which \$2 million must be allocated to the Texas Heart Institute and \$1 million for trauma care);
- \$16.8 million to UT Health Science Center at San Antonio (UTHSCSA) for institutional operations (expenditure of which is subject to prior approval of the Legislative Budget Board);
- \$8.8 million to UT Health Science Center at Tyler for institutional operations; and
- \$19.8 million to UTMB for tuition revenue bond debt service and for institutional operations.

In addition to the appropriations for the fiscal biennium ending August 31, 2013, HB 4 appropriates for a two-year period for institutional operations \$8 million each to UTMDACC, UTSWMC, and UTHSCSA.

Impact: Although HB 4 gave effect to previously directed reductions in the FY 2011 budget, it also restores significant funding to UT System health institutions and extends the appropriation for Hurricane Ike recovery.

Effective: June 16, 2011

Steve Collins

[HB 9](#) by Branch, et al. and Zaffirini

Relating to student success-based funding for and reporting regarding public institutions of higher education.

HB 9 is designed to produce recommendations for a means of including outcomes-based elements in the formula funding for higher education.

HB 9 directs a change in the membership of the committee established by the Coordinating Board to assist in making recommendations for formula funding by specifying that the committee include a cross-section of institutions. Each system chancellor recommends at least one representative for each of the institutional groupings under the Coordinating Board's accountability system to which a system institution is assigned. Each president of an institution not included within a system makes similar recommendations.

HB 9 requires the Coordinating Board's formula funding recommendations to the legislature for general academic teaching institutions to include consideration of student success measures, which may include elements such as bachelor's degrees awarded in critical fields, bachelor's degrees awarded to at-risk students, and six-year graduation rates. The Coordinating Board must recommend alternative approaches and must compare the effects of applying the measures within the existing formulas or as a separate formula. No more than 10 percent of base funding may be based on student success measures.

The Coordinating Board is directed to submit a report on this matter, including national and global best practices, to the Joint Oversight Committee on Higher Education Governance, Excellence, and Transparency (separately created by proclamation of the speaker and lieutenant governor) not later than September 30, 2011, and July 1, 2012.

Impact: The recommendations of the Coordinating Board, adopted in consultation with the described committee, will likely affect formula funding for the 2012-2013 biennium. The UT System chancellor will have the opportunity to nominate four committee members, one each from the four institutional groupings represented among UT System institutions: research university (UT Austin); emerging research university (UT Arlington, UT Dallas, UT El Paso, UT San Antonio); comprehensive university (UT Pan American); and master's university (UT Brownsville, UT Tyler, UT Permian Basin).

Effective: June 17, 2011

Steve Collins

[HB 1000](#) by Branch, et al. and Zaffirini, et al.

Relating to the distribution of money appropriated from the national research university fund; making an appropriation.

HB 1000 provides a distribution formula for, and appropriates for the next biennium, the national research university fund. It also makes changes in law that permit an institution to qualify for a distribution the year following the fiscal year in which the qualification standards are achieved, instead of qualifying the following biennium.

HB 1000 also provides for a mandatory initial audit, as well as additional permissive audits, by the state auditor to verify the amount of restricted research funds expended by the institution and compliance by the institution and the Coordinating Board with the standard methods of accounting and reporting prescribed by the Coordinating Board.

HB 1000 provides that annual appropriations from the fund not exceed 4.5 percent of the average net market value, and that each qualifying institution receive a distribution of one-seventh of the amount appropriated plus an equal share of any amount remaining after that distribution, not to exceed one-fourth of that remainder.

HB 1000 appropriates for FY 2012 and FY 2013 the maximum amount permitted by the distribution formula.

Impact: HB 1000 provides the first appropriation of the National Research University Fund. Only the System emerging research universities (UT Arlington, UT Dallas, UT El Paso, and UT San Antonio) are affected. To qualify for an initial distribution, certain research expenditures and other elements are subject to mandatory audit by the state auditor.

Effective: June 17, 2011

Steve Collins

[HB 2251](#) by Bonnen and Whitmire

Relating to the continuation and functions of the Texas Public Finance Authority.

HB 2251 is the sunset bill for the Texas Public Finance Authority (TPFA). The authority issues debt instruments such as bonds and master leases for state agencies, and HB 2251 allows any institution of higher education to request that TPFA issue bonds for the institution.

TPFA also issues bonds for the Cancer Prevention and Research Institute of Texas (CPRIT). HB 2251 facilitates the award of grants by CPRIT for multi-year projects, eliminating a requirement that funds for multi-year projects be maintained in an escrow account and distributed only as needed. HB 2251 also allows those projects to move forward before the bonds have been issued if TPFA and the Bond Review Board have

approved the issuance. The changes apply only to multi-year grants awarded on or after the effective date of HB 2251.

Impact: For UT System institutions seeking CPRIT grants for multi-year projects, HB 2251 should facilitate the timely funding of those projects.

Effective: June 17, 2011

Steve Collins

SB 1 – **First Called Session** by Duncan, et al. and Pitts

Relating to certain state fiscal matters; providing penalties.

SB 1, First Called Session, is composed of approximately 70 articles and 262 pages, designed primarily to make changes to the manner of distribution and methods of providing revenue for the support of public schools. SB 1 has little direct effect on higher education or UT System. Many of the other provisions of the bill adjust the schedule for payment of various taxes and fees, moving payments from the following biennium to the current biennium (requiring prepayment followed by a reconciliation) or delaying transfers from general revenue to a special fund, all with a purpose of increasing the amount held in general revenue during the fiscal biennium ending August 31, 2013. This includes prepayment of alcoholic beverage taxes (Article 10) and sales taxes (Article 13).

The following describes matters of interest to higher education, even though most of the described provisions generally have no direct impact on higher education or UT System.

Article 1 defers foundation school fund payments to school districts (and therefore charter schools) from August 2013 to September 2013, moving the cost of those payments to the following fiscal biennium.

Article 17 transfers from the comptroller of public accounts to the Coordinating Board a report on the physician education loan repayment assistance program under Subchapter J, Chapter 61, Education Code.

Article 20 eliminates the statutory requirement that the secretary of state produce bound copies of the “session laws” after each session of the legislature.

Article 21 authorizes the attorney general to charge a fee for the electronic filing of documents with the attorney general.

Article 23 continues the Department of Information Resources (DIR) in operation for the next two years (the DIR sunset bill from the regular session having been vetoed). SB 1 provides DIR authority to employ best value purchasing for information technology commodity items. It also authorizes DIR to set and charge a fee to each entity that receives services from DIR.

Article 27 eliminates the statutory authority of the Commission on State Emergency Communications to establish a regional poison control center in Harris County and authorizes the commission to standardize the operations of and implement management controls to improve the efficiency of regional poison control centers.

Article 28 expands the use of three tobacco settlement funds (not those managed by UT System) to pay principal and interest on bonds issued by the Cancer Prevention and Research Institute of Texas (CPRIT).

Article 34 requires the Legislative Budget Board (LBB) to conduct public hearings on expenditure reduction plans requested by leadership, and agencies to provide to the LBB plans in response to such a request. In addition, Article 34 requires the comptroller of public accounts to publish online a schedule of all revenue to the state from fees authorized by statute (implicitly including higher education fees).

Article 50 limits eligibility for education aide tuition exemptions to persons seeking teacher certification in subject areas experiencing teacher shortages, as determined by the Texas Education Agency.

Article 54 removes the comptroller of public accounts as an ex officio member of the Texas Guaranteed Student Loan Board and reduces the board from 10 to nine members. It also authorizes the governor to name the chair of the board.

Articles 42 and 65 relate to correctional health care. Article 42 changes the composition of the correctional managed health care committee, reducing the committee to five voting members plus the state Medicaid director as a nonvoting member, and reducing the term of office to four years. Article 42 also transfers from the committee to the Texas Department of Criminal Justice (TDCJ) the responsibility to contract for correctional managed care and requires TDCJ, in cooperation with the committee, to contract for a biennial review of expenditures. Article 65 requires TDCJ to adopt policies designed to manage inmate populations based on similar health conditions. It requires each inmate to pay an annual \$100 health services fee instead of a co-pay. It requires TDCJ to make over-the-counter medicines available to inmates and requires TDCJ, in cooperation with UT Medical Branch at Galveston (UTMB) and Texas Tech University Health Sciences Center, to develop and implement, not later than January 1, 2012, a training program for corrections medications aides. It further exempts from end-stage renal disease licensing requirements any clinics or hospitals providing dialysis in correctional managed care.

Article 71 authorizes the Health and Human Services Commission to apply for a federal Medicaid waiver relating to benefits for individuals with chronic health conditions.

Impact: In general, SB 1 has little direct impact on UT System or its institutions. No amendments to rules or policies are necessary, nor are changes to catalogues, websites, or notices. Institutional business offices should be aware of the described provisions of SB 1.

State payments to campus charter schools will be briefly delayed from August to September of 2013.

Offices filing documents electronically with the attorney general, such as campus legal counsel, and offices receiving services from DIR will pay fees not previously paid.

Financial aid offices should be aware of the changes to qualifications for the educational aide tuition exemption, and should monitor the Texas Education Agency for rules determining which areas of teacher certification will qualify an individual for the exemption.

UTMB is directly affected by the described changes to correctional managed care.

The Southeast Texas Poison Center at UTMB and the South Texas Poison Center at UT Health Science Center at San Antonio should monitor changes in policies and procedures of the Commission on State Emergency Communications.

Effective: Each of the described provisions takes effect September 28, 2011, as does the bill generally. Some provisions have specified later effective dates.

Steve Collins

SB 2 – **First Called Session** by Ogden and Pitts

Appropriating money for the support of state government for the period beginning September 1, 2011, and ending August 31, 2013; and authorizing and prescribing conditions, limitations, rules, and procedures for allocating and expending the appropriated funds.

SB 2, First Called Session, is a general appropriations bill appropriating almost \$30 billion for the biennium ending August 31, 2013, most of which is appropriated for public schools, support for which had been intentionally omitted from the general appropriations bill in the regular session.

The following describes appropriations of interest to higher education and UT System:

- Section 4 affects the method of finance for the debt service necessary for bonds issued by the Cancer Research and Prevention Institute of Texas (CPRIT), using for that purpose three tobacco settlement funds described in the analysis of SB 1 of the first called session.
- Section 14 appropriates \$39 million to the governor for disaster relief.
- Section 18 redirects to the Health and Human Services Commission a \$2 million appropriation made by HB 4 of the regular session to UT Health Science Center at San Antonio for the umbilical cord blood bank.
- Section 22 appropriates the revenue from the inmate health services fee (enacted in SB 1 of the first called session) to the Texas Department of Criminal Justice, not to exceed \$7.7 million in FY 2012 and \$5.8 million in FY 2013.

- Section 23 appropriates \$5.4 million for the biennium to the Coordinating Board for the Texas Armed Services Scholarship Program.
- Section 24 appropriates all of the revenue from specialty license plates to the appropriate entity benefitting from those plates, in contrast to the 50 percent of the revenue that HB 1 of the regular session would have appropriated.
- Section 28 provides that \$500,000 of the institutional enhancement appropriations for the biennium to UT Austin be expended to extend the fine arts digital literacy curriculum to 10th grade fine arts instruction and to development of teacher certification curriculum in digital literacy for the fine arts.

Impact: No amendments to rules or policies are necessary, nor are changes to catalogues, websites, or notices.

UT Austin is limited as described above in relation to expenditure of \$1 million of the institution's institutional enhancement appropriation. In addition, UT Health Science Center at San Antonio will no longer receive \$2 million for the operation of the umbilical cord blood bank.

Effective: September 1, 2011

Steve Collins

Financial Management

SB 5 by Zaffirini and Branch

Relating to the administration and business affairs of public institutions of higher education. (Financial Management)

SB 5 is an omnibus bill that affects a variety of areas of law governing higher education with a purpose of eliminating unfunded mandates, improving efficiency, and providing administrative flexibility to institutions of higher education. This analysis summarizes the provisions relating to financial management.

SB 5 clarifies that funds must be deposited in the institutional depository within seven days of "receipt" under Section 51.003(b), Education Code. (Section 1.01)

SB 5 also amends Section 51.003, Education Code, to permit an institution to maintain a bank account in a foreign depository from which to pay local vendors in support of the institution's academic and research operations in that country. (Section 1.01)

SB 5 eliminates the separate annual financial report that institutions of higher education were required to submit in a form prescribed by the comptroller and Coordinating Board.

Instead, institutions will be required to submit the standard annual financial report required of all state agencies under Section 2101.011, Government Code. (Section 1.02)

SB 5 authorizes an institution of higher education to maintain an unclaimed money fund composed of credit balances of less than \$25 that are presumed abandoned under escheat laws. The institution will hold and account for those funds, and may expend those funds, as other educational and general funds, instead of transferring those funds to the comptroller of public accounts. The institution remains responsible to pay claims. These provisions apply to credit balances held on or after June 17, 2011. (Sections 1.02, 1.07, 1.08)

SB 5 authorizes an institution to make any payment through electronic funds transfer or by electronic pay card. (Section 1.02)

SB 5 requires each institution of higher education to post its “checkbook” on the institution’s Internet website, including for each payment from general revenue or from tuition and fees the amount, date, and purpose of the payment, in addition to the name of the payee. As an alternative to posting that information on the institutional website, an institution may instead provide an easily noticeable, direct link to similar information on the comptroller’s website. (Section 1.03)

SB 5 exempts institutional debt, such as revenue finance system debt, from approval by the Texas Bond Review Board if the state’s general revenue is not pledged to the payment of the debt and the institution’s or system’s debt rating is at least AA-. (Sections 1.05 and 1.06)

SB 5 requires the Legislative Budget Board and the governor’s office, in consultation with institutions of higher education, to review the forms for higher education legislative appropriation requests (LARs) to identify opportunities to improve efficiency, provide transparency, and eliminate unnecessary and duplicative requirements. (Section 6.06)

Impact: A UT System institution will be in compliance with the statutory requirement if payments received by a collecting agency through on-line and credit card payments, which of necessity are first deposited into a trust account of the collector, are deposited in the institutional depository within seven days of receipt from the collecting agency.

An institution that opens a bank account with a foreign depository must ensure that the depository meets the statute’s requirement that the bank be licensed by a central bank, be annually audited, and meet the capitalization requirements. An institution may not deposit in the account any money other than that collected from students participating in the foreign program.

The requirement for a duplicative annual financial report unique to institutions of higher education is eliminated.

To maintain an unclaimed money fund, an institution is required to adopt procedures for an owner of the credit balance to make a claim and be paid and must maintain a database that permits the public to search for unclaimed funds.

An institution is authorized to make any payment by electronic funds transfer or electronic pay card and thereby save the expense of paper checks. An institution will likely need to adopt procedures for that purpose. Although a house amendment removed an express reference to payment of salary and wages, an institution is not prohibited from paying salary and wages through use of a pay card.

At a minimum, each institution will need to provide the “easily noticeable direct link” to similar “checkbook” information on the comptroller of public accounts’ website. The law specifies that the purpose of the link must be “clearly identifiable.”

Debt issued by the UT System Office of Finance under the systemwide revenue financing system is no longer subject to approval by the Texas Bond Review Board, which should facilitate the ability of the system to move quickly in the refinance market and otherwise avoid the expense and time requirements of bond review board review and approval.

UT System institutions and System Administration should consider the extent to which they will be proactive in seeking to participate with the LBB, the governor, and other institutions concerning improvement of the LAR forms.

Effective: June 17, 2011

Steve Collins

HB 2251 by Bonnen and Whitmire

Relating to the continuation and functions of the Texas Public Finance Authority.

HB 2251 is the sunset bill for the Texas Public Finance Authority (TPFA). The authority issues debt instruments such as bonds and master leases for state agencies, and HB 2251 allows any institution of higher education to request that TPFA issue bonds for the institution.

TPFA also issues bonds for the Cancer Prevention and Research Institute of Texas (CPRIT). HB 2251 facilitates the award of grants by CPRIT for multi-year projects, eliminating a requirement that funds for multi-year projects be maintained in an escrow account and distributed only as needed. HB 2251 also allows those projects to move forward before the bonds have been issued if TPFA and the Bond Review Board have approved the issuance. The changes apply only to multi-year grants awarded on or after the effective date of HB 2251.

Impact: For UT System institutions seeking CPRIT grants for multi-year projects, HB 2251 should facilitate the timely funding of those projects.

Effective: June 17, 2011

Steve Collins

[HB 2825](#) by Otto and Williams

Relating to the composition and appointment of the board of directors of a corporation to which the board of regents of The University of Texas System delegates investment authority for the permanent university fund or other funds under the control of the board of regents.

HB 2825 requires the Texas A&M Board of Regents to appoint two directors to the University of Texas Investment Management Company (UTIMCO) board. Currently, the UT System Board of Regents appoints all directors, with one selected from a list of candidates recommended by the Texas A&M Board.

Impact: UTIMCO must propose conforming amendments to its corporate bylaws, which must then be submitted to the UT System Board of Regents for approval.

Effective: June 17, 2011

Jim Phillips

Purchasing and State Contracts

[SB 5](#) by Zaffirini and Branch

Relating to the administration and business affairs of public institutions of higher education. (Ethics and Compliance)

SB 5 is an omnibus bill that affects a variety of areas of law governing higher education with a purpose of eliminating unfunded mandates, improving efficiency, and providing administrative flexibility to institutions of higher education. This analysis summarizes the ethics and compliance provisions.

SB 5 establishes new and clarified requirements governing contracts with business entities in which a member of the governing board of an institution of higher education has an interest. (Section 2.01) The provision amends Section 51.923, Education Code, to include any entity recognized by law through which business is conducted. (Prior law was limited to corporations.) If a member of the governing board has an interest that does not meet the statutory standard of a substantial interest, the business is not disqualified from contracting with an institution under that board's governance. If the interest qualifies as a "substantial interest," such as the regent owning 10 percent or more of the voting stock of the business entity or sitting on the board of directors, and the contract is one that requires board approval, the regent must disclose that interest in an open meeting and abstain from voting.

The provision also permits contracts with nonprofit corporations in relation to which a regent serves as an officer or employee.

Impact: The Office of the Board of Regents will need to develop procedures for disclosure in open meeting of certain regental interests in contracts that require board approval.

Effective: June 17, 2011

Steve Collins

SB 5 by Zaffirini and Branch

Relating to the administration and business affairs of public institutions of higher education. (Purchasing and Procurement)

SB 5 is an omnibus bill that affects a variety of areas of law governing higher education with a purpose of eliminating unfunded mandates, improving efficiency, and providing administrative flexibility to institutions of higher education. This analysis summarizes the purchasing and procurement provisions.

SB 5 provides that institutions of higher education, in exercising best value purchasing under Section 51.9335, Education Code, are exempt from the requirements of all of Subtitle D, Title 10, Government Code (institutions under the prior law were exempt only from specified chapters of that subtitle). In addition institutions are exempt from the law governing the purchase of consulting services (Subchapter B, Chapter 2254). Institutions are authorized to adopt rules and procedures for the acquisition of goods or services. (Section 2.02)

SB 5 also amends Section 51.9335 to provide that any provision required by law to be included in a contract for the acquisition of goods or services, such as the child support certification required by Section 231.006, Family Code, are considered part of the contract without regard to whether the provision appears on the face of the contract. (Section 2.02)

SB 5 gives institutions or systems the exclusive authority to determine whether, and the extent to which, the institution or system will send, accept, and rely on electronic or digital signatures. The institution or system may adopt rules and procedures governing the use of such signatures. (Section 2.03)

SB 5 eliminates the requirement that automobile liability insurance policies be on forms approved by the State Board of Insurance, as well as the requirement that the attorney general approve the policy limits. (Section 2.04)

SB 5 authorizes an institution of higher education or university system and a local government to directly contract for governmental services without first employing a competitive process, if the contract provides for those services to be provided on a cost recovery basis. (Section 2.05)

SB 5 provides that, in acquiring a major information system, an institution of higher education or university system must notify the Legislative Budget Board only if the value of the contract exceeds \$1 million. (Section 2.06)

SB 5 exempts all System purchasing personnel from the purchaser training of the comptroller's office. Under prior law, only purchasing personnel from medical and dental units were exempt. (Section 2.07)

Impact: Under best value purchasing, institutions are exempt from any purchasing or procurement requirements for goods or services under Chapters 2151 through 2177, Government Code, except that institutions remain subject to requirements relating to historically underutilized businesses or purchasing from persons with disabilities. In addition, institutions remain subject to provisions of the professional services procurement law other than in regard to consulting contracts. An institution now has express authority to adopt rules governing acquisition of goods and services.

The provision that effectively reads statutorily-required provisions into contracts should ease the negotiation of contracts in electronic form and has the effect of incorporating those provisions into click-through contracts. The Office of General Counsel and institutions will need to devise the most effective means of advising contracting parties of this provision of law.

Institutions will need to adopt policies on the use of digital and electronic signatures. In relation to digital signatures, institutions are no longer limited to the third party guarantors on the list of those approved for that purpose by the Department of Information Resources.

Effective: June 17, 2011

Steve Collins

[SB 327](#) by Van de Putte, et al. and Garza

Relating to including certain veterans service organizations as small businesses for the purpose of state contracting.

Chapter 2155 of the Government Code establishes multiple award contract (MAC) schedules, which are comptroller-created lists of contracts that were previously competitively awarded by the federal government or another governmental entity. A contract placed on a MAC schedule is available for use by state agencies to purchase goods and services, and by doing so the agency satisfies any requirement in Texas law relating to competitive bidding or proposals or the purchase of automated information systems.

However, a vendor with a contract on a MAC schedule must make a good faith effort to use small businesses under that contract. SB 327 includes veterans service agencies as small businesses for the purposes of that requirement. A "veterans service agency" is defined as a non-profit entity that has the principal purpose of providing assistance and

services to veterans and their families and that employs veterans to provide at least 75 percent of the hours of direct labor required to produce goods or provide services required under a contract that the entity enters into with a MAC schedule vendor.

Impact: UT System and its institutions are not directly affected by SB 327, since the “best value” procurement authority granted to institutions of higher education states that those institutions are not required to acquire goods or services as provided by Chapter 2155 of the Government Code. Nevertheless, UT System and its institutions do use contracts on the MAC schedules and therefore should be aware of the changes SB 327 makes to those contracts.

Effective: June 17, 2011

Scott A. Patterson

[**SB 329**](#) by Watson, et al. and Chisum, et al.

Relating to the sale, recovery, and recycling of certain television equipment; providing administrative penalties.

SB 329 establishes a television recycling program. “Covered televisions” (TVs), as defined by SB 329, may not be sold in Texas unless the retailer and manufacturer comply with labeling requirements, and manufacturers must register and report Texas sales information to the TCEQ. Manufacturers must develop and implement a recovery plan to collect, reuse, and recycle TVs. Retailers may only sell TVs from registered manufacturers and must inform consumers of disposition and recycling options.

State agencies, including institutions of higher education, must require vendors of TVs to certify compliance with the recycling program requirements and must give preference to TV manufacturers that collect more than their market share allocation or that provide collection sites or recycling events in counties located in council of government regions with fewer than six permanent collection sites. The comptroller of public accounts must adopt rules to implement these purchasing provisions.

The definition of “covered televisions” excludes computer monitors, telephones, PDAs, GPS devices, and equipment connected to other systems or pieces of equipment used in governmental, research and development, or medical settings, including diagnostic monitoring or control equipment.

Impact: Although the duties and responsibilities imposed by SB 329 fall primarily on manufacturers and retailers of TVs, UT System institutions must modify procurement procedures to deal with vendor certification and purchasing preferences after the adoption of rules by the comptroller.

Effective: September 1, 2011

Jim Phillips

[SB 400](#) by Shapiro, et al. and Hopson

Relating to the entities eligible to make purchases using the cooperative purchasing program administered by the comptroller.

SB 400 allows a child-care provider to purchase goods and services through the comptroller's office if the provider meets the Texas Rising Star Provider criteria set forth in the rules of the Texas Workforce Commission.

Impact: UT System institutions that contract for the provision of child-care services should be aware of SB 400.

Effective: September 1, 2011

Scott A. Patterson

[HB 266](#) by Hilderbran and Duncan

Relating to the use of address-matching software by certain state agencies.

HB 266 requires state agencies preparing bulk mailings to use address-matching software that meets certification standards adopted by the U. S. Postal Service, if practicable. In addition, HB 266 also obligates state agency contracts for bulk mailing services to require the contractor to use address-matching software that meets or exceeds the U. S. Postal Service certification standards.

Impact: UT System and UT System institutional offices that perform bulk mailings should be aware of HB 266.

Effective: September 1, 2011

Scott A. Patterson

[HB 1247](#) by Callegari and Birdwell

Relating to the repeal of certain prohibitions on purchases of paper supplies and cabinets by state agencies.

HB 1247 repeals a law that, subject to certain exceptions, prohibited state agencies, including institutions of higher education, from purchasing:

- forms, bond paper, stationery, pads, or similar paper supplies that exceed 8-1/2 inches by 11 inches in size, and
- filing cabinets designed to store completed documents that exceed 8-1/2 inches by 11 inches in size.

Impact: HB 1247 impacts UT System institutions by lifting a ban on the purchase of certain paper supplies and filing cabinets.

Effective: June 17, 2011

Dana Hollingsworth

[HB 2357](#) by Pickett and Williams

Relating to motor vehicles; providing penalties.

HB 2357 reorganizes and amends Chapters 501, 502, 504, and 520 of the Transportation Code to provide new authority for the Texas Department of Motor Vehicles (DMV) to implement electronic registration and titling of motor vehicles, including the collection of fees for electronic payments and use of credit cards for related transactions. While electronic registration and titling are not required under HB 2357, and hard copies of titles will continue to be available, the DMV is authorized to develop, administer, and enforce regulations governing motor vehicle and motor carrier registration, the sale and leasing of motor vehicles, salvage vehicle dealers, and the marking on commercial motor vehicles. The DMV will also have new authority relating to the information required for titling motor vehicles and the design and placement of license plates.

Impact: HB 2357 does not require immediate action by UT System institutions. However, institutions will want to maximize any cost savings and efficiencies resulting from expedited, electronic vehicle titling and registration. UT System institutions should also actively monitor the implementation of HB 2357 to assure that vehicle marking and license plate regulations do not result in unexpected costs or pose a risk of non-compliance with institutional fleet management practices. The final revised DMV regulations may require amendment of internal guidelines or operating practices and related documentation. The System Office of Risk Management and Travel Services will also be interested in monitoring any modifications made to regulations impacting motor carriers, including federal motor carriers, that are relevant to contracted transportation providers.

Effective: January 1, 2012, with a few limited exceptions.

Mark Gentle

[HB 2559](#) by Truitt and Harris

Relating to commercial motor vehicle installment sales.

HB 2559 is a lengthy bill that governs commercial motor vehicle installment sales. Previously, Chapter 348, Finance Code, applied to both commercial and consumer motor vehicle retail installment contracts. HB 2559 adds a new Chapter 353 that applies to commercial transactions and that includes provisions previously in Chapter 348. A commercial motor vehicle installment contract must state that new Chapter 353 applies; otherwise Chapter 348 applies.

HB 2559 also amends the law relating to commercial motor vehicle installment sales. It includes conforming and clarifying changes, including provisions from the rules adopted

under Chapter 348 by the Consumer Credit Commissioner and the Texas Finance Commission, and provisions that make clear that various documents may either be in hard copy or electronic format. HB 2559 also makes the following changes to the law relating to commercial motor vehicle installment sales:

- (1) Commercial vehicle installment contracts are not required to include a statement of the amount of the documentary fee and do not have to provide conspicuous notice that documentary fees are not official fees and not required by law.
- (2) There is no provision in the new chapter that expressly requires the disclosure requirements of Regulation Z adopted under the Truth in Lending Act to apply. However, the new chapter does state that conflicting or inconsistent federal disclosure laws are controlling.
- (3) The section in Chapter 348 specifying what must be included in a retail installment contract is not carried over to the new chapter. As a result, installment contracts for commercial motor vehicles are not required by law to include things such as the name and address of the buyer and seller, conspicuous notice to the buyer that the buyer should not sign the contract before he or she reads it, and that the buyer is entitled to a copy of the contract.
- (4) Under Chapter 348, if required insurance is obtained by the seller and a premium is included in a retail installment contract that is not fixed or approved by the commissioner of insurance, then the holder is required to notify the buyer with a statement of that fact. However, this requirement is not carried over to the new chapter.
- (5) Chapter 348 has various disclosure requirements if the cost of insurance is included in the contract, or if the holder purchase dual interest insurance on the motor vehicle, both of which are not carried over to the new chapter.
- (6) Notice does not need to be given to a buyer regarding non-attached personal property that has been acquired during the repossession of the motor vehicle (if disposition of this property is allowed by contract).
- (7) In Chapter 348, a holder (i.e., a retail seller or assignee of a retail installment contract) could not obtain a license unless the commissioner made a finding that the forms and contracts to be used protected the interests of retail buyers. In the new chapter, no such finding is required.
- (8) License holders under the new chapter, such as sellers and lenders of commercial vehicles, have less stringent requirements with regard to access to records, examination, document retention, and payment of examination costs than do license holders under Chapter 348.
- (9) The new chapter expressly allows for the use of the true daily earnings method to compute the time price differential. The time price differential is defined as

the amount added on to the principle balance to determine the buyer's indebtedness under a retail installment contract. The true daily earnings method is computed by multiplying the daily rate of interest by the number of days the actual unpaid principal balance has been outstanding. Payments are credited at the time received, so the result is that payments received before the scheduled installment date result in a greater reduction in the unpaid principal balance, and payments received after the scheduled installment date result in less of a reduction.

- (10) Chapter 353 does not allow for refunds if the buyer prepays on a contract in which the time price differential is computed using the true daily earnings method or the scheduled installment earnings method.
- (11) There is no requirement that the amount charged for a debt cancellation agreement must be reasonable.
- (12) Chapter 353 expressly allows a holder to provide property insurance, credit life insurance, and credit health and accident insurance.
- (13) The new chapter expands the definition of precomputed earnings method by adding "...and in which the retail buyer agrees to pay the total of payments that includes both the principal balance of the contract and the time price differential."
- (14) Chapter 353 provides that an agreement for the lease of a commercial vehicle does not create a retail installment transaction by merely providing that the rental price is permitted or required to be adjusted under the security agreement as determined by the amount realized on the sale or other disposition of the vehicle, as provided by Section 501.112, Transportation Code.
- (15) Chapter 353 adds "advances or payments authorized under Section 353.402(b) or (c) [an incentive program or for a trade-in vehicle] made by the retail seller to or for the benefit or the retail buyer" to other authorized itemized charges that may be included in a retail installment contract for a commercial vehicle.
- (16) Chapter 353 contains a provision that allows for refunds if the buyer prepays on a contract in which the time price differential is computed using the scheduled installment earnings method. It then establishes provisions governing refunds on contracts using the scheduled installment earnings method.
- (17) Chapter 353 limits those service contracts and debt cancellation agreements that are exempt from Insurance Code provisions relating to unauthorized insurance or unauthorized and independently procured insurance premium tax. It exempts only those contracts and agreements that are sold by a retail seller of a commercial vehicle to a retail buyer.
- (18) Chapter 353 limits the provisions under which a contract may be rescheduled if a premium is added to the contract. It authorizes a rescheduling only under the

provisions relating to charges for deferring installment and charges for other amendments.

- (19) Chapter 353 expands the list of things that are not subject to mandatory disclosure when acquiring or assigning a contract to include consideration for the acquisition or assignment.
- (20) Chapter 353 limits the instances in which a retail seller may pay in cash to a retail buyer any portion of the net cash value of a motor vehicle used as a trade-in to transactions involving the sale of a commercial vehicle rather than any vehicle.
- (21) Chapter 353 adds to the types of licenses that may be obtained to fulfill the license requirements for acting as a holder—a holder may obtain a license issued under provisions relating to motor vehicle installment sales (Chapter 348, Finance Code).
- (22) Chapter 353 omits a provision authorizing the commissioner to suspend or revoke a license if he or she finds the license holder did not pay an examination fee.

Impact: UT System Administration and UT System institutions purchasing commercial motor vehicles or heavy commercial vehicles on installment contracts should be aware that these contracts are no longer regulated according to the provisions governing ordinary motor vehicle installment sales (provided the contract states that Chapter 353, Finance Code, applies).

Effective: September 1, 2011

Timothy Shaw

Construction

[SB 5](#) by Zaffirini and Branch

Relating to the administration and business affairs of public institutions of higher education. (Real Estate and Construction)

SB 5 is an omnibus bill that affects a variety of areas of law governing higher education with a purpose of eliminating unfunded mandates, improving efficiency, and providing administrative flexibility to institutions of higher education. This analysis summarizes the real estate and construction provisions.

SB 5 creates an expedited process for Coordinating Board approval of certain construction projects and real estate purchases. The process provides for staff-only review of those projects, following a certification from the institution that it is in current

compliance with institutional standards and project standards, that the project is on the campus master plan, and that the institution has no outstanding deficiencies under the most recent facilities audit. (Section 4.01)

SB 5 exempts higher education from the uniform general conditions that apply to state construction contracts generally. (Section 4.02)

SB 5 also eliminates the requirement that the governing board of an institution of higher education, in open meeting, certify that a project has considered the economic feasibility of incorporating alternative energy systems. (Section 4.03)

SB 5 exempts institutions of higher education from a statutory requirement that space be leased for the institution by the Texas Facilities Commission or leased by the institution under a delegation of authority from the commission. (Section 4.04)

SB 5 provides that, where an institution of higher education owns the remainder interest in property subject to a life estate, a lien for deferred property taxes attaches only to the life tenant's interest unless the institution has consented to the deferral. (Section 4.05)

SB 5 exempts institutions of higher education from a requirement to submit to the Texas Historical Commission a photograph and information concerning any building acquired that is more than 45 years old. (Section 6.14)

Impact: The new process for Coordinating Board approval of projects should facilitate quicker approval of most UT System projects that previously required approval by the full Coordinating Board.

An institution must still verify that the feasibility of alternative energy systems were considered on subject projects. The change in law only removed the requirement that the Board of Regents make that verification by vote in open meeting.

The exemption from the leasing authority of the Texas Facilities Commission will have little impact because UT System has operated under a long-standing delegation of authority.

The provision relating to tax liens will prevent circumstances in which a life tenant's tax deferral consumes the value of the institution's remainder interest. The provision does not apply to deferrals executed before September 1, 2011.

Effective: June 17, 2011

Steve Collins

SB 1048 by Jackson and Davis, John

Relating to the creation of public and private facilities and infrastructure.

SB 1048 sets up a detailed framework for public entities, including institutions of higher education, to cooperate with private entities to develop, finance, construct, manage, and maintain “qualifying projects” that serve a public need and purpose. A stated purpose of SB 1048 is to provide governmental entities with the greatest possible flexibility in contracting with private entities or other persons to provide public services. It also includes changes to the Texas public information law that would protect some proprietary information, including financial information, submitted by proposers under SB 1048.

SB 1048 broadly defines “qualifying project” to include almost anything or any service that serves a public purpose, except for a highway in the state highway system, and except for telecommunications, cable television, video service, or broadband infrastructure other than technology installed as part of a qualifying project that is essential to the project.

In order to develop qualified projects under SB 1048, the UT System Board of Regents must adopt a resolution electing to do so and must adopt guidelines for its implementation. SB 1048 provides detailed requirements for the guidelines, some highlights of which are:

- Financial review and analysis of all qualifying projects, including a cost benefit analysis and an assessment of opportunity costs;
- Consideration of nonfinancial benefits; and
- Creation of an oversight committee to review the terms of any agreement.

Financing of qualified projects may come from any funding resources available to either UT System or the entity constructing the project. Money received by UT System from the state or federal government is subject to appropriation by the Texas legislature.

Qualifying projects are considered public works regardless of ownership status, and payment and performance bonds are required. However, qualified projects are generally excepted from state procurement guidelines as long as the comprehensive agreement calls for the qualified project to be constructed using procedures that do not materially conflict with the higher education design-build statute (Section 51.780, Education Code).

Proposals for qualifying projects may be submitted to UT System by outside entities or UT System may request proposals. Proposals may be for the development or operation of a qualifying project. SB 1048 provides detailed submittal requirements for proposals. UT System may decide to accept or reject any proposal. If accepted for consideration, UT System may establish fees for processing, reviewing, and evaluating the proposal.

In considering a proposal, UT System may consider total project cost as a factor but is not required to select the proposal that offers the lowest total project cost. SB 1048 lists

many other factors that may be considered and UT System may identify other criteria it considers appropriate.

If a proposal is accepted for consideration, UT System must provide public notice within 10 days by posting the proposal on its website and TexasOnline or the state's official website. Certain financial data in the proposal may be withheld. For at least 45 days after posting, UT System must accept submission of competing proposals.

As a condition for approval of a qualified project, the proposer must enter into an interim or comprehensive agreement with UT System. However, there are several notification and comment periods that must be complied with before UT System may enter into an interim or comprehensive agreement, such as:

- UT System must provide copies of a detailed proposal to the newly created Partnership Advisory Commission before beginning to negotiate an interim or comprehensive agreement.
- The commission has 10 days to accept or decline review of the proposal. If it accepts the proposal for review it must provide findings and recommendations within and 45 days after receipt of the detailed proposal.
- At least 30 days before execution of a negotiated interim or comprehensive agreement, it must be submitted to the commission along with a report describing how the commission's recommendations were addressed. (Commission review is limited to projects the total cost of which is \$5 million or more unless funding is specifically included in the general appropriations act, at which point commission review is not required unless the value of the project exceeds \$50 million.)
- UT System must also hold a public hearing on a proposal at least 30 days before entering into an interim or comprehensive agreement implementing the proposal.

Finally, SB 1048 amends the Texas public information law to allow financial and negotiation information, trade secrets, and other information that relates to a proposal for a qualifying project to be excepted from disclosure. The terms of any final agreements are generally not excepted.

Impact: Implementation of the policy goals and procedures in SB 1048 will likely have a significant impact on the development of future projects at UT System.

SB 1048 is intended to provide access to alternative funding sources for public works, including private investment. This will be a welcome opportunity but may also increase financing costs of a project.

SB 1048 creates a new project delivery process that, while similar to the current design-build delivery system, allows much greater flexibility in negotiating with proposers. Proposals submitted could be much more detailed than is allowed under design-build, and the terms of the proposal could be negotiated as part of the selection process rather than

after selecting a particular contractor for the project. Proposals could include construction and long-term financing. Unlike current procurement methods, which are typically based on sealed proposals provided in response to public requests, SB 1048 specifically anticipates that outside entities will come to UT System with development ideas that UT System may consider.

SB 1048 may be particularly useful for outsourcing operation and maintenance obligations for public venues such as sports arenas and event centers. These types of agreements are difficult to craft without vendor involvement, and competing proposals generally do not address the multiple service requirements in easily comparable ways. SB 1048 specifically applies to such service agreements.

Finally, SB 1048 does not have the safe-guards of competitive procurement systems built in. Rather, it contemplates a much more public procurement process with the legislature and the public able to observe, review, and comment on both the nature of the project and the procurement methods. This will entail a new approach to procurement that is more collaborative with prospective vendors but that also requires more transparency in order avoid the appearance of improper procurement activities.

Effective: September 1, 2011

Edwin Smith

[HB 51](#) by Lucio III, et al. and Hinojosa

Relating to energy efficiency standards for certain buildings and to high-performance design, construction, and renovation standards for certain buildings and facilities of institutions of higher education.

HB 51 allows the board of regents of institutions of higher education to adopt high-performance building standards applicable to most construction and renovation projects but also makes those projects conditionally subject to energy and water conservation standards adopted by the state energy conservation office (SECO). It also impacts the way design fees for achieving efficiency certification under the SECO adopted standards are treated.

HB 51 applies to all new and substantially renovated buildings for institutions of higher education with project values exceeding \$2 million, or that exceed 50 percent of the existing building value for projects of less than \$2 million, if any part of the project is financed by revenue bonds (qualifying projects). The changes only apply to qualifying projects for which the contract for design services is entered into on or after September 1, 2013.

After September 1, 2013, all qualifying projects must be designed, constructed, or renovated to comply with high-performance building standards approved by an institution's board of regents that provide minimum requirements for energy use, natural

resource use, and indoor air quality. In adopting standards, the board of regents must consider the SECO standards but is not required to follow them.

However, HB 51 also requires that qualifying projects comply with SECO adopted standards for energy and water conservation unless the institution determines that those standards are impractical and provides documentation supporting that determination to SECO.

HB 51 also adds additional water savings requirements and establishes an advisory committee to help SECO adopt high-performance building standards. It appears that any SECO high-performance building standards would involve adoption of one or more recognized performance certification systems (LEED being the best known).

Finally, HB 51 mandates that professional services required to meet the high-performance certification standards adopted by SECO be considered for billing purposes as additional services under a professional services contract. It further prohibits a governmental entity from disallowing the allocation of federal deductions to eligible design professionals as authorized by the Energy Policy Act of 2005 (Pub. L. No. 109-58).

Impact: If the UT System Board of Regents does not want UT System complying projects to be subject to whatever high-performance design evaluation certification system is adopted by SECO, it will need to consider and adopt its own high-performance building standards. This would probably require the formation of a new high-performance building standards task force to evaluate various options.

If the Board of Regents chooses not to adopt UT System high-performance building standards, all projects begun after September 1, 2013, would have to comply with the SECO adopted standards.

Finally, the requirements of HB 51 that professional services required to meet the high-performance certification standards be considered additional services for billing purposes will require amendments to the current standard UT System architect/engineer templates. In particular, the templates will need to clarify that the sole additional compensation available to an architect/engineer for providing high-performance certification services is whatever tax breaks are available under the Energy Policy Act of 2005. In the past, UT System has not assigned these tax allocations to design professionals because of concerns that to do so without compensation would be an unconstitutional gift to the design professional. It is not clear whether this new statutory language would pass constitutional muster and it is thus possible that an attorney general opinion would be advisable.

Effective: September 1, 2011

Edwin Smith

[HB 1456](#) by Orr and Deuell

Relating to the waiver and release of a mechanic's, contractor's, or materialman's lien or payment bond claim and to the creation of a mechanic's, contractor's, or materialman's lien for certain landscaping.

HB 1456 prescribes standard forms for the conditional and unconditional release of lien/payment bond claims for both progress payments and final payments on construction projects. In order to be enforceable, waivers and releases must substantially comply with the forms and must be signed and notarized by the claimant.

Impact: On smaller projects where no payment bond is required (less than \$25,000), it will be important to verify that the lien waivers received in advance of final payment comply with the statutory forms and are signed and notarized.

On larger projects, compliance with the statutory requirements will be of more concern to the payment bond surety since UT System requires a consent of surety letter before making final payment and releasing retainage.

Project management employees, as well as purchasing and accounting employees in physical plant departments, should be aware of HB 1456.

Effective: January 1, 2012

Edwin Smith

[HB 1728](#) by Keffer and Harris

Relating to energy savings performance contracts and energy efficiency planning.

HB 1728 amends Section 51.927, Education Code (as well as other laws not relevant to higher education), to allow institutions of higher education to pay for energy savings performance contracts using any available money, other than money borrowed from the state. Such contracts can now be used in new construction as well as existing structures.

HB 1728 also states that institutions of higher education are not required to pay for energy savings performance contracts solely out of realized energy savings. It also allows institutions of higher education to contract with the energy savings performance contractor for other work that is related, connected, or ancillary to the energy performance savings measures.

Impact: HB 1728 fundamentally changes the definition of energy performance contracts to no longer require that all costs of the energy efficiency measures be paid for out of anticipated energy savings. The change not only provides for greater flexibility in financing energy savings performance projects but also allows for scope changes and ancillary work to be included without having to pay for them from anticipated savings.

However, note that the changes in HB 1728 do not apply to projects that are financed by any state program providing loans for energy efficiency improvements.

Effective: September 1, 2011

Edwin Smith

[HB 2093](#) by Thompson and Van de Putte

Relating to the operation and regulation of certain consolidated insurance programs.

HB 2093 creates a new section of the Insurance Code that addresses consolidated insurance programs.

The first important aspect of HB 2093 is the requirement that any consolidated insurance program that provides general liability insurance must provide completed operations insurance for at least three years.

The second important aspect is that HB 2093 voids indemnification agreements in construction contracts to the extent that they require an indemnitor to indemnify against a claim caused by the negligence or fault of the indemnitee. HB 2093 also makes any requirement that an indemnitor obtain insurance coverage for indemnitee-caused claims unenforceable. These provisions may not be waived by contract.

There are exceptions for injury claims brought by an employee of the indemnitor (thereby preserving workers compensation protections), as well as a number of exclusions.

Impact: UT System has consolidated insurance programs for construction projects known as the Owner Controlled Insurance Program (OCIP) or the Rolling Owner Controlled Insurance Program (ROCIP). The terms of these programs should be reviewed for conformance with the three-year completed operations requirement.

The indemnity restrictions have no impact on UT System construction contracts because similar restrictions have been in place for state agency construction contracts since 2001 under Section 2252.902, Government Code (which is repealed by HB 2093).

Effective: January 1, 2012

Edwin Smith

[HB 3391](#) by Miller, Doug and Seliger

Relating to rainwater harvesting and other water conservation initiatives.

HB 3391 adds new categories of new state buildings that require rainwater collection systems and also directs the Texas Commission on Environmental Quality to develop rules for potable rainwater systems that are connected to a public water supply.

HB 3391 expands the statute that addresses rainwater collection on new state buildings to include potable water collection, and adds new state buildings with a roof measuring at least 50,000 square feet that are located in an area in which the average annual rainfall is at least 20 inches to the current list of covered buildings.

The newly added building type is not required to have a rainwater collection system if the State Energy Conservation Office (SECO) is notified that rainwater already being collected from existing buildings at the same location exceeds the amount of rainwater that would have been collected by the new building.

Impact: Prior law required nonpotable indoor use and landscape watering rainwater collection systems on new state buildings with roofs measuring 10,000 square feet or larger and other new buildings for which rainwater collection is feasible. HB 3391 does not significantly change those requirements but does specifically allow rainwater collection for potable use.

It is not clear whether the new category of building added will have much impact on which buildings are required to install rainwater collection systems. However, it is important to note that the law provides an exception from the rainwater collection requirement if UT System determines that compliance with the standards is impractical and the decision with supporting documentation is provided to SECO.

Effective: September 1, 2011

Edwin Smith

Information Resources

[SB 5](#) by Zaffirini and Branch

Relating to the administration and business affairs of public institutions of higher education. (Purchasing and Procurement)

SB 5 is an omnibus bill that affects a variety of areas of law governing higher education with a purpose of eliminating unfunded mandates, improving efficiency, and providing administrative flexibility to institutions of higher education. This analysis summarizes the purchasing and procurement provisions.

SB 5 provides that institutions of higher education, in exercising best value purchasing under Section 51.9335, Education Code, are exempt from the requirements of all of Subtitle D, Title 10, Government Code (institutions under the prior law were exempt only from specified chapters of that subtitle). In addition institutions are exempt from the law governing the purchase of consulting services (Subchapter B, Chapter 2254). Institutions are authorized to adopt rules and procedures for the acquisition of goods or services. (Section 2.02)

SB 5 also amends Section 51.9335 to provide that any provision required by law to be included in a contract for the acquisition of goods or services, such as the child support certification required by Section 231.006, Family Code, are considered part of the contract without regard to whether the provision appears on the face of the contract. (Section 2.02)

SB 5 gives institutions or systems the exclusive authority to determine whether, and the extent to which, the institution or system will send, accept, and rely on electronic or digital signatures. The institution or system may adopt rules and procedures governing the use of such signatures. (Section 2.03)

SB 5 eliminates the requirement that automobile liability insurance policies be on forms approved by the State Board of Insurance, as well as the requirement that the attorney general approve the policy limits. (Section 2.04)

SB 5 authorizes an institution of higher education or university system and a local government to directly contract for governmental services without first employing a competitive process, if the contract provides for those services to be provided on a cost recovery basis. (Section 2.05)

SB 5 provides that, in acquiring a major information system, an institution of higher education or university system must notify the Legislative Budget Board only if the value of the contract exceeds \$1 million. (Section 2.06)

SB 5 exempts all System purchasing personnel from the purchaser training of the comptroller's office. Under prior law, only purchasing personnel from medical and dental units were exempt. (Section 2.07)

Impact: Under best value purchasing, institutions are exempt from any purchasing or procurement requirements for goods or services under Chapters 2151 through 2177, Government Code, except that institutions remain subject to requirements relating to historically underutilized businesses or purchasing from persons with disabilities. In addition, institutions remain subject to provisions of the professional services procurement law other than in regard to consulting contracts. An institution now has express authority to adopt rules governing acquisition of goods and services.

The provision that effectively reads statutorily-required provisions into contracts should ease the negotiation of contracts in electronic form and has the effect of incorporating those provisions into click-through contracts. The Office of General Counsel and institutions will need to devise the most effective means of advising contracting parties of this provision of law.

Institutions will need to adopt policies on the use of digital and electronic signatures. In relation to digital signatures, institutions are no longer limited to the third party guarantors on the list of those approved for that purpose by the Department of Information Resources.

Effective: June 17, 2011

Steve Collins

SB 74 by Nelson and Branch

Relating to the disposition of surplus or salvage data processing equipment of a university system or an institution or agency of higher education.

The law authorizes institutions of higher education to establish written procedures for the disposition of surplus or salvage property. SB 74 provides that, notwithstanding those procedures, institutions of higher education (except for public junior colleges) are authorized to donate surplus or salvage data processing equipment to a public or private hospital located in a rural county.

Impact: SB 74 provides UT System and its institutions with an alternate means of disposing of surplus or salvage data processing equipment. Surplus/salvage property policies and procedures should be updated to reflect the changes made by SB 74.

Effective: June 17, 2011

Scott A. Patterson

SB 773 by Zaffirini, et al. and Gallego, et al.

Relating to telecommunications service discounts for educational institutions, libraries, hospitals, and telemedicine centers.

SB 773 adds federally qualified health center service delivery sites to the list of entities qualifying for the telecommunications service discount. SB 773 also decreases the discount, so that private network service contract pricing and tariffs will now be offered at 110 percent of the company's long term incremental cost instead of 105 percent, and moves the sunset date for the discount from 2012 to 2016.

Impact: UT System institutions relying on the telecommunications discount will face higher costs, which should be appropriately budgeted.

Effective: September 1, 2011

Jim Phillips

[SB 781](#) by Carona and Cook

Relating to the repeal of certain legislative oversight committees and certain rulemaking authority of the Department of Information Resources.

Among other things, SB 781 repeals a law providing for rules that require state agency contracts for network hardware and software to include a statement by the vendor certifying that the network hardware or software has undergone independent certification testing for known and relevant vulnerabilities.

Impact: UT System contracts for network hardware and software will no longer be required to include a vendor certification that the network hardware or software has undergone independent certification testing for known and relevant vulnerabilities.

Effective: June 17, 2011

Dana Hollingsworth

[SB 988](#) by Van de Putte and Larson, et al.

Relating to the creation of a cybersecurity, education, and economic development council.

SB 988 establishes a 9-member Cybersecurity, Education, and Economic Development Council to be in existence through September 1, 2013. Members of the council are appointed by the executive director of the Department of Information Resources (DIR) and include representatives from various state agencies and offices, including two representatives from institutions of higher education with cybersecurity-related programs.

The council must conduct a study and provide a report to state officials by December 1, 2012. The study and report are to address improvements in the infrastructure of Texas cybersecurity operations and identify specific actions needed to accelerate the growth of cybersecurity as an industry in Texas. The council is authorized to request the assistance of state agencies, departments, and offices in carrying out its duties.

Impact: The results of the report submitted by the new council established by SB 988 may affect the information security efforts undertaken at UT System and UT System institutions. Furthermore, personnel from UT System or its institutions may serve as council representatives or otherwise provide assistance as requested by the council.

Effective: September 1, 2011

Scott A. Patterson

[HB 266](#) by Hilderbran and Duncan

Relating to the use of address-matching software by certain state agencies.

HB 266 requires state agencies preparing bulk mailings to use address-matching software that meets certification standards adopted by the U. S. Postal Service, if practicable. In addition, HB 266 also obligates state agency contracts for bulk mailing services to require the contractor to use address-matching software that meets or exceeds the U. S. Postal Service certification standards.

Impact: UT System and UT System institutional offices that perform bulk mailings should be aware of HB 266.

Effective: September 1, 2011

Scott A. Patterson

[HB 300](#) by Kolkhorst, et al. and Nelson

Relating to the privacy of protected health information; providing administrative, civil, and criminal penalties.

HB 300 takes effect September 1, 2012, and provides the following:

- HB 300 confirms that medical records held by state agencies that are also required to comply with the Health Insurance Portability and Accessibility Act (HIPAA) are confidential under Texas law and are not subject to disclosure under the Texas public information law.
- HB 300 makes changes to the current state breach reporting statute (Section 521.053, Business and Commerce Code). It clarifies that notices must be sent to any person whose “sensitive personal information” is the subject of a breach, not just to Texas residents. If a breach notice is provided to the resident of another state under the breach notification laws of that state, compliance with the Texas state law breach notice requirements is deemed to have occurred. HB 300 also adds increased criminal penalties for identity theft as defined in Chapter 521.
- HB 300 also requires certain covered entities, as defined in Chapter 181, Health and Safety Code, including many already subject to HIPAA, as well as other entities, to comply with both HIPAA *and* the requirements added by HB 300 to Chapter 181, some of which are more restrictive than the comparable terms of the HIPAA privacy rule. Under these new requirements:
 - All covered entities are now required to provide a training program to employees about state and federal law concerning protected health information (PHI) as it relates to the employing entity’s business and the employing entity’s scope of employment. The training must be provided within 60 days after the date of hire and repeated at least once every two

years. The employee must sign a verification that he or she received the training and the employer must retain the verification.

- Covered entities are prohibited from providing any PHI in exchange for direct or indirect remuneration to anyone other than another covered entity, or an entity defined in Section 602.001, Insurance Code (essentially all fully-funded insurance plans, HMOS, third party administrators, and agents that are licensed by the Texas Department of Insurance), and only then for the purpose of treatment, payment, health care operations, or an insurance or HMO function described in Section 602.053, Insurance Code, or as permitted or required by state or federal law. When PHI is transferred for a purpose listed in Section 602.053, the remuneration may not exceed the cost of preparing or transmitting the PHI.
- Covered entities (except entities described in Section 602.001, Insurance Code, that are not subject to HIPAA, such as life insurance or auto insurance companies) are required to provide notices to and obtain authorizations from persons whose PHI the covered entity will be disclosing electronically. However, authorizations are not required if the proposed release is to another covered entity for the purpose of payment, treatment, or health care operations or to perform an insurance or HMO function described in Section 602.053, or as permitted or required by state or federal law. The attorney general must adopt a standard authorization form for use by covered entities by January 1, 2013.
- All health care providers that use an electronic health records system must provide requested electronic health records to a patient within 15 business days after receipt of a request from the patient if the system is capable of providing such a record, unless the patient agrees to accept the record in some other form. The provider does not need to provide PHI that HIPAA would exempt from disclosure. The executive commissioner of the Health and Human Services Commission (HHSC), in consultation with the Department of State Health Services (DSHS), the Texas Medical Board, and the Texas Department of Insurance (TDI), may recommend by rule a standard format for the release of those records.
- The attorney general and state licensing agencies will receive and enforce complaints against covered entities for violations of Chapter 181. Potential sanctions and fines are increased significantly. In some cases penalties may run as high as \$1.5 million annually.
- HHSC, in coordination with the attorney general, the Texas Health Services Authority, and TDI, may also request the US Secretary of Health and Human Services to audit covered entities subject to HIPAA and must monitor audit results. Additionally, HHSC may request a licensing agency to audit a licensee of that agency for suspected patterns of violations of Chapter 181.

- The attorney general is required to maintain a website that provides:
 - Information about consumer privacy rights concerning protected health information under state and federal law; and
 - A list of state agencies that regulate covered entities, the agencies' contact information, and details about the agencies' complaint enforcement processes.
- The attorney general is required to submit annual reports, which de-identifies any complainant's PHI, to the legislature about consumer complaints received by all state agencies. Each agency that receives those complaints must report information required by the attorney general for the compilation of the report.
- Finally, HB 300 requires the Texas Health Services Authority, a non-profit corporation previously created by law, to develop and recommend privacy and security standards for the sharing of electronic health care records by health care providers, state agencies, insurers, and other parties involved in health care and health care payment for adoption by HHSC. HHSC, in conjunction with the authority and the Texas Medical Board, is required to prepare a study on the maintenance and security of electronic PHI created by covered entities that cease to operate and to make recommendations to appropriate standing committees of the legislature. A task force is also created to make recommendations for handling electronic records of covered entities that cease to operate. HHSC is required to adopt the standards for the sharing of electronic health care records by health care providers, state agencies, insurers, and other parties involved in health care and health care payment by January 1, 2013.

Impact: All UT System institutions will continue to withhold PHI that is requested under the Texas public information law. Many UT System institutions are "covered entities" or contain covered entities that are subject to HIPAA and will be subject to the new requirements established by HB 300. As these requirements are analyzed by the Office of General Counsel and other offices involved with privacy and security compliance, specific guidance will be provided to assist UT System institutions in understanding what changes will be required to existing policies and practices to ensure compliance with HB 300, once it takes effect in September of 2012, as well as the final changes to the HIPAA privacy, security, and breach regulations which are expected to be released before the end of 2011.

Effective: September 1, 2012

Barbara Holthaus

[HB 1666](#) by Castro, et al. and Watson

Relating to the prosecution of the offense of online impersonation.

HB 1666 modifies the criminal penalties for online impersonation to make it a criminal offense to use the name or persona of another person to perform any of the following activities without the other person's consent and with the intent to harm, defraud, intimidate, or threaten any person:

- creation of a web page on a commercial social networking site or other Internet website; or
- posting or sending messages through a commercial social networking site or other Internet website, other than messages sent on or through a commercial e-mail program or message board program.

Impact: The business, legal, information technology, and information security offices at UT System and UT System institutions should be aware of HB 1666 and should consider whether changes to their policies and procedures regarding the use of information resources are necessary.

Effective: September 1, 2011

Scott A. Patterson

[HB 1841](#) by Hartnett, et al. and Carona

Relating to the taxability of Internet hosting.

HB 1841 adds a new provision to Chapter 151, Tax Code, which addresses state sales, use, and excise taxes, so that:

- persons who use Internet hosting (e.g. storing or processing data through a computer service provided by an unrelated user) are not businesses subject to tax under Chapter 151; and
- persons providing Internet hosting are not required to examine the data of the users of such hosting services to determine the applicability of Chapter 151, advise those users regarding the applicability of Chapter 151, or provide reports to the comptroller of public accounts about the activities of those users.

Impact: UT System and UT System institutional offices that procure and use Internet hosting should be aware of HB 1841.

Effective: June 17, 2011

Scott A. Patterson

[HB 3333](#) by Pena and Hegar

Relating to the authority of the governor to order the disconnection of state computer networks from the Internet.

HB 3333 authorizes the governor to order the Department of Information Resources (DIR) to disconnect from the Internet a computer network that provides Internet connectivity services exclusively to a state agency or an entity receiving network security services from DIR in the event of a substantial external threat to that computer network.

Impact: Information resources departments at UT System and its institutions should be aware of HB 3333.

Effective: September 1, 2011

Scott A. Patterson

[HB 3396](#) by Hernandez Luna and Patrick

Relating to the prosecution of and punishment for the offense of breach of computer security.

Texas law establishes a criminal offense if a person knowingly accesses a computer, computer network, or computer system without the effective consent of the owner.

HB 3396 enhances the criminal penalties and sanctions for a violation of that law. For example, HB 3396 establishes a state jail felony if a violation occurs on a computer, computer network, or computer system that is owned by the government or by a “critical infrastructure facility” as defined by HB 3396. In addition, HB 3396 establishes enhanced criminal penalties if a person violates the law with the intent to defraud or harm another or to alter, damage, or delete property.

Impact: UT System and its institutions should consider whether changes to their policies and procedures regarding the use of information resources are necessary.

Effective: September 1, 2011

Scott A. Patterson

[SB 1](#) – **First Called Session** by Duncan, et al. and Pitts

Relating to certain state fiscal matters; providing penalties.

SB 1, First Called Session, is composed of approximately 70 articles and 262 pages, designed primarily to make changes to the manner of distribution and methods of providing revenue for the support of public schools. SB 1 has little direct effect on higher education or UT System. Many of the other provisions of the bill adjust the schedule for payment of various taxes and fees, moving payments from the following biennium to the current biennium (requiring prepayment followed by a reconciliation) or

delaying transfers from general revenue to a special fund, all with a purpose of increasing the amount held in general revenue during the fiscal biennium ending August 31, 2013. This includes prepayment of alcoholic beverage taxes (Article 10) and sales taxes (Article 13).

The following describes matters of interest to higher education, even though most of the described provisions generally have no direct impact on higher education or UT System.

Article 1 defers foundation school fund payments to school districts (and therefore charter schools) from August 2013 to September 2013, moving the cost of those payments to the following fiscal biennium.

Article 17 transfers from the comptroller of public accounts to the Coordinating Board a report on the physician education loan repayment assistance program under Subchapter J, Chapter 61, Education Code.

Article 20 eliminates the statutory requirement that the secretary of state produce bound copies of the “session laws” after each session of the legislature.

Article 21 authorizes the attorney general to charge a fee for the electronic filing of documents with the attorney general.

Article 23 continues the Department of Information Resources (DIR) in operation for the next two years (the DIR sunset bill from the regular session having been vetoed). SB 1 provides DIR authority to employ best value purchasing for information technology commodity items. It also authorizes DIR to set and charge a fee to each entity that receives services from DIR.

Article 27 eliminates the statutory authority of the Commission on State Emergency Communications to establish a regional poison control center in Harris County and authorizes the commission to standardize the operations of and implement management controls to improve the efficiency of regional poison control centers.

Article 28 expands the use of three tobacco settlement funds (not those managed by UT System) to pay principal and interest on bonds issued by the Cancer Prevention and Research Institute of Texas (CPRIT).

Article 34 requires the Legislative Budget Board (LBB) to conduct public hearings on expenditure reduction plans requested by leadership, and agencies to provide to the LBB plans in response to such a request. In addition, Article 34 requires the comptroller of public accounts to publish online a schedule of all revenue to the state from fees authorized by statute (implicitly including higher education fees).

Article 50 limits eligibility for education aide tuition exemptions to persons seeking teacher certification in subject areas experiencing teacher shortages, as determined by the Texas Education Agency.

Article 54 removes the comptroller of public accounts as an ex officio member of the Texas Guaranteed Student Loan Board and reduces the board from 10 to nine members. It also authorizes the governor to name the chair of the board.

Articles 42 and 65 relate to correctional health care. Article 42 changes the composition of the correctional managed health care committee, reducing the committee to five voting members plus the state Medicaid director as a nonvoting member, and reducing the term of office to four years. Article 42 also transfers from the committee to the Texas Department of Criminal Justice (TDCJ) the responsibility to contract for correctional managed care and requires TDCJ, in cooperation with the committee, to contract for a biennial review of expenditures. Article 65 requires TDCJ to adopt policies designed to manage inmate populations based on similar health conditions. It requires each inmate to pay an annual \$100 health services fee instead of a co-pay. It requires TDCJ to make over-the-counter medicines available to inmates and requires TDCJ, in cooperation with UT Medical Branch at Galveston (UTMB) and Texas Tech University Health Sciences Center, to develop and implement, not later than January 1, 2012, a training program for corrections medications aides. It further exempts from end-stage renal disease licensing requirements any clinics or hospitals providing dialysis in correctional managed care.

Article 71 authorizes the Health and Human Services Commission to apply for a federal Medicaid waiver relating to benefits for individuals with chronic health conditions.

Impact: In general, SB 1 has little direct impact on UT System or its institutions. No amendments to rules or policies are necessary, nor are changes to catalogues, websites, or notices. Institutional business offices should be aware of the described provisions of SB 1.

State payments to campus charter schools will be briefly delayed from August to September of 2013.

Offices filing documents electronically with the attorney general, such as campus legal counsel, and offices receiving services from DIR will pay fees not previously paid.

Financial aid offices should be aware of the changes to qualifications for the educational aide tuition exemption, and should monitor the Texas Education Agency for rules determining which areas of teacher certification will qualify an individual for the exemption.

UTMB is directly affected by the described changes to correctional managed care.

The Southeast Texas Poison Center at UTMB and the South Texas Poison Center at UT Health Science Center at San Antonio should monitor changes in policies and procedures of the Commission on State Emergency Communications.

Effective: Each of the described provisions takes effect September 28, 2011, as does the bill generally. Some provisions have specified later effective dates.

Steve Collins

Real Property and Space Leasing

[SB 5](#) by Zaffirini and Branch

Relating to the administration and business affairs of public institutions of higher education.
(Real Estate and Construction)

SB 5 is an omnibus bill that affects a variety of areas of law governing higher education with a purpose of eliminating unfunded mandates, improving efficiency, and providing administrative flexibility to institutions of higher education. This analysis summarizes the real estate and construction provisions.

SB 5 creates an expedited process for Coordinating Board approval of certain construction projects and real estate purchases. The process provides for staff-only review of those projects, following a certification from the institution that it is in current compliance with institutional standards and project standards, that the project is on the campus master plan, and that the institution has no outstanding deficiencies under the most recent facilities audit. (Section 4.01)

SB 5 exempts higher education from the uniform general conditions that apply to state construction contracts generally. (Section 4.02)

SB 5 also eliminates the requirement that the governing board of an institution of higher education, in open meeting, certify that a project has considered the economic feasibility of incorporating alternative energy systems. (Section 4.03)

SB 5 exempts institutions of higher education from a statutory requirement that space be leased for the institution by the Texas Facilities Commission or leased by the institution under a delegation of authority from the commission. (Section 4.04)

SB 5 provides that, where an institution of higher education owns the remainder interest in property subject to a life estate, a lien for deferred property taxes attaches only to the life tenant's interest unless the institution has consented to the deferral. (Section 4.05)

SB 5 exempts institutions of higher education from a requirement to submit to the Texas Historical Commission a photograph and information concerning any building acquired that is more than 45 years old. (Section 6.14)

Impact: The new process for Coordinating Board approval of projects should facilitate quicker approval of most UT System projects that previously required approval by the full Coordinating Board.

An institution must still verify that the feasibility of alternative energy systems were considered on subject projects. The change in law only removed the requirement that the Board of Regents make that verification by vote in open meeting.

The exemption from the leasing authority of the Texas Facilities Commission will have little impact because UT System has operated under a long-standing delegation of authority.

The provision relating to tax liens will prevent circumstances in which a life tenant's tax deferral consumes the value of the institution's remainder interest. The provision does not apply to deferrals executed before September 1, 2011.

Effective: June 17, 2011

Steve Collins

[**SB 18**](#) by Estes, et al. and Geren, et al.

Relating to the use of eminent domain authority.

SB 18 contains extensive modifications to eminent domain law. The revisions to eminent domain law apply only to a condemnation proceeding in which a petition is filed on or after September 1, 2011.

Chief among SB 18's changes to current law are that it:

- requires the governing body to take a specific and record vote to authorize eminent domain (Subchapter B, Chapter 2206, Government Code);
- requires notification to the comptroller by December 31, 2012, of an entity's eminent domain authority, *or that authority is automatically terminated* (Subchapter C, Chapter 2206, Government Code);
- requires the condemning entity to provide all appraisals prepared within the last 10 years prior to the offer to purchase *or lease* (as compared with the current requirement to provide all appraisals relied on to determine the *final offer for purchases only*) (Section 21.0111, Property Code);
- defines what constitutes a "bona fide" offer from the acquiring entity and requires that the final offer be equal to or greater than the appraisal and include a copy of the proposed conveyance document and landowner's bill of rights (Section 21.0113, Property Code);
- requires that the eminent domain petition "state with specificity" the proposed public use (Section 21.012, Property Code);
- requires that the repurchase price the owner may pay to reacquire the property from the condemning entity is the price paid at the time of acquisition by the condemning authority (Section 21.023, Property Code);
- requires the condemning entity to provide a relocation service and the payment of relocation expenses (Section 21.046, Property Code); and

- expands the circumstances under which the property owner's right to repurchase the condemned property arises (Section 21.101, Property Code).

Impact: It will be necessary to file the required statement with the comptroller of public accounts before December 31, 2012, identifying UT System's eminent domain authority (which arises under Section 65.33, Education Code). The UT System Executive Director of Real Estate will take this action. Although UT System rarely acquires property by eminent domain, to the extent it does so, the revisions to current law made by SB 18 will significantly increase the cost of acquiring the property and increase the uncertainty of what the total acquisition-related costs will be.

Effective: September 1, 2011

Florence Mayne

[SB 873](#) by Duncan, et al. and Hilderbran

Relating to rate and damage schedules governing certain easements or other interests in land of The University of Texas System.

SB 873 requires the UT System Board of Regents to establish procedures by which a person seeking an easement or other interest may seek relief from a rate or damage schedule that the person believes does not represent the fair market value of the interest being sought. The Texas Constitution requires that the value for these interests be fair market value, but some easement users, notably electric cooperatives, have stated that they are being asked to pay above market rates.

Impact: The UT System Board of Regents, the Executive Vice Chancellor for Business Affairs, and University Lands should be aware of SB 873, which requires the establishment of procedures for appealing the rate and damage schedule. It will also require University Lands to change its website and rules to set out the new process.

Effective: May 9, 2011

Mark Bentley

[SB 1068](#) by Ellis and Guillen

Relating to the lease of certain state parking facilities to other persons.

SB 1068 authorizes the Texas Facilities Commission to lease parking spaces in downtown Austin state-owned garages both on an individual basis to individuals and on a block of spaces basis to an institution of higher education or a local government. The law expressly requires that any new leasing of state parking garages not interfere with prior leased uses by institutions of higher education for special events, as provided in Section 2165.2035, Government Code. Money earned is to be deposited to the credit of the general revenue fund.

Impact: SB 1068 will have limited impact on UT System, since Section 2165.002, Government Code, provides that the Texas Facilities Commission does not have charge, control, or custody of UT System buildings, grounds, or property. SB 1068 therefore should not be construed to authorize the commission to lease space in UT-owned garages. To the extent UT Austin desires to use state-owned parking garages, SB 1068 has a neutral to positive impact.

Effective: June 17, 2011

Florence Mayne

[SB 1160](#) by Seliger and Jackson, Jim

Relating to the liability of landowners for damage or injury, including liability for harm to a trespasser.

SB 1160 provides that owners, lessees, or occupants of land do not owe a duty of care to a trespasser on their land and are not liable for any injury to a trespasser on their land, except when their actions are willful, wanton, or grossly negligent. An exception is provided when injury of a child is caused by a highly dangerous artificial condition on the land. SB 1160 also limits the liability of owners, lessees, or occupants of agricultural land for damages to any person or property that arises from actions of a peace officer or a federal law enforcement officer when that officer enters or causes another person to enter the agricultural land with or without the permission of the owner, lessee, or occupant of the agricultural land.

Impact: SB 1160 codifies Texas' common-law that land possessors generally owe no duty to trespassers, subject to narrow exceptions, and will thus continue to limit the liability of UT System and its institutions in personal injury and property damage suits filed by individuals who enter UT System property without legal right. It will also limit the liability for personal injury and property damage that occur on any UT System agricultural land and that arise from actions of peace officers or federal law enforcement officers.

Effective: May 20, 2011

Helen Bright

[SB 1496](#) by Uresti and Anderson, Rodney

Relating to the scope and validity of correction instruments in the conveyance of real property.

SB 1496 provides that a correction instrument that complies with the requirements of SB 1496 relating to nonmaterial or material corrections may correct an ambiguity or error in a recorded original instrument of conveyance to transfer real property or an interest in real property.

A person who has personal knowledge of facts relevant to the correction of a recorded original instrument may execute a correction instrument to make the following nonmaterial corrections if certain disclosure, recording, and notice requirements are met:

- a correction that results from a clerical error, including: (1) a correction of an inaccurate element in a legal description, or (2) an addition, correction or clarification of a party's name or marital status, execution date, recording data, or a fact relating to the acknowledgment or authentication; and
- a correction to provide an acknowledgment or authentication that was not included in the recorded original instrument.

In addition to nonmaterial corrections, including those described in the preceding paragraph, the parties to the original transaction (or their heirs, successors, or assigns) may execute a correction instrument to make a material correction to the recorded original instrument, including the following material corrections, if certain execution and recording requirements are met:

- a correction to add a buyer's disclaimer of an interest in real property, a mortgagee's consent or subordination, or additional land;
- a correction to remove land; and
- a correction to accurately identify a lot or unit number or letter of property.

However, a correction instrument may not correct an error in a recorded original instrument to add real property or an interest thereof not originally conveyed under a power of sale under Chapter 51, Property Code, unless the conveyance otherwise complies with all the requirements of Chapter 51.

A correction instrument that complies with the requirements of SB 1496 is effective as of the effective date of the recorded original instrument, prima facie evidence of the facts stated therein, presumed to be true, subject to rebuttal, and notice to a subsequent buyer of the facts stated therein. A bona fide purchaser of property that is subject to a correction instrument may rely on the instrument against any person making an adverse or inconsistent claim. SB 1496 also states that a correction instrument is subject to Chapter 13.001, Property Code, which provides in part that a conveyance instrument such as a correction deed must be recorded to be effective against a creditor or a subsequent purchaser for valuable consideration without notice.

Impact: The impact of SB 1496 on UT System varies. It is beneficial in cases in which UT System can make use of a correction instrument to correct errors in the original instrument to reflect the original intent of the parties involved. However, it is possible that UT System's intervening interest may be cut off or otherwise affected by a third party's correction instrument. When reviewing or preparing correction instruments, particularly those recorded on or after September 1, 2011, UT System staff should confirm compliance with the requirements of SB 1496.

Effective: September 1, 2011

Ha Dao

HB 8 by Darby, et al. and Harris

Relating to prohibiting certain private transfer fees and the preservation of private real property rights; providing penalties.

In recent years, real estate developers in Texas and other states have attempted by restrictive covenant or other private agreement to establish perpetual private transfer fees that are payable to the developer and the developer's heirs and assigns each time ownership of the subject real property is conveyed in the future. HB 8 repeals the existing statute governing private transfer fees (Section 5.017, Property Code, which is limited to residential real property conveyances) and adopts a new subchapter that regulates and in many instances prohibits the payment of private transfer fees to parties unrelated to the conveyance transaction.

HB 8 generally prohibits the establishment of private transfer fees on or after June 17, 2011, while expressly protecting customary third-party real estate transaction fees such as real estate brokerage commissions, governmental document filing fees, fees pertaining to a lender's consent for the transfer, and transfer fees payable to a homeowners association where the fee will be used for the direct or indirect benefit of the property.

Private transfer fees already in existence are allowed to remain in effect, however, subject to new statutory provisions that void such existing fees unless the fee recipient files a statutorily prescribed notice of the fee in the public records by January 31, 2012, and refiles the notice every three years thereafter. Moreover, for contracts of sale entered into on or after January 31, 2012, the seller of real property that may be subject to a private transfer fee obligation must give written notice to a potential purchaser stating that the obligation may be governed by this statute. Attempted waivers of a purchaser's rights under the statute are declared void.

To enforce the statute, the attorney general may seek injunctive relief, declaratory relief, and civil penalties not exceeding twice the amount of the fees charged or collected in violation of the statute. However, if the court finds a pattern or practice of violating the statute, the court may assess a civil penalty not exceeding \$250,000.

Impact: If a UT System institution desires to purchase or sell real estate that may be the subject of a restrictive covenant or other agreement purporting to establish a private transfer fee, the institution should contact UT System's Office of General Counsel for help in determining whether the fee remains in legal effect and whether the statutory notice requirements concerning those fees are applicable to the transaction.

Effective: June 17, 2011

Marty Novak

[HB 265](#) by Hilderbran and Birdwell

Relating to the lease of space by or for a state agency.

Current law authorizes the Texas Facilities Commission (commission) to lease space for a state agency if a state-owned space is not available to the agency and the agency can pay for the lease. The law also authorizes the commission to delegate its leasing authority to a state agency.

HB 265 requires the commission, in its determination of whether a state-owned space is available to a state agency, to consider all reasonably available state-owned space in Texas, including those that would require the agency to move its operations to a different location in Texas. HB 265 also requires the commission to make this determination before delegating its leasing authority to a state agency.

Impact: The current delegation of leasing authority from the commission to UT System does not require UT System to obtain the commission's determination on state-owned space availability before UT System enters into a space lease. If HB 265 were to apply to UT System, UT System would be required to obtain such a determination. However, HB 265 does not apply to UT System because Section 4.04 of SB 5, 82nd Legislature, Regular Session, removes university systems and institutions of higher education from the leasing authority of the commission.

Effective: September 1, 2011

Ha Dao

Environmental Issues

[SB 20](#) by Williams, et al. and Strama, et al.

Relating to grant programs for certain natural gas motor vehicles and alternative fuel facilities.

SB 20 requires the Texas Commission on Environmental Quality (TCEQ) to implement grant programs to encourage the use of natural gas motor vehicles and the establishment of alternative fueling facilities to help Texas meet Clean Air Act standards. The TCEQ may award grants to entities repowering or replacing heavy-duty and medium-duty vehicles with natural gas engines. The TCEQ may also award grants to entities in nonattainment areas that construct or acquire fueling facilities for alternative fuels.

Impact: To the extent UT System institutions in nonattainment areas operate heavy-duty or medium-duty vehicles or construct alternative fuel facilities, opportunities for obtaining grants from the TCEQ should be explored to defray costs.

Effective: September 1, 2011

Jim Phillips

[SB 329](#) by Watson, et al. and Chisum, et al.

Relating to the sale, recovery, and recycling of certain television equipment; providing administrative penalties.

SB 329 establishes a television recycling program. “Covered televisions” (TVs), as defined by SB 329, may not be sold in Texas unless the retailer and manufacturer comply with labeling requirements, and manufacturers must register and report Texas sales information to the TCEQ. Manufacturers must develop and implement a recovery plan to collect, reuse, and recycle TVs. Retailers may only sell TVs from registered manufacturers and must inform consumers of disposition and recycling options.

State agencies, including institutions of higher education, must require vendors of TVs to certify compliance with the recycling program requirements and must give preference to TV manufacturers that collect more than their market share allocation or that provide collection sites or recycling events in counties located in council of government regions with fewer than six permanent collection sites. The comptroller of public accounts must adopt rules to implement these purchasing provisions.

The definition of “covered televisions” excludes computer monitors, telephones, PDAs, GPS devices, and equipment connected to other systems or pieces of equipment used in governmental, research and development, or medical settings, including diagnostic monitoring or control equipment.

Impact: Although the duties and responsibilities imposed by SB 329 fall primarily on manufacturers and retailers of TVs, UT System institutions must modify procurement procedures to deal with vendor certification and purchasing preferences after the adoption of rules by the comptroller.

Effective: September 1, 2011

Jim Phillips

[SB 332](#) by Fraser, et al. and Ritter

Relating to the ownership of groundwater below the surface of land, the right to produce that groundwater, and the management of groundwater in this state.

SB 332 is an attempt to clarify the nature of ownership of water by surface owners in Texas. Previous laws have avoided a clear statement of whether water was “owned in place” similar to oil, gas, and other minerals, or whether it was an incident of the surface estate. The Rule of Capture, often cited as the basis for Texas water law, is fundamentally just a rule of liability, saying that a landowner does not have to account to neighbors for water produced from a well on the landowner’s property. In other words,

the water isn't owned until it is reduced to possession, or "captured." Still, the Rule of Capture is often cited to establish that landowners own the water in place, and can sell water rights to third parties.

Texas uses a system of groundwater conservation districts to regulate the production and use of groundwater. SB 332 amends Chapter 36, Water Code, which governs groundwater conservation districts. It specifies that the landowner, and the landowner's lessees and his assigns, own the groundwater under the landowner's land as real property. It further states that this ownership entitles the landowner and the landowner's lessees, heirs, or assigns to drill for and to produce the groundwater below the surface, subject to the rights of groundwater conservation districts to specify spacing and tract size and to regulate the production of water. The surface owner, however, does not have the right to a specific amount of the groundwater and cannot cause waste, malicious drainage of other property, or subsidence. SB 332 provides that it does not affect the existence of common law defenses or other defenses to liability under the Rule of Capture.

Impact: Although SB 332 does not directly impact UT System or its institutions, it may be of general interest.

Effective: September 1, 2011

Mark Bentley

[SB 527](#) by Fraser, et al. and Geren, et al.

Relating to projects funded through the Texas emissions reduction plan.

SB 527 makes changes to the Texas Commission on Environmental Quality (TCEQ) emissions reduction program by eliminating references to the "new technology research development program" and renaming it the "air quality research support program." Institutions of higher education could still contract with the TCEQ to establish and administer the program.

Up to \$7 million is allocated in 2012 and 2013 and \$3 million thereafter to fund a regional air monitoring program in TCEQ Regions 3 and 4, but the funding will be directed to a regional nonprofit entity located in North Texas having representation from counties, municipalities, institutions of higher education, and private sector interests. This allocation is to study the effects of natural gas production from the Barnett Shale. This specific program may not be a direct contract with an institution of higher education.

Impact: UT System institutions have contracted with the TCEQ to do regional air monitoring but will no longer be eligible for this specific \$7 million North Texas program.

Effective: September 1, 2011

Jim Phillips

[SB 875](#) by Fraser and Hancock, et al.

Relating to compliance with state and federal environmental permits as a defense to certain actions for nuisance or trespass.

SB 875 adds an affirmative defense to an enforcement action brought by the Texas Commission on Environmental Quality for nuisance or trespass arising from greenhouse gas emissions if the person's actions were authorized by a rule, permit, order, or other authorization from the state or federal government and the person was in substantial compliance with the authorization.

Impact: If a UT System institution is subject to an enforcement action for nuisance or trespass relating to greenhouse gas emissions, the institution would have an affirmative defense to prevent the enforcement action from being pursued.

Effective: June 17, 2011

Jim Phillips

[SB 898](#) by Carona and Cook

Relating to energy efficiency programs in institutions of higher education and certain governmental entities.

SB 898 modifies the current building energy efficiency requirements for political subdivisions, state agencies, and institutions of higher education to set goals to reduce electric consumption. The goal must now be to reduce electric consumption by at least 5 percent (current law sets the goal at a flat 5 percent) for 10 years (from 6 years) beginning September 1, 2011 (instead of September 1, 2007). If an institution does not meet the goal, an annual report must be submitted to the State Energy Conservation Office containing a justification that it has already implemented all available cost-effective measures. If an institution reports that it has reviewed its available options, determined that no additional measures are cost-effective, and that it has already implemented all cost-effective measures, then it is exempt from the annual reporting requirement thereafter. The office must develop standardized reporting forms.

Impact: UT System institutions should review their energy efficiency measures and prepare to meet the higher efficiency goals. Recordkeeping and documentation will be required to satisfy the State Energy Conservation Office reporting obligations.

Effective: September 1, 2011

Jim Phillips

SB 1125 by Carona and Anchia

Relating to energy efficiency goals and programs, public information regarding energy efficiency programs, and the participation of loads in certain energy markets.

SB 1125 makes various revisions to the law providing energy efficiency goals, including, among other things:

- revising the state's efficiency goals to add reduction of customer summer and winter peak demand to the existing goals of reducing customer energy consumption and energy costs;
- adding demand-side renewable energy systems that use distributed renewable generation or reduce energy consumption through renewable energy technology to the programs that each electric utility (EU) must encourage and facilitate through retail electric providers;
- adding data center efficiency programs to the list of program options that EUs may choose to implement after the option is approved by the Public Utility Commission (PUC);
- permitting EUs in areas not open to electric competition, and certain EUs in rural parts of areas open to competition, to use rebates or incentive funds to achieve efficiency goals; and
- requiring the PUC to publish information on energy efficiency programs on the Internet.

Impact: For UT System institutions that are eligible to participate in energy efficiency incentive programs, SB 1125 changes the focus from reduction of annual growth of demand to a combined focus on reduction of annual growth of demand and reduction in peak demand. UT System institutions may be able to benefit from energy efficiency programs that encourage distributed renewable generation or renewable energy technology. In addition, data centers operated by UT System institutions may be able to obtain energy efficiency program benefits from EUs if those programs are approved by the PUC. UT System institutions and facilities located in areas not open to electric competition or in rural parts of areas open to competition may be able to benefit from rebates or incentive funds if those programs are implemented by EUs. UT System institutions will also have access to energy efficiency program information to be posted by the PUC on the Internet.

Effective: September 1, 2011

Dana Hollingsworth

[SB 1504](#) by Seliger, et al. and Lewis

Relating to the disposal or storage of waste at, or adjacent to, the Texas Low-Level Radioactive Waste Disposal Compact waste disposal facility.

SB 1504 is a substantial revision to the statutes governing the operation of the Low-Level Radioactive Waste Compact facility. Under SB 1504:

- the executive director of the Texas Commission on Environmental Quality (TCEQ) is authorized to set interim disposal rates;
- the facility is allowed to contract with non-members to import waste;
- importation of foreign waste is prohibited;
- disposal capacity must be reserved for compact members (Texas and Vermont);
- surcharge fees are levied on imported waste; and
- the TCEQ must provide new studies on facility capacity, adequacy of financial assurance, and surcharge revenue together with operational costs and operator expenses.

Impact: UT System institutions will be required to dispose of low-level radioactive waste at the compact facility when it becomes operational. Assurance of adequate disposal capacity and reasonableness of disposal rates will be important to the environmental health and safety staff at UT System institutions.

Effective: September 1, 2011

Jim Phillips

[SB 1605](#) by Seliger and Lewis, et al.

Relating to the Texas Low-Level Radioactive Waste Disposal Compact Commission.

SB 1605 clarifies the status of the Low-Level Radioactive Waste Compact Commission as an independent entity and not so intertwined with the Texas Commission on Environmental Quality. The compact commission can be represented by the attorney general, and is subject to sunset review and the audit authority of the state auditor.

The current compact commissioners' terms expire on September 1, 2011, and the governor must appoint new commissioners with staggered terms.

Impact: UT System institutions generate low-level radioactive waste, and a strengthened compact commission will be useful in assuring viable disposal options and adequate oversight of the Texas disposal facility now under construction.

Effective: September 1, 2011

Jim Phillips

[HB 51](#) by Lucio III, et al. and Hinojosa

Relating to energy efficiency standards for certain buildings and to high-performance design, construction, and renovation standards for certain buildings and facilities of institutions of higher education.

HB 51 allows the board of regents of institutions of higher education to adopt high-performance building standards applicable to most construction and renovation projects but also makes those projects conditionally subject to energy and water conservation standards adopted by the state energy conservation office (SECO). It also impacts the way design fees for achieving efficiency certification under the SECO adopted standards are treated.

HB 51 applies to all new and substantially renovated buildings for institutions of higher education with project values exceeding \$2 million, or that exceed 50 percent of the existing building value for projects of less than \$2 million, if any part of the project is financed by revenue bonds (qualifying projects). The changes only apply to qualifying projects for which the contract for design services is entered into on or after September 1, 2013.

After September 1, 2013, all qualifying projects must be designed, constructed, or renovated to comply with high-performance building standards approved by an institution's board of regents that provide minimum requirements for energy use, natural resource use, and indoor air quality. In adopting standards, the board of regents must consider the SECO standards but is not required to follow them.

However, HB 51 also requires that qualifying projects comply with SECO adopted standards for energy and water conservation unless the institution determines that those standards are impractical and provides documentation supporting that determination to SECO.

HB 51 also adds additional water savings requirements and establishes an advisory committee to help SECO adopt high-performance building standards. It appears that any SECO high-performance building standards would involve adoption of one or more recognized performance certification systems (LEED being the best known).

Finally, HB 51 mandates that professional services required to meet the high-performance certification standards adopted by SECO be considered for billing purposes as additional services under a professional services contract. It further prohibits a governmental entity from disallowing the allocation of federal deductions to eligible design professionals as authorized by the Energy Policy Act of 2005 (Pub. L. No. 109-58).

Impact: If the UT System Board of Regents does not want UT System complying projects to be subject to whatever high-performance design evaluation certification system is adopted by SECO, it will need to consider and adopt its own high-performance building standards. This would probably require the formation of a new high-performance building standards task force to evaluate various options.

If the Board of Regents chooses not to adopt UT System high-performance building standards, all projects begun after September 1, 2013, would have to comply with the SECO adopted standards.

Finally, the requirements of HB 51 that professional services required to meet the high-performance certification standards be considered additional services for billing purposes will require amendments to the current standard UT System architect/engineer templates. In particular, the templates will need to clarify that the sole additional compensation available to an architect/engineer for providing high-performance certification services is whatever tax breaks are available under the Energy Policy Act of 2005. In the past, UT System has not assigned these tax allocations to design professionals because of concerns that to do so without compensation would be an unconstitutional gift to the design professional. It is not clear whether this new statutory language would pass constitutional muster and it is thus possible that an attorney general opinion would be advisable.

Effective: September 1, 2011

Edwin Smith

[HB 1728](#) by Keffer and Harris

Relating to energy savings performance contracts and energy efficiency planning.

HB 1728 amends Section 51.927, Education Code (as well as other laws not relevant to higher education), to allow institutions of higher education to pay for energy savings performance contracts using any available money, other than money borrowed from the state. Such contracts can now be used in new construction as well as existing structures.

HB 1728 also states that institutions of higher education are not required to pay for energy savings performance contracts solely out of realized energy savings. It also allows institutions of higher education to contract with the energy savings performance contractor for other work that is related, connected, or ancillary to the energy performance savings measures.

Impact: HB 1728 fundamentally changes the definition of energy performance contracts to no longer require that all costs of the energy efficiency measures be paid for out of anticipated energy savings. The change not only provides for greater flexibility in financing energy savings performance projects but also allows for scope changes and ancillary work to be included without having to pay for them from anticipated savings.

However, note that the changes in HB 1728 do not apply to projects that are financed by any state program providing loans for energy efficiency improvements.

Effective: September 1, 2011

Edwin Smith

[HB 2694](#) by Smith, Wayne and Huffman

Relating to the continuation and functions of the Texas Commission on Environmental Quality and abolishing the On-site Wastewater Treatment Research Council.

HB 2694, the TCEQ Sunset Bill, reauthorizes the agency until September 1, 2023 and abolishes the On-Site Wastewater Treatment Council. The bill fine-tunes the standards and use of compliance histories of regulated entities, increases the administrative penalty caps and requires the agency to adopt general enforcement policies by rule. Groundwater protection provisions dealing with well casing for wells drilled through oil and gas formations are transferred to the Railroad Commission. Fees to fund the Petroleum Storage Tank Cleanup program are continued, with the current fee structure converted into caps, giving the agency the power to lower the fees in the future. Watermasters are given additional powers to deal with drought conditions.

The process to contest the issuance of environmental permits is revised to require the TCEQ executive director to participate in contested case hearings and state agencies (other than river authorities) may not request a contested case hearing but may only comment on proposed permits.

Impact: Should UT institutions violate environmental regulations, they may face higher administrative penalties. UT institutions may no longer request a contested case hearing if proposed environmental permits of facilities or industries adjacent to their campuses may adversely impact them; they will now only be able to make comments on those proposed permits.

Effective: September 1, 2011

Jim Phillips

[HB 2857](#) by Gallego and Uresti

Relating to regulation of outdoor lighting in certain areas; providing a criminal penalty and for injunctive relief.

Prior law authorized counties lying within 57 miles of the McDonald Observatory and counties lying within 5 miles of the George Observatory (south of Houston) or the Stephen F. Austin State University Observatory (north of Nacogdoches) to adopt regulations prohibiting outdoor lighting that causes light pollution and potentially interferes with the dark sky necessary for astronomical observation. HB 2857 strengthens the protection of the McDonald Observatory by making the regulation of dark skies mandatory in the counties surrounding the McDonald Observatory and by requiring municipalities in those counties to regulate outdoor lighting. However, HB 2857 excepts outdoor lighting in existence or under construction on January 1, 2011, in those

municipalities, or any outdoor lighting maintained by an electric utility. HB 2857 allows, but does not require, the commissioners courts of counties within five miles of the George Observatory or the Stephen F. Austin State University Observatory to adopt measures similar to those mandated for the area around McDonald Observatory.

Impact: HB 2857 benefits the McDonald Observatory, which is part of UT Austin.

Effective: January 1, 2012

Mark Bentley

[HB 3391](#) by Miller, Doug and Seliger

Relating to rainwater harvesting and other water conservation initiatives.

HB 3391 adds new categories of new state buildings that require rainwater collection systems and also directs the Texas Commission on Environmental Quality to develop rules for potable rainwater systems that are connected to a public water supply.

HB 3391 expands the statute that addresses rainwater collection on new state buildings to include potable water collection, and adds new state buildings with a roof measuring at least 50,000 square feet that are located in an area in which the average annual rainfall is at least 20 inches to the current list of covered buildings.

The newly added building type is not required to have a rainwater collection system if the State Energy Conservation Office (SECO) is notified that rainwater already being collected from existing buildings at the same location exceeds the amount of rainwater that would have been collected by the new building.

Impact: Prior law required nonpotable indoor use and landscape watering rainwater collection systems on new state buildings with roofs measuring 10,000 square feet or larger and other new buildings for which rainwater collection is feasible. HB 3391 does not significantly change those requirements but does specifically allow rainwater collection for potable use.

It is not clear whether the new category of building added will have much impact on which buildings are required to install rainwater collection systems. However, it is important to note that the law provides an exception from the rainwater collection requirement if UT System determines that compliance with the standards is impractical and the decision with supporting documentation is provided to SECO.

Effective: September 1, 2011

Edwin Smith

Oil and Gas

[SB 652](#) by Hegar and Bonnen

Relating to governmental and certain quasi-governmental entities subject to the sunset review process.

SB 652 revises the sunset dates of numerous state agencies. The following agencies are of interest to UT System:

- Sec. 1.02: The Coordinating Board is subject to review by 2013, as opposed to 2015 under current law.
- Sec. 1.04: The Texas Windstorm Insurance Association is subject to review by 2013, as opposed to 2015 under current law.
- Sec. 1.07: The Railroad Commission of Texas is subject to review by 2013, as opposed to 2011 under current law.
- Secs. 1.08 and 1.09: The Public Utility Commission and the Electric Reliability Council of Texas are subject to review by 2013, as opposed to 2011 under current law.
- Sec. 2.01: Regional education service centers are subject to review by 2015, as opposed to no sunset review under current law.
- Sec. 2.06: The Health and Human Services Commission, the agencies under its umbrella, and other health and human services agencies are subject to review in 2015, as opposed to various dates under current law. See also Secs. 2.08 - 2.21.
- Sec. 2.22: The Texas Workforce Commission is subject to review by 2015, as opposed to 2013 under current law.
- Secs. 3.04 and 3.05: The State Bar of Texas and the Board of Law Examiners are subject to review by 2017, as opposed to 2015 under current law.
- Secs. 3.06 - 3.10: The State Board of Dental Examiners, the Executive Council of Physical Therapy and Occupational Therapy Examiners, the Board of Physical Therapy Examiners, the Board of Occupational Therapy Examiners, and the Board of Orthotics and Prosthetics are subject to review by 2017, as opposed to earlier years under current law.
- Secs. 4.01, 4.04, 4.07, and 4.08: The Department of Public Safety, the School Land Board, the Board of Professional Geoscientists, and the Board of Professional Land Surveying are subject to review by 2019, as opposed to earlier years under current law.

- Secs. 5.02 - 5.05: The Prepaid Higher Education Tuition Board, the Guaranteed Student Loan Corporation, the Economic Development and Tourism Office, and the Office of State-Federal Relations are subject to review by 2021, as opposed to earlier years under current law.

Impact: SB 652 does not directly impact UT System. However, the review of the Coordinating Board in 2013 could affect some of the higher education programs administered by the Coordinating Board.

Effective: June 17, 2011

Karen Lundquist

[HB 1147](#) by Smith, Wayne and Wentworth

Relating to notice by a governmental entity regarding certain geospatial data products.

HB 1147 requires a governmental entity, including an institution of higher education, to include a notice when it creates or hosts any geospatial data product that appears to represent property boundaries and that was not produced using information from an on-the-ground survey conducted by or under the supervision of a registered professional land surveyor. “Geospatial data product” means any document, computer file, or Internet website that contains geospatial data, a map, or information about a service involving geospatial data or a map.

The notice must state: “This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and only represents the approximate relative location of property boundaries.”

HB 1147 allows Internet websites to provide the notice on a separate page that requires the person accessing the website to agree to the terms of the notice before accessing the page containing the geospatial data product.

HB 1147 exempts certain geospatial data products from the notice requirement, such as products that do not contain a legal description, that are prepared for use as evidence, or that are filed with the county clerk.

Impact: UT System institutions, and particularly University Lands, should review their geospatial data products for compliance with HB 1147.

Effective: September 1, 2011

Mark Bentley

[HB 2067](#) by Callegari and Seliger

Relating to the regulation of the practice of engineering by individuals engaged in the evaluation of oil and gas resources.

HB 2067 extends the right to perform reservoir analyses to engineers licensed in states that extend similar rights to Texas-licensed engineers on a reciprocal basis. It does not extend to the actual construction of structures. Prior law required that such analyses be done only by Texas-licensed engineers.

Impact: University Lands should be aware of HB 2067.

Effective: May 28, 2011

Mark Bentley

Property Accounting and Management

[SB 5](#) by Zaffirini and Branch

Relating to the administration and business affairs of public institutions of higher education. (Property Inventory)

SB 5 is an omnibus bill that affects a variety of areas of law governing higher education with a purpose of eliminating unfunded mandates, improving efficiency, and providing administrative flexibility to institutions of higher education. This analysis summarizes the property inventory provision.

SB 5 exempts institutions of higher education from the statewide property inventory system maintained by the comptroller of public accounts. Each institution must, however, accurately account for personal property, as defined by the comptroller, and designate one or more property managers. (Section 6.07)

Impact: UT System and its institutions will need to establish property inventory systems and designate property managers. A few provisions of the general law governing state property inventory, specifically listed in SB 5, continue to apply.

Effective: June 17, 2011

Steve Collins

[SB 74](#) by Nelson and Branch

Relating to the disposition of surplus or salvage data processing equipment of a university system or an institution or agency of higher education.

The law authorizes institutions of higher education to establish written procedures for the disposition of surplus or salvage property. SB 74 provides that, notwithstanding those procedures, institutions of higher education (except for public junior colleges) are authorized to donate surplus or salvage data processing equipment to a public or private hospital located in a rural county.

Impact: SB 74 provides UT System and its institutions with an alternate means of disposing of surplus or salvage data processing equipment. Surplus/salvage property policies and procedures should be updated to reflect the changes made by SB 74.

Effective: June 17, 2011

Scott A. Patterson

[SB 1598](#) by Carona and Smithee

Relating to the inspection of portable fire extinguishers.

SB 1598 adds an exception to the Insurance Code under which the licensing provisions of Chapter 6001 (Fire Extinguisher Service and Installation) do not apply.

According to its bill analysis, the purpose of SB 1598 is to correct an unintentional change that resulted from the enactment of HB 2636 (80th Legislature), which was intended as a nonsubstantive recodification of articles in the Insurance Code. SB 1598 clarifies that the licensing provisions of Chapter 6001, Insurance Code, do not apply to the inspection of a portable fire extinguisher by a person who is both specially trained to perform portable fire extinguisher inspections and under contract for that purpose. An inspection of a portable fire extinguisher is defined as a monthly inspection to ensure that a portable fire extinguisher is in its designated location, has not been tampered with, and does not have any obvious physical damage that may prevent proper operation.

Impact: UT System institutions that use contract labor for the purpose of performing monthly quick checks of fire extinguishers do not need to require those performing the inspections to be licensed.

Effective: September 1, 2011

Timothy Shaw

[HB 257](#) by Hilderbran, et al. and Patrick

Relating to certain unclaimed property that is presumed abandoned.

HB 257 amends the law defining abandoned property for the purposes of turnover to the comptroller's office. It changes the time periods used to determine if a utility deposit refund owed to a customer is to be presumed abandoned and subject to turnover to 18 months after stated events. A utility deposit owned by an active military member during the stated time periods is not presumed abandoned for two years following the time the utility is notified of the active military service.

HB 257 also shortens the time periods used to determine if a money order is to be presumed abandoned and subject to turnover from seven to three years after particular events have occurred. It increases the service or maintenance charge that can be assessed against a money order from 50 cents to one dollar. Any charges before September 1, 2011, may be retained by the holder.

HB 257 shortens the time period for determining abandonment of checking and savings accounts or matured CDs from five years to three years after the account is inactive.

Significantly, HB 257 changes the dates for identifying abandoned property for reporting purposes and the reporting/turnover deadline. The reporting/turnover date is moved from November 1 to July 1, and the identification date is changed from June 30 to March 1, with a corresponding change to the deadline to send notice to owners from August 1 to May 1.

Impact: To the extent UT System institutions hold instruments, deposits, accounts, or monies that are of the type mentioned in HB 257, they will need to comply with the new time periods for determining abandonment and will need to be aware of the military member exemption. To the extent UT System institutions are required to report and turn over unclaimed property generally, they will need to be informed of the new identification, noticing, and reporting/turnover deadlines, which are effective January 1, 2013. This may require modification to the institutions' automated systems and internal policies and procedures.

Effective: September 1, 2011, except Sections 6, 7, 8, and 10 take effect January 1, 2013.

Traci L. Cotton

[HB 2357](#) by Pickett and Williams

Relating to motor vehicles; providing penalties.

HB 2357 reorganizes and amends Chapters 501, 502, 504, and 520 of the Transportation Code to provide new authority for the Texas Department of Motor Vehicles (DMV) to implement electronic registration and titling of motor vehicles, including the collection of fees for electronic payments and use of credit cards for related transactions. While

electronic registration and titling are not required under HB 2357, and hard copies of titles will continue to be available, the DMV is authorized to develop, administer, and enforce regulations governing motor vehicle and motor carrier registration, the sale and leasing of motor vehicles, salvage vehicle dealers, and the marking on commercial motor vehicles. The DMV will also have new authority relating to the information required for titling motor vehicles and the design and placement of license plates.

Impact: HB 2357 does not require immediate action by UT System institutions. However, institutions will want to maximize any cost savings and efficiencies resulting from expedited, electronic vehicle titling and registration. UT System institutions should also actively monitor the implementation of HB 2357 to assure that vehicle marking and license plate regulations do not result in unexpected costs or pose a risk of non-compliance with institutional fleet management practices. The final revised DMV regulations may require amendment of internal guidelines or operating practices and related documentation. The System Office of Risk Management and Travel Services will also be interested in monitoring any modifications made to regulations impacting motor carriers, including federal motor carriers, that are relevant to contracted transportation providers.

Effective: January 1, 2012, with a few limited exceptions.

Mark Gentle

Research

[SB 1047](#) by Jackson and Davis, John

Relating to the eligibility of an innovation and commercialization organization associated with the Lyndon B. Johnson Space Center to receive funding from the Texas Emerging Technology Fund.

SB 1047 includes public institutions of higher education, as well as an innovation and commercialization organization associated with the Lyndon B. Johnson Space Center of the National Aeronautics and Space Administration, in the definition of “research institutions” under the law governing the Texas Emerging Technology Fund (ETF). As a result, the organization associated with the Space Center will be eligible for funding from the ETF.

Impact: SB 1047 broadens the group of entities that private or nonprofit entities can collaborate with when applying for an award from the ETF to specifically include an innovation and commercialization organization associated with the Lyndon B. Johnson Space Center of the National Aeronautics and Space Administration. Thus, SB 1047 could potentially impact any UT System institution applying for funds from the ETF involving such an organization. Also, SB 1047 makes such an organization eligible to receive funding from the ETF. Each technology transfer office at UT System institutions should be aware of this broadened ETF funding opportunity.

Effective: June 17, 2011

BethLynn Maxwell

[SB 1421](#) by Nelson and Schwertner, et al.

Relating to the awarding of grants provided by the Cancer Prevention and Research Institute of Texas.

SB 1421 amends the law relating to grants awarded by the Cancer Prevention and Research Institute of Texas (CPRIT). It allows the state to collect interest or proceeds resulting from securities and equity ownership that are realized as a result of projects undertaken with grant awards.

SB 1421 also provides that certain information contained in a grant award contract, including information normally held confidential by technology transfer offices for industry and non-profit institute based contracts, as well as the plans of a scientific research and development facility, are confidential and not subject to disclosure under the Texas public information law.

Impact: SB 1421 allows the state to receive proceeds from securities and equity ownership, in addition to the current authorization to receive proceeds from royalties resulting from licensing intellectual property. This revision enables CPRIT to be more flexible with respect to funding research (a) at startup companies or (b) whose results end up being licensed to a startup company by the grant recipient, thereby enabling CPRIT to take a greater stake in the upside of equity monetization. This revision impacts UT System and its institutions because the grant recipient (i.e., the institution) must share 10 percent of all proceeds (including proceeds from ‘securities and equity ownership’) with CPRIT and the state. Each technology commercialization office at UT System institutions should be aware of SB 1421.

SB 1421 also adds new confidentiality language to protect the actual or potential value of information submitted to CPRIT by an applicant for or recipient of a CPRIT grant. This revision more closely aligns the handling and protection of confidential information with existing confidentiality practices in the sponsored research and technology transfer offices at UT System institutions. Each technology commercialization office, as well as public information officers, should be aware of this new confidentiality language

Effective: September 1, 2011

BethLynn Maxwell

[HB 963](#) by Hartnett and Rodriguez

Relating to the costs associated with proceedings regarding cruelly treated animals.

The law imposes certain administrative costs on the owner of an animal if the owner is found to have cruelly treated the animal. HB 963 amends that law to impose certain costs

of housing and care for that animal after such a finding is made. It also standardizes the requirements and procedures for appeals and expedites appeals so that animals are not held in limbo for an extended period of time. HB 963 details a formula for computing the amount of an appeal bond from any such finding – specifically, it requires courts that find an animal owner guilty of cruelly treating the animal to determine the estimated costs likely to be incurred by the city or county animal shelter or nonprofit organization for housing and caring for the animal during the appeals process. The court would then have to set the amount of bond for an appeal equal to the sum of administrative court costs and the costs incurred in caring for the animal. A court could not require a bond amount greater than or in addition to this sum.

Impact: HB 963 does not directly impact UT System, though animal research facilities within the System should be advised of its existence as background information.

Effective: September 1, 2011

Steve Rosen

[HB 1000](#) by Branch, et al. and Zaffirini, et al.

Relating to the distribution of money appropriated from the national research university fund; making an appropriation.

HB 1000 provides a distribution formula for, and appropriates for the next biennium, the national research university fund. It also makes changes in law that permit an institution to qualify for a distribution the year following the fiscal year in which the qualification standards are achieved, instead of qualifying the following biennium.

HB 1000 also provides for a mandatory initial audit, as well as additional permissive audits, by the state auditor to verify the amount of restricted research funds expended by the institution and compliance by the institution and the Coordinating Board with the standard methods of accounting and reporting prescribed by the Coordinating Board.

HB 1000 provides that annual appropriations from the fund not exceed 4.5 percent of the average net market value, and that each qualifying institution receive a distribution of one-seventh of the amount appropriated plus an equal share of any amount remaining after that distribution, not to exceed one-fourth of that remainder.

HB 1000 appropriates for FY 2012 and FY 2013 the maximum amount permitted by the distribution formula.

Impact: HB 1000 provides the first appropriation of the National Research University Fund. Only the System emerging research universities (UT Arlington, UT Dallas, UT El Paso, and UT San Antonio) are affected. To qualify for an initial distribution, certain research expenditures and other elements are subject to mandatory audit by the state auditor.

Effective: June 17, 2011

Steve Collins

[HB 2251](#) by Bonnen and Whitmire

Relating to the continuation and functions of the Texas Public Finance Authority.

HB 2251 is the sunset bill for the Texas Public Finance Authority (TPFA). The authority issues debt instruments such as bonds and master leases for state agencies, and HB 2251 allows any institution of higher education to request that TPFA issue bonds for the institution.

TPFA also issues bonds for the Cancer Prevention and Research Institute of Texas (CPRIT). HB 2251 facilitates the award of grants by CPRIT for multi-year projects, eliminating a requirement that funds for multi-year projects be maintained in an escrow account and distributed only as needed. HB 2251 also allows those projects to move forward before the bonds have been issued if TPFA and the Bond Review Board have approved the issuance. The changes apply only to multi-year grants awarded on or after the effective date of HB 2251.

Impact: For UT System institutions seeking CPRIT grants for multi-year projects, HB 2251 should facilitate the timely funding of those projects.

Effective: June 17, 2011

Steve Collins

[HB 2457](#) by Davis, John, et al. and Jackson, Mike, et al.

Relating to the Texas Enterprise Fund and the Texas emerging technology fund.

HB 2457 establishes new procedures and requirements for the approval of applications for funding through the Texas Enterprise Fund (TEF) and the Texas emerging technology fund (emerging technology fund). For both funds, HB 2457 allows the lieutenant governor or the speaker of the house of representatives to extend the award proposal review deadline by an additional 14 days.

Concerning the Texas Enterprise Fund, TEF grant agreements must contain provisions that specify the date by which the recipient intends to create the minimum number of jobs stated in the application. The repayment of TEF grant funds awarded must be prorated to reflect partial attainment of job creation target. If the governor intends to amend a TEF grant agreement, at least 14 days advance notice must be provided to the lieutenant governor and the speaker of the house. The contents of the governor's annual report on the TEF are amended to include the total number of jobs actually created by each project receiving funding and the methodology used to calculate the number of jobs created. The governor's annual TEF report must include a valuation of the equity positions taken by

the governor, on behalf of the state, in companies receiving awards and other investments made in connection with TEF awards.

HB 2457 also provides that the Texas Emerging Technology Fund Advisory Committee (committee) includes 13 members, with 2 members appointed by the lieutenant governor and two members appointed by the speaker of the house. Each committee member must file a verified financial statement with the governor's office. The information derived from these financial statements will be treated as confidential by the governor's office, except that the information may be shared with the State Auditor's Office. Each entity that is recommended for an award of funds through the emerging technology fund will provide the governor's office with a federal and state criminal background check, credit check, and information reflecting any sanctions imposed by the Securities and Exchange Commission on each principal of the entity, including officers and persons with at least 10 percent ownership in the entity. HB 2457 requires regional centers of innovation and commercialization to keep minutes of each meeting at which applications for funding through the emerging technology fund are considered.

Impact: HB 2457 does not require action by UT System institutions. However, institutions that collaborate with entities applying for funding through these funds should become familiar with the detailed provisions concerning funding terms and revised procedures.

Effective: September 1, 2011

Mark Gentle

[HB 2631](#) by Branch and Zaffirini

Relating to the advanced research program.

Chapter 142, Education Code, creates an advanced research program to encourage and provide support for basic research conducted by faculty and students in certain disciplines. HB 2631 renames the program the "Norman Hackerman Advanced Research Program." It also deletes a provision authorizing total funds appropriated to the program to be at least equal to 10 percent of the average amount of the federally sponsored research funds allocated to all institutions of higher education annually during the preceding three years. Finally, it repeals a provision requiring the comptroller of public accounts to issue warrants to eligible institutions in the amount certified by the Coordinating Board.

Impact: HB 2631 changes funding provisions for the advanced research program, but the changes do not significantly affect UT System institutions participating in the program.

Effective: June 17, 2011

Steve Rosen

[HB 2785](#) by Davis, John, et al. and Shapiro

Relating to the creation of the Select Committee on Economic Development.

HB 2785 establishes a 12-member Select Committee on Economic Development to be appointed by the governor (four public members), lieutenant governor (two public members and two members of the senate), and speaker of the house of representatives (two public members and two members of the house). HB 2785 establishes the duties of the committee, including the broad duty to develop an economic development policy for the state and to make recommendations to the legislature, including recommendations on state and local tax systems, incentives, and related policies. HB 2785 directs the committee to consider the benefits of consolidating state and local economic development incentives into a single statewide office or agency. It also requires directs all state agencies to cooperate with the committee as requested.

Impact: The committee formed in accordance with HB 2785 impacts UT System institutions directly and indirectly. As a government agency, each institution must provide assistance to the committee as requested. The recommendations made by this committee, if adopted by the legislature, could have an impact on institutions, given the broad scope of significant issues related to economic development that the committee will be addressing.

Effective: September 1, 2011

Mark Gentle

[SB 1](#) – **First Called Session** by Duncan, et al. and Pitts

Relating to certain state fiscal matters; providing penalties.

SB 1, First Called Session, is composed of approximately 70 articles and 262 pages, designed primarily to make changes to the manner of distribution and methods of providing revenue for the support of public schools. SB 1 has little direct effect on higher education or UT System. Many of the other provisions of the bill adjust the schedule for payment of various taxes and fees, moving payments from the following biennium to the current biennium (requiring prepayment followed by a reconciliation) or delaying transfers from general revenue to a special fund, all with a purpose of increasing the amount held in general revenue during the fiscal biennium ending August 31, 2013. This includes prepayment of alcoholic beverage taxes (Article 10) and sales taxes (Article 13).

The following describes matters of interest to higher education, even though most of the described provisions generally have no direct impact on higher education or UT System.

Article 1 defers foundation school fund payments to school districts (and therefore charter schools) from August 2013 to September 2013, moving the cost of those payments to the following fiscal biennium.

Article 17 transfers from the comptroller of public accounts to the Coordinating Board a report on the physician education loan repayment assistance program under Subchapter J, Chapter 61, Education Code.

Article 20 eliminates the statutory requirement that the secretary of state produce bound copies of the “session laws” after each session of the legislature.

Article 21 authorizes the attorney general to charge a fee for the electronic filing of documents with the attorney general.

Article 23 continues the Department of Information Resources (DIR) in operation for the next two years (the DIR sunset bill from the regular session having been vetoed). SB 1 provides DIR authority to employ best value purchasing for information technology commodity items. It also authorizes DIR to set and charge a fee to each entity that receives services from DIR.

Article 27 eliminates the statutory authority of the Commission on State Emergency Communications to establish a regional poison control center in Harris County and authorizes the commission to standardize the operations of and implement management controls to improve the efficiency of regional poison control centers.

Article 28 expands the use of three tobacco settlement funds (not those managed by UT System) to pay principal and interest on bonds issued by the Cancer Prevention and Research Institute of Texas (CPRIT).

Article 34 requires the Legislative Budget Board (LBB) to conduct public hearings on expenditure reduction plans requested by leadership, and agencies to provide to the LBB plans in response to such a request. In addition, Article 34 requires the comptroller of public accounts to publish online a schedule of all revenue to the state from fees authorized by statute (implicitly including higher education fees).

Article 50 limits eligibility for education aide tuition exemptions to persons seeking teacher certification in subject areas experiencing teacher shortages, as determined by the Texas Education Agency.

Article 54 removes the comptroller of public accounts as an ex officio member of the Texas Guaranteed Student Loan Board and reduces the board from 10 to nine members. It also authorizes the governor to name the chair of the board.

Articles 42 and 65 relate to correctional health care. Article 42 changes the composition of the correctional managed health care committee, reducing the committee to five voting members plus the state Medicaid director as a nonvoting member, and reducing the term of office to four years. Article 42 also transfers from the committee to the Texas Department of Criminal Justice (TDCJ) the responsibility to contract for correctional managed care and requires TDCJ, in cooperation with the committee, to contract for a biennial review of expenditures. Article 65 requires TDCJ to adopt policies designed to manage inmate populations based on similar health conditions. It requires each inmate to pay an annual \$100 health services fee instead of a co-pay. It requires TDCJ to make

over-the-counter medicines available to inmates and requires TDCJ, in cooperation with UT Medical Branch at Galveston (UTMB) and Texas Tech University Health Sciences Center, to develop and implement, not later than January 1, 2012, a training program for corrections medications aides. It further exempts from end-stage renal disease licensing requirements any clinics or hospitals providing dialysis in correctional managed care.

Article 71 authorizes the Health and Human Services Commission to apply for a federal Medicaid waiver relating to benefits for individuals with chronic health conditions.

Impact: In general, SB 1 has little direct impact on UT System or its institutions. No amendments to rules or policies are necessary, nor are changes to catalogues, websites, or notices. Institutional business offices should be aware of the described provisions of SB 1.

State payments to campus charter schools will be briefly delayed from August to September of 2013.

Offices filing documents electronically with the attorney general, such as campus legal counsel, and offices receiving services from DIR will pay fees not previously paid.

Financial aid offices should be aware of the changes to qualifications for the educational aide tuition exemption, and should monitor the Texas Education Agency for rules determining which areas of teacher certification will qualify an individual for the exemption.

UTMB is directly affected by the described changes to correctional managed care.

The Southeast Texas Poison Center at UTMB and the South Texas Poison Center at UT Health Science Center at San Antonio should monitor changes in policies and procedures of the Commission on State Emergency Communications.

Effective: Each of the described provisions takes effect September 28, 2011, as does the bill generally. Some provisions have specified later effective dates.

Steve Collins

Trademarks

[HB 3141](#) by Hartnett and Carona

Relating to the registration and protection of trademarks.

HB 3141, effective September 1, 2012, amends the Texas Business and Commerce Code to replace the laws governing the filing and enforcement of trademarks and service marks in Texas, including the Texas anti-dilution statute, with provisions more closely aligned with federal trademark law. HB 3141 includes revised definitions, revised processes and

standards for applying for marks, revised methods for maintaining and challenging marks, and new remedies for claims relating to both mark infringement and anti-dilution.

While the processes and standards for applying for and maintaining marks in HB 3141 do not fundamentally change current practice, some areas represent a substantial modification of state law. First, under new section 16.059, Business and Commerce Code, the period of renewal for registered marks decreases from the current ten-year period to five years. In addition, while current law expressly provides for successive ten-year renewal terms, HB 3141 provides only for an additional five-year term, with no specific reference to additional terms.

A second substantial change is the range of remedies available for trademark infringement. Currently, damages for infringement of a registered mark may be awarded only for the acts of infringement occurring from and after the date two years before the day the suit was filed. Texas further limits damages to the period when the infringer had actual knowledge of the defendant's mark. By contrast, under federal trademark law, monetary relief is not limited to the two-year pre-filing period and may include defendant's profits, damages sustained by the plaintiff, and the costs of the action. Additionally, damages may be trebled upon a showing of bad faith. The changes made by HB 3141 mirror the federal model for infringement damages and expand current damages to include all profits derived from or damages resulting from the acts of infringement (in addition to traditional injunctive relief) if the violator acted with intent to cause confusion or mistake or to deceive. Treble damages and attorney's fees are available in the court's discretion if the court finds that the violator acted with actual knowledge of the registrant's mark or in bad faith.

A third change involves modifications to the Texas anti-dilution statute. Trademark dilution is a concept that protects a "famous" and/or "distinctive" mark from being "diluted" by allowing its use by someone else on unrelated goods or services. Unlike infringement, which requires a showing that consumers would likely confuse the source of the goods or services because of the similarity in the marks, dilution does not require any showing of likelihood of confusion or that the goods or services of the parties are even directly competitive. The difference between the application of federal and state anti-dilution statutes is that under the federal dilution statute, fame and distinctiveness must be shown on a nationwide basis or at least within a large geographic region of the country. By contrast, state dilution statutes only require fame and/or distinctiveness in the particular state – a more limited showing.

Under current Texas anti-dilution law, an injunction may be obtained for a demonstrated injury to a business reputation or a trade name, providing the distinctiveness of the mark was first established. While HB 3141 dovetails the federal model and expressly requires both fame and distinctiveness, Texas courts already generally consider factors much like those used in federal trademark dilution fame analysis: whether the mark is arbitrary, the length of time the user has employed the mark, the scope of the user's advertising and promotions, the nature and extent of the first user's business, and the scope of the first user's reputation. See *Pebble Beach Co. v. Tour 18 I, Ltd.*, 942 F.Supp. 1513, 1565 (S.D.Tex 1996) *aff'd as modified*, 155 F.3d 526 (adding that "a somewhat stricter

standard is to be applied in determining “strength” in dilution analysis than in likelihood of confusion analysis”). Accordingly, while inclusion of fame in the new law may suggest a more difficult standard for establishing dilution, in practice this change is likely minimal.

More significantly, the remedies for dilution under HB 3141 expand current law by authorizing money damages (including possible treble damages) and attorney’s fees if a showing can be made that a defendant willfully intended to cause the dilution of the famous mark.

Impact: HB 3141 affects UT System because System maintains and enforces a substantial number of marks, as well as regularly applies for new marks. While the day-to-day trademark practice will not likely change under HB 3141, the availability of expanded damages under state law trademark claims would likely benefit UT System in those situations in which it is required to enforce its trademark rights in court.

Effective: September 1, 2012

Steve Rosen

Utilities

[SB 365](#) by Ogden and Strama

Relating to distributed generation of electric power.

SB 365 allows the owner of a distributed natural gas generation facility (DNGGF) to (1) sell electricity generated by that facility to its electric utility, electric cooperative or retail electric provider, or (2) transmit the electricity to another entity in accordance with Public Utility Commission (PUC) rules or a tariff approved by the Federal Energy Regulatory Commission. A DNGGF is a facility installed on the customer’s side of the meter that uses natural gas to generate not more than 2,000 kilowatts of electricity. Certain DNGGFs fall within the definition of “power generation company.”

Under some circumstance the owner of a DNGGF may be required to pay costs associated with: (1) interconnection of the facility with the electric utility or cooperative; and (2) electric facility upgrades and improvements directly attributable to accommodating the DNGGF’s capacity.

A DNGGF must comply with emissions limitations established by the Texas Commission on Environmental Quality.

SB 365 does not require an electric cooperative (coop) to transmit electricity to a retail point of delivery in the certificated service area of the coop if the coop has not adopted customer choice.

SB 365 also permits the PUC to establish simplified filing requirements for DNGGFs.

Impact: SB 365 impacts UT System institutions that currently own or operate a qualifying DNGGF or plan to construct such a facility in the future.

Effective: September 1, 2011

Dana Hollingsworth

[SB 773](#) by Zaffirini, et al. and Gallego, et al.

Relating to telecommunications service discounts for educational institutions, libraries, hospitals, and telemedicine centers.

SB 773 adds federally qualified health center service delivery sites to the list of entities qualifying for the telecommunications service discount. SB 773 also decreases the discount, so that private network service contract pricing and tariffs will now be offered at 110 percent of the company's long term incremental cost instead of 105 percent, and moves the sunset date for the discount from 2012 to 2016.

Impact: UT System institutions relying on the telecommunications discount will face higher costs, which should be appropriately budgeted.

Effective: September 1, 2011

Jim Phillips

[SB 937](#) by Lucio and Naishtat

Relating to priorities for restoration of electric service following an extended power outage.

SB 937 requires the Public Utility Commission (PUC) to adopt a rule requiring an electric utility to give a nursing facility, an assisted living facility, and a facility that provides hospice services the same priority that the electric utility gives to a hospital in its emergency operations plan for restoring power after an extended power outage. The rule must permit the electric utility to exercise its discretion to prioritize power restoration for a facility after an extended power outage in accordance with the facility's needs and the characteristics of the geographic area in which power must be restored.

SB 937 also requires municipally owned utilities to report emergency operation plans to the municipality's governing body. In addition, SB 937 requires electric cooperatives to report emergency operation plans to the cooperative's board of directors.

Impact: SB 937 may extend the power outage duration for UT System facilities with priorities lower than hospitals because more facilities will have the same priority as hospitals. In addition, SB 937 may extend the power outage duration for UT System hospitals since more facilities will have the same priority.

Effective: September 1, 2011

Dana Hollingsworth

SB 981 by Carona and Anchia, et al.

Relating to the regulation of distributed renewable generation of electricity.

SB 981 expands the definition of “distributed renewable generation owner” (DRGO) to cover: (1) an owner of distributed renewable generation (DRG); (2) a retail electric customer on whose side of the meter DRG is installed and operated, regardless of whether the customer takes ownership of the DRG; or (3) a person who by contract is assigned ownership rights to energy produced from DRG located at the premises of the customer on the customer’s side of the meter.

The expansion of the definition of DRGO expands to the additional classes of DRGOs the applicability of certain provisions of Section 39.916, Utilities Code, related to limitations on insurance requirements, metering, renewable energy credits, and contracts for the sale of distributed renewable generation.

SB 981 also provides that, if at the time DRG is installed, the estimated annual amount of electricity to be produced by the DRG is less than or equal to the retail electric customer’s estimated annual electricity consumption, then neither a retail electric customer that uses distributed renewable generation, nor the owner of distributed renewable generation that the retail electric customer uses, is: (1) an electric utility, power generation company, or retail electric provider for purposes of the Public Utility Regulatory Act; or (2) required to register with or be certified by the Public Utility Commission.

Impact: SB 981 impacts each UT System institution that falls within the new definition of DRGO by expanding the applicability of certain provisions of Section 39.916, Utilities Code, related to limitations on insurance requirements, metering, renewable energy credits, and contracts for the sale of DRG. SB 981 also impacts UT System institutions that are retail electric customers that use distributed renewable generation, or are owners of distributed renewable generation that a retail electric customer uses.

Administrators and employees responsible for utility matters should be aware of SB 981.

Effective: September 1, 2011

Dana Hollingsworth

SB 1125 by Carona and Anchia

Relating to energy efficiency goals and programs, public information regarding energy efficiency programs, and the participation of loads in certain energy markets.

SB 1125 makes various revisions to the law providing energy efficiency goals, including, among other things:

- revising the state's efficiency goals to add reduction of customer summer and winter peak demand to the existing goals of reducing customer energy consumption and energy costs;
- adding demand-side renewable energy systems that use distributed renewable generation or reduce energy consumption through renewable energy technology to the programs that each electric utility (EU) must encourage and facilitate through retail electric providers;
- adding data center efficiency programs to the list of program options that EUs may choose to implement after the option is approved by the Public Utility Commission (PUC);
- permitting EUs in areas not open to electric competition, and certain EUs in rural parts of areas open to competition, to use rebates or incentive funds to achieve efficiency goals; and
- requiring the PUC to publish information on energy efficiency programs on the Internet.

Impact: For UT System institutions that are eligible to participate in energy efficiency incentive programs, SB 1125 changes the focus from reduction of annual growth of demand to a combined focus on reduction of annual growth of demand and reduction in peak demand. UT System institutions may be able to benefit from energy efficiency programs that encourage distributed renewable generation or renewable energy technology. In addition, data centers operated by UT System institutions may be able to obtain energy efficiency program benefits from EUs if those programs are approved by the PUC. UT System institutions and facilities located in areas not open to electric competition or in rural parts of areas open to competition may be able to benefit from rebates or incentive funds if those programs are implemented by EUs. UT System institutions will also have access to energy efficiency program information to be posted by the PUC on the Internet.

Effective: September 1, 2011

Dana Hollingsworth

SB 1150 by Seliger and Frullo

Relating to requiring certain non-ERCOT utilities to comply with energy efficiency goals.

SB 1150 requires certain investor owned electric utilities (IOUs) operating solely in competitive development areas outside of the Electric Reliability Council of Texas (ERCOT) to comply with energy efficiency goals and provide incentive programs required by Section 39.905, Utilities Code.

Impact: SB 1150 may impact UT System facilities that receive electric service from IOUs outside the ERCOT territory. Those facilities may have access to energy efficiency incentive programs that provide funds for efficiency projects. However, those facilities will also be subject to an energy efficiency cost recovery charge on their electric bills.

A long-term objective of energy efficiency incentive programs is the reduction of the need to construct additional facilities. If energy efficiency incentive programs reduce the need to construct additional facilities, then over the long term there may be a reduction in electric costs.

SB 1150 may impact UT System facilities that receive electric service from IOUs outside the ERCOT territory. Those facilities may have access to energy efficiency incentive programs that provide funds for efficiency projects. However, those facilities will also be subject to an energy efficiency cost recovery charge on their electric bills.

A long-term objective of energy efficiency incentive programs is the reduction of the need to construct additional facilities. If energy efficiency incentive programs reduce the need to construct additional facilities, then over the long term there may be a reduction in electric costs.

Effective: May 28, 2011

Dana Hollingsworth

SB 1693 by Carona and Thompson

Relating to periodic rate adjustments by electric utilities.

SB 1693 authorizes the Public Utility Commission (PUC) or regulatory authority to approve, through an expedited process, a tariff or rate schedule in which an electric utility's (EU) nonfuel rate may be periodically adjusted based only on changes to the following specific parts of the EU's invested capital: distribution plant, distribution-related intangible plant, and distribution-related communication equipment and networks. Periodic rate adjustments may not include indirect corporate costs, or capitalized operations and maintenance expenses.

SB 1693 authorizes the Public Utility Commission (PUC) or regulatory authority to approve, through an expedited process, a tariff or rate schedule in which an electric

utility's (EU) nonfuel rate may be periodically adjusted based only on changes to the following specific parts of the EU's invested capital: distribution plant, distribution-related intangible plant, and distribution-related communication equipment and networks. Periodic rate adjustments may not include indirect corporate costs, or capitalized operations and maintenance expenses.

SB 1693 requires several protections for consumers, including the following:

- The periodic rate adjustment procedure must last for at least 60 days.
- The periodic rate adjustment must be supported by a sworn statement of an appropriate EU employee affirming that the filing is in compliance with the provisions of the tariff or rate schedule, and the filing is true and correct.
- The PUC must adopt rules requiring, among other things:
 - An earnings monitoring report that allows the PUC or regulatory authority to reasonably determine whether an EU is earning in excess of the EU's allowed return on investment;
 - Denial of the EU's filing, if the EU is earning more than the authorized rate of return; and
 - A mechanism by which the PUC may refund customers any amounts determined to be improperly recovered through a periodic rate adjustment, including interest on those amounts.

SB 1693 prohibits an EU from seeking adjustment more than one time per year or more than four times between comprehensive base rate proceedings.

The above provisions expire August 31, 2017. SB 1693 requires the PUC to study and provide a report to the legislature on any periodic rate adjustments permitted under SB 1693 by January 31, 2017, so that the legislature may properly be informed as to the need to continue the PUC's authority to allow periodic rate adjustments.

Impact: SB 1693 authorizes the PUC or regulatory authority to approve nonfuel rate increases for electric utilities through an expedited procedure outside of the normal rate case process. The expedited nonfuel rate increases may occur on a more frequent basis than rates are currently increased. It appears that SB 1693 may result in more frequent nonfuel rate increases for UT System institutions and facilities.

Effective: May 28, 2011

Dana Hollingsworth

[SB 1910](#) by Rodriguez, et al. and Margo, et al.

Relating to the delay of the transition to competition in the Western Electricity Coordinating Council service area and to net metering and energy efficiency goals and programs for utilities in that area.

SB 1910 adds Subchapter L to the Public Utilities Regulatory Act to provide a third transition to competition for El Paso Electric by virtue of operating in areas included in the Western Electricity Coordinating Council service area. The legislature previously added Subchapters J (for Entergy by virtue of operating in areas included in the SERC) and K (for SWEPCO by virtue of operating in areas included in the Southwest Power Pool). Subchapter L consistently tracks Subchapter K with a finding that an electric utility subject to Subchapter L is unable at this time to offer fair competition and reliable service to all retail customer classes in the area served by the utility and the establishment of five stages for the transition to competition.

However, Subchapter L includes a provision entitled “Interconnection of Distributed Renewable Generation” not found in Subchapter K. This provision applies to a distributed renewable generation owner (DRGO). Under Subchapter L, DRGO means the owner of distributed renewable generation. “Distributed renewable generation” (DRG) means electric generation with a capacity of not more than 2,000 kilowatts provided by a renewable energy technology installed on a retail electric customer’s side of the meter. “Renewable energy technology” means any technology that exclusively relies on an energy source that is naturally regenerated over a short time and derived directly from the sun, indirectly from the sun, or from moving water or other natural movements and mechanisms of the environment. “Interconnection” means the right of a DRGO to physically connect DRG to an electricity distribution system, and the technical requirements, rules, or processes for the connection.

SB 1910 specifies a process for requesting interconnection and obligations regarding metering and associated costs related to DRG. It requires an electric utility (EU) that approves a DRGO’s application for interconnection to provide certain prescribed metering options, including the option to interconnect through a single meter that runs forward and backward if the DRGO intends to interconnect the DRG at an apartment house occupied by low-income elderly tenants under specified conditions, or the DRGO has a qualifying facility with a design capacity of not more than 50 kilowatts, and if the DRG or qualifying facility that is the subject of the application is rated to produce a certain amount of electricity.

An EU must offset the qualifying facility’s consumption for the billing period against electricity generated by the qualifying facility and credit the DRGO for excess production at the cost of the EU, as determined by the Public Utility Commission (PUC). Any credit balance on a DRGO’s monthly bill may be carried forward until the credit exceeds \$50, at which time the EU must refund the credit balance.

SB 1910 also requires the PUC, in a base rate proceeding or fuel cost recovery proceeding, to ensure that any additional costs associated with these DRG metering and

payment options are allocated only to customer classes that include DRGOs who have chosen those metering options.

Finally, SB 1910 permits an EU to directly market energy efficiency and renewable energy programs to customers and provide rebate or incentive funds directly to customers to promote efficiency goals.

Impact: SB 1910 may impact costs associated with operating UT El Paso's existing or planned DRG projects, if any. In addition, UT El Paso may be able to take advantage of efficiency and renewable energy programs, including rebates and incentive funds. Appropriate officials at UT El Paso should be aware of SB 1910.

Effective: June 17, 2011

Dana Hollingsworth

[HB 971](#) by King, Phil, et al. and Fraser

Relating to electric transmission facilities.

HB 971 provides that, for transmission facilities ordered or approved by the Public Utility Commission (PUC) under Chapters 37 or 39, Utilities Code, certain condemnation rights granted to an electric corporation extend to all public land, except land owned by the state, on which the PUC has approved the construction of the line.

Impact: HB 971 excludes land owned by the state, including UT System, from certain condemnation rights granted to electric corporations in connection with transmission facilities.

Effective: June 17, 2011

Dana Hollingsworth

[HB 1064](#) by Pitts, et al. and Eltife, et al.

Relating to exempting certain customers from certain demand charges by transmission and distribution utilities.

HB 1064 requires the Public Utility Commission (PUC) to adopt rules on or before June 1, 2012, that require a transmission and distribution utility (TDSP) to waive demand ratchet charges for nonresidential secondary service customers that have a maximum load factor equal to or below a maximum load factor set by the PUC.

Impact: HB 1064 may exempt some UT System facilities that are nonresidential secondary service customers from TDSP demand ratchet charges if that facility's maximum load factor is equal to or below a maximum load factor set by the PUC.

Effective: May 28, 2011

Dana Hollingsworth

Collections

SB 5 by Zaffirini and Branch

Relating to the administration and business affairs of public institutions of higher education.
(Collection Provisions)

SB 5 is an omnibus bill that affects a variety of areas of law governing higher education with a purpose of eliminating unfunded mandates, improving efficiency, and providing administrative flexibility to institutions of higher education. This analysis summarizes the collection provisions.

SB 5 clarifies that funds must be deposited in the institutional depository within seven days of “receipt” under Section 51.003(b), Education Code. (Section 1.01)

SB 5 provides that if a delinquent obligation meets the criteria established by the attorney general that the obligation need not be referred to the attorney general for collection, the institution need not expend resources to engage in further collection efforts after considering the amount, security, likelihood of collection, expense, and available resources. (Section 1.02)

SB 5 makes venue in Travis County mandatory for a suit by UT System to recover a delinquent account. (Section 1.04)

Impact: An institution will be in compliance with the statutory requirement if payments received by a collecting agency through on-line and credit card payments, which of necessity are first deposited into a trust account of the collector, are deposited in the institutional depository within seven days of receipt from the collecting agency.

Although for constitutional reasons delinquent obligations to the state may not be written off in the same sense that a private corporation would write off uncollectible debts, an institution now has clear authority to not further pursue collection for certain types of delinquent obligations.

A debtor sued on a delinquent obligation will no longer be able to change venue to the debtor’s county of residence or another county of permissible venue.

Effective: June 17, 2011

Steve Collins

SB 5 by Zaffirini and Branch

Relating to the administration and business affairs of public institutions of higher education. (Financial Management)

SB 5 is an omnibus bill that affects a variety of areas of law governing higher education with a purpose of eliminating unfunded mandates, improving efficiency, and providing administrative flexibility to institutions of higher education. This analysis summarizes the provisions relating to financial management.

SB 5 clarifies that funds must be deposited in the institutional depository within seven days of “receipt” under Section 51.003(b), Education Code. (Section 1.01)

SB 5 also amends Section 51.003, Education Code, to permit an institution to maintain a bank account in a foreign depository from which to pay local vendors in support of the institution’s academic and research operations in that country. (Section 1.01)

SB 5 eliminates the separate annual financial report that institutions of higher education were required to submit in a form prescribed by the comptroller and Coordinating Board. Instead, institutions will be required to submit the standard annual financial report required of all state agencies under Section 2101.011, Government Code. (Section 1.02)

SB 5 authorizes an institution of higher education to maintain an unclaimed money fund composed of credit balances of less than \$25 that are presumed abandoned under escheat laws. The institution will hold and account for those funds, and may expend those funds, as other educational and general funds, instead of transferring those funds to the comptroller of public accounts. The institution remains responsible to pay claims. These provisions apply to credit balances held on or after June 17, 2011. (Sections 1.02, 1.07, 1.08)

SB 5 authorizes an institution to make any payment through electronic funds transfer or by electronic pay card. (Section 1.02)

SB 5 requires each institution of higher education to post its “checkbook” on the institution’s Internet website, including for each payment from general revenue or from tuition and fees the amount, date, and purpose of the payment, in addition to the name of the payee. As an alternative to posting that information on the institutional website, an institution may instead provide an easily noticeable, direct link to similar information on the comptroller’s website. (Section 1.03)

SB 5 exempts institutional debt, such as revenue finance system debt, from approval by the Texas Bond Review Board if the state’s general revenue is not pledged to the payment of the debt and the institution’s or system’s debt rating is at least AA-. (Sections 1.05 and 1.06)

SB 5 requires the Legislative Budget Board and the governor’s office, in consultation with institutions of higher education, to review the forms for higher education legislative

appropriation requests (LARs) to identify opportunities to improve efficiency, provide transparency, and eliminate unnecessary and duplicative requirements. (Section 6.06)

Impact: A UT System institution will be in compliance with the statutory requirement if payments received by a collecting agency through on-line and credit card payments, which of necessity are first deposited into a trust account of the collector, are deposited in the institutional depository within seven days of receipt from the collecting agency.

An institution that opens a bank account with a foreign depository must ensure that the depository meets the statute's requirement that the bank be licensed by a central bank, be annually audited, and meet the capitalization requirements. An institution may not deposit in the account any money other than that collected from students participating in the foreign program.

The requirement for a duplicative annual financial report unique to institutions of higher education is eliminated.

To maintain an unclaimed money fund, an institution is required to adopt procedures for an owner of the credit balance to make a claim and be paid and must maintain a database that permits the public to search for unclaimed funds.

An institution is authorized to make any payment by electronic funds transfer or electronic pay card and thereby save the expense of paper checks. An institution will likely need to adopt procedures for that purpose. Although a house amendment removed an express reference to payment of salary and wages, an institution is not prohibited from paying salary and wages through use of a pay card.

At a minimum, each institution will need to provide the "easily noticeable direct link" to similar "checkbook" information on the comptroller of public accounts' website. The law specifies that the purpose of the link must be "clearly identifiable."

Debt issued by the UT System Office of Finance under the systemwide revenue financing system is no longer subject to approval by the Texas Bond Review Board, which should facilitate the ability of the system to move quickly in the refinance market and otherwise avoid the expense and time requirements of bond review board review and approval.

UT System institutions and System Administration should consider the extent to which they will be proactive in seeking to participate with the LBB, the governor, and other institutions concerning improvement of the LAR forms.

Effective: June 17, 2011

Steve Collins

[SB 141](#) by Eltife, et al. and Anchia

Relating to debt management services and the regulation of debt management services providers.

SB 141 amends the regulatory structure for debt management service providers and clarifies that entities providing debt settlement services are included in the definition of debt management service providers.

SB 141 puts debt management service providers under the regulation of the Consumer Credit Commissioner.

Impact: Any employees or departments of UT System institutions that provide credit counseling or debt management services must comply with Subchapter C, Chapter 394, Finance Code, as amended by SB 141. This could include the bursar's office and the ombudsman's office.

Effective: September 1, 2011

Kevin Brown

[SB 328](#) by Carona and Deshotel

Relating to notice of a hospital lien.

SB 328 requires medical providers to provide an additional notice by mail to all patients against whom a lien is filed. This notice must be mailed within five business days from the date that the lien is recorded in the county records, and must inform the patient that the lien attaches to any cause of action the patient has against any other person for the injuries related to the patient's medical treatment, and that the lien does not attach to real property.

Impact: UT System health institutions that file liens already have procedures in place to send a notification letter to every patient against whom a lien is filed. These institutions will need to amend the notification letters to include the required language as well as insure that letters are sent within the required time period.

Effective: September 1, 2011

Kent Kostka

[SB 1810](#) by Carona and Truitt

Relating to the exemption of certain retirement accounts from access by creditors.

SB 1810 clarifies, and specifically states that it is not meant to change, existing law as it relates to the exemption from access by creditors of retirement and other similar accounts or plans. It adds annuities to the types of accounts listed.

SB 1810 states that the right to payment from these accounts or plans is exempt from seizure, if the right is inherited or is the result of a bequest in a will, to the same extent the deceased's interest was exempt. SB 1810 aligns a beneficiary's interest under the account or plan with the deceased's interest, regardless of whether the beneficiary is the spouse of the deceased, for purposes of Internal Revenue Code qualification. SB 1810 states that the inheritance exemption still applies regardless of whether the person claiming the exemption is an owner, participant, or beneficiary of the account or plan.

SB 1810 also provides that the various exempt accounts or plans may be used to secure loans from the account or plan.

Impact: SB 1810 could possibly decrease the assets otherwise available to satisfy UT System debts. Current interpretation of the exemption could have required the debtor claiming the exemption to also be the one who funded the account. To the extent institutions are evaluating the financial condition or solvency of a customer, student, patient, or other debtor, they will need to be aware that generally, the value held in these types of accounts or plans is exempt from seizure to satisfy debt.

Effective: June 17, 2011

Traci L. Cotton

Trusts, Estates, and Charitable Organizations

[SB 587](#) by Uresti and Darby

Relating to jurisdiction in certain proceedings brought by the attorney general with respect to charitable trusts.

HB 587 grants the Travis County Probate Court concurrent jurisdiction with other probate courts over proceedings brought by the attorney general alleging breach of fiduciary duty with respect to a charitable trust created by a will that has been admitted to probate. Its purpose is to correct an omission of the legislature when it enacted Section 123.005, Property Code, in 2007.

The 2007 legislation provided that venue in a proceeding brought by the attorney general alleging breach of a fiduciary duty by a charitable entity or a fiduciary or managerial agent of a charitable trust was in a court of competent jurisdiction in Travis County or in the county where the defendant resides or has its principal office. Although the 2007 law provided for venue, it failed to give jurisdiction to the Travis County Probate Court for a testamentary charitable trust, which resulted in jurisdiction in the probate court of the county where the decedent died.

Impact: SB 587 could impact UT System in two ways. UT System could be a beneficiary of a charitable trust, and the attorney general could bring suit against the trustee for breach of fiduciary obligations. Also, the Board of Regents could be the

trustee of a charitable remainder trust or a regular charitable trust and be subject to the statute. SB 587 would allow any suit involving such trusts to be filed in the Travis County Probate Court.

Effective: June 17, 2011

Donald Jansen

[SB 1197](#) by Rodriguez and Hartnett

Relating to trusts.

SB 1197 amends various provisions of the Texas Trust Code to provide additional clarity or comport with federal law. The following changes are noteworthy:

- SB 1197 creates a period in which a beneficiary to a testamentary trust may disclaim an interest to comport with federal law.
- Under prior law, a beneficiary was authorized to bring a suit against a trustee, as long as it was made in good faith and with “probable” cause, despite the presence of an in terrorem clause. SB 1197 requires “just” cause instead of “probable” cause.
- Under prior law, a trust could be divided into separate trusts or separate trusts could be combined, subject to certain requirements, as long as the beneficiaries were provided notice. SB 1197 allows beneficiaries to waive this notice requirement.
- SB 1197 grants county courts-at-law jurisdiction over trust matters as may be specified by law.
- Generally, a lawsuit against a trust or trustee must be filed in the county in which the trust is administered, in which an individual trustee resides, or the principal office of a corporate trustee is located. SB 1197 permits venue in a county in which a settlor’s estate is pending.
- SB 1197 clarifies who must be included as a necessary party in a lawsuit involving a trust.
- SB 1197 clarifies language regarding the powers of a trustee to make adjustments between principal and income.
- SB 1197 establishes ordering rules for paying taxes due on a trust’s ownership interest in an entity between income and principal.

Impact: SB 1197 has no direct impact on UT System. However, the various changes could be of interest in a matter in which UT System is a beneficiary of a trust.

Effective: September 1, 2011

Kyle R. ZumBerge

[SB 1198](#) by Rodriguez and Hartnett

Relating to decedents' estates.

SB 1198 is an omnibus revision of the Probate Code and Estates Code revision law. The vast majority of the changes caused by the new law are of general application to all residents of the State of Texas. However, there is one change which might have an impact on UT System.

Probate Code Section 4H(3) is amended to expand (or perhaps clarify) the statutory probate court concurrent jurisdiction with the district court to an action involving a charitable trust as defined by Section 123.001, Property Code.

Under existing Property Code Section 123.001(2) the term charitable trust includes, among others, a charitable entity or an inter vivos or testamentary gift to a charitable entity.

Existing Property Code Section 123.001(1) defines "charitable entity" to include, among others, an entity organized for scientific or educational purposes described by IRC Section 501(c)(3). UT System has not filed for exemption under Section 501(c)(3) but its educational and scientific purposes are described in IRC Section 501(c)(3).

Thus, if UT System is a charitable entity under the Property Code, the new concurrent jurisdiction of the statutory probate court would cover UT System and any lifetime or testamentary gifts to UT System.

Impact: Most of the provisions of the new law have no peculiar impact on UT System. However, the changes to the concurrent jurisdiction of a statutory probate court could apply to UT System in any controversies involving UT System or bequests or gifts to UT System.

Effective: September 1, 2011, except Section 37A(p), Texas Probate Code, as added by Article 1, takes effect immediately and Article 2 takes effect January 1, 2014.

Donald Jansen

HB 3573 by King, Susan, et al. and Fraser

Relating to limiting the disclosure of certain information regarding certain charitable organizations, trusts, private foundations, and grant-making organizations.

HB 3575 is intended to protect the privacy interests of individuals serving on or working for certain charitable organizations or receiving benefits from those organizations. HB 3573 prohibits a governmental entity, including a public institution of higher education, from requiring certain charitable entities to disclose information as to race, religion, gender, national origin, socioeconomic status, age, ethnicity, disability, marital status, sexual orientation, or political party registration (herein “protected information”). It states that it does not limit the authority of the attorney general to investigate or enforce laws to protect the public interest in charity.

Organizations covered by various provisions of HB 3573 include 501(c)(3) charitable organizations (except for property owner’s or homeowner’s associations), Section 509(a) private foundations, grant-making organizations, and charitable remainder trusts.

The substantive provisions of HB 3573 are as follows:

- Without written consent, a governmental entity may not require a private foundation, grant-making organization, or charitable remainder trust to disclose protected information about a person who receives money or in-kind contributions from or contracts with such entities or about employees, officers, directors, trustees, members, or owners of an entity that receives such money or in-kind contributions from or contracts with the entity.
- Unless the individual consents, a governmental entity may not require the above listed entities to disclose protected information about its employees, officers, directors, trustees, or members.
- A governmental entity may not require the governing board or officers of those organizations to include an individual described within one of the categories of protected information.
- A governmental entity may not prohibit an individual from serving on a board or from being an officer of such an organization because of familial relationship to another board member or officer of, or a donor to, the covered organization nor may it require the governing board or officer to include individuals who do not share such familial relationship.
- Except as a condition on the expenditure of particular funds imposed by the donor of the funds, a governmental entity may not require such organizations to distribute its funds to, or contract with, a person or entity based upon the protected information categories of the person or of an employee, officer, director, trustee, member, or owner of such entity, or based on the protected information categories of the population, locales, or communities served by such person or entity.

Impact: Since UT System is a governmental entity covered by HB 3573, UT System may not require submission of the protected information from any of the specified organizations it deals with.

Effective: September 1, 2011

Donald Jansen

Insurance and Risk Management

[SB 425](#) by Carona, et al. and Hancock

Relating to property and casualty certificates of insurance and approval of property and casualty certificate of insurance forms by the Texas Department of Insurance; providing penalties.

SB 425 amends various sections of the Insurance Code to extend the regulation of the Texas Department of Insurance (TDI) to certificates of insurance issued by property/casualty insurers, agents, and brokers on risks located in the state of Texas, regardless of where the insurer, agent, policyholder, or certificate holder is located. It places requirements and restrictions on the contents of certificates of insurance and authorizes TDI to approve the certificate forms and to enforce the restrictions through its own contested case proceedings or through the attorney general. SB 425 provides that an insurance certificate does not confer on the certificate holder new or additional rights beyond the underlying policy or any endorsements and does not alter, amend, extend, or alter the coverage afforded by the referenced policy. SB 425 also limits those persons having a legal right to notice of cancellation, nonrenewal, or material change or any similar notice to persons named in the policy or endorsements, or as established by law or by rule of TDI.

Impact: SB 425 impacts all UT System institutions, and will require changes in certain procedures and contract terms relating to insurance coverage and certificate requirements. The institutions receive numerous certificates of insurance in the context of contracted goods and services and have historically relied on those certificates rather than a close review of the actual policies, endorsements, definitions, and exclusions for a summary of the coverage. Certificates of insurance have also historically been the vehicle for establishing a requirement for notice of cancellation, non-renewal, or material change of coverage. Under SB 425, certificates of insurance may not alter the terms and conditions of notice of cancellation, nonrenewal, or material change; only state law and/or the insurance policy will establish whether notice of these important coverage matters will be provided to the institutions in a timely manner. In the context of contracts for goods and services, an institution, as an additional insured, will need to secure adequate notice through endorsement to the policy in those cases in which state law or TDI rule do not provide sufficient notice of cancellation, termination, or material change in coverage from the insurers. While the insurance industry and its supporting associations have been moving in this direction recently through changes to standard forms for insurance certificates, SB 425 places many of those industry initiated restrictions into law. The changes in law apply only to certificates of insurance issued on or after January 1, 2012.

Effective: September 1, 2011

Mark Gentle

SB 918 by Wentworth and Thompson

Relating to immunity for reporting insurance fraud.

The law provides that a person is not civilly liable for furnishing information relating to a suspected, anticipated, or completed fraudulent insurance act if the information is provided to certain organizations. SB 918 expands the list of recipient organizations to include an organization primarily dedicated to the detection, investigation, and prosecution of insurance fraud if the person is a member of the organization.

Impact: UT System and its institutions should be aware of the reporting requirements for suspected acts of insurance fraud, along with the civil liability protections afforded under state law for reporting those activities.

Effective: September 1, 2011

Walter Mosher

SB 1598 by Carona and Smithee

Relating to the inspection of portable fire extinguishers.

SB 1598 adds an exception to the Insurance Code under which the licensing provisions of Chapter 6001 (Fire Extinguisher Service and Installation) do not apply.

According to its bill analysis, the purpose of SB 1598 is to correct an unintentional change that resulted from the enactment of HB 2636 (80th Legislature), which was intended as a nonsubstantive recodification of articles in the Insurance Code. SB 1598 clarifies that the licensing provisions of Chapter 6001, Insurance Code, do not apply to the inspection of a portable fire extinguisher by a person who is both specially trained to perform portable fire extinguisher inspections and under contract for that purpose. An inspection of a portable fire extinguisher is defined as a monthly inspection to ensure that a portable fire extinguisher is in its designated location, has not been tampered with, and does not have any obvious physical damage that may prevent proper operation.

Impact: UT System institutions that use contract labor for the purpose of performing monthly quick checks of fire extinguishers do not need to require those performing the inspections to be licensed.

Effective: September 1, 2011

Timothy Shaw

[HB 2093](#) by Thompson and Van de Putte

Relating to the operation and regulation of certain consolidated insurance programs.

HB 2093 creates a new section of the Insurance Code that addresses consolidated insurance programs.

The first important aspect of HB 2093 is the requirement that any consolidated insurance program that provides general liability insurance must provide completed operations insurance for at least three years.

The second important aspect is that HB 2093 voids indemnification agreements in construction contracts to the extent that they require an indemnitor to indemnify against a claim caused by the negligence or fault of the indemnitee. HB 2093 also makes any requirement that an indemnitor obtain insurance coverage for indemnitee-caused claims unenforceable. These provisions may not be waived by contract.

There are exceptions for injury claims brought by an employee of the indemnitor (thereby preserving workers compensation protections), as well as a number of exclusions.

Impact: UT System has consolidated insurance programs for construction projects known as the Owner Controlled Insurance Program (OCIP) or the Rolling Owner Controlled Insurance Program (ROCIP). The terms of these programs should be reviewed for conformance with the three-year completed operations requirement.

The indemnity restrictions have no impact on UT System construction contracts because similar restrictions have been in place for state agency construction contracts since 2001 under Section 2252.902, Government Code (which is repealed by HB 2093).

Effective: January 1, 2012

Edwin Smith

[HB 3](#) – **First Called Session** by Smithee and Carona

Relating to the operation of the Texas Windstorm Insurance Association, to the resolution of certain disputes concerning claims made to that association, and to the issuance of windstorm and hail insurance policies in the private insurance market by certain insurers; providing penalties.

HB 3, First Called Session, amends Chapter 2210 and other chapters of the Insurance Code relating to the operation of the Texas Windstorm Insurance Association (association). This law establishes a new process for administration of claims against the association and limits the causes of action that may be asserted against the association and its agents or representatives. HB 3 exempts the association and its agents or representatives from private causes of action under the Prompt Payment of Claims Act and the Unfair Claim Settlement Practices Act. The association and its agents and representatives may not be held liable for damages under the Deceptive Trade Practices

Act or any other provision of law providing for trebling of damages or a penalty. The maximum recoverable against the association by an insured is the amount of the covered loss less the amount already paid by the association plus pre-judgment interest, court costs, and reasonable and necessary attorney's fees. HB 3 specifies that consequential damages are recoverable from the association by a claimant consistent with the common law of Texas. An insured may be entitled to additional damages upon clear and convincing proof that the association intentionally mishandled the claimant's claim.

The association will be required to use claim settlement guidelines published by the commissioner of insurance (commissioner) in the determination of the extent to which a loss is incurred as a result of wind, waves, tidal surges, and rising waters that are not caused by waves or surges or wind-driven rain associated with a storm.

HB 3 provides that the limitations period applicable to legal actions against the association is not later than two years from the date the insurer accepts or rejects the claim. HB 3 also requires the insured to file a claim not later than one year from the date on which the damage to the property occurs. HB 3 allows persons insured by the association to purchase a binding arbitration endorsement as established by rules adopted by the commissioner.

HB 3 establishes a detailed and exacting claim procedure that the insured and the association must follow. The multi-phase claim process distinguishes between coverage disputes and disputes concerning the amount of the loss and will be subject to rules established by the commissioner. The claims process includes an appraisal process that must be initiated by the claimant within 60 days of the association's initial decision on the claim (subject to extension). The failure of the claimant to initiate the appraisal process within the specific time periods established under the law will result in a waiver of the claimant's right to contest the association's decision concerning the amount of the loss.

In the event the claims settlement process does not resolve a dispute that concerns coverage and the insured initiates a civil action by giving notice of intent to bring an action, the association may request alternative dispute resolution not later than 60 days after the date that the association receives notice from the insured. In the event the insured and the association are unable to resolve a dispute involving a partial or full denial of coverage through the claims process and the insured gives notice of intent to file a civil action, the association may seek a moderated settlement conference that may be conducted by a panel consisting of one or more impartial third parties.

HB 3 establishes standards of conduct for members of the association's board of directors and for employees, including an affirmative duty on members of the board and employees who reasonably suspect that a fraudulent insurance act is or is about to be committed by an employee or board member to report such conduct to the department of insurance or other authorized governmental agency. The law includes new claim audit requirements to be initiated by the commissioner. The law amends the funding sources for the association, including surcharges on auto insurance on vehicles in the catastrophe

area, and clarifies the applicability of the open meetings and public information laws to the association.

HB 3 authorizes the commissioner to approve a commission structure for payment of agents who presents applications for insurance to the association. The commission is to be based upon the amount of work performed by the agent. The association is authorized to develop a simplified renewal process that allows for the acceptance of an application for renewal from either an agent or an insured. HB 3 also prohibits the association from insuring wind turbines.

HB 3 establishes a legislative interim study committee to examine alternative ways to provide insurance to the seacoast territory.

Impact: UT System institutions insured through the association will be subject to the limitations on damages and the claims process established under HB 3 and related rules adopted by the commissioner that will apply to policies issued through the association on and after 60 days from the effective date of HB 3. The new statutory language concerning renewal flexibility and work-related commission structures may result in time and cost savings, depending on the commission's implementation.

Effective: September 28, 2011

Mark Gentle

Emergency Communications and Poison Control

HB 1861 by Anchia and Whitmire

Relating to the continuation and functions of the Commission on State Emergency Communications.

HB 1861 continues the operation of the Commission on State Emergency Communications (CSEC) until September 1, 2023, and authorizes CSEC to appoint the Emergency Communications Advisory Committee. With the assistance of this advisory committee, CSEC is authorized to coordinate the development, implementation, and management of an interconnected, state-level emergency services Internet Protocol network. HB1861 also directs CSEC to develop and implement a policy that encourages negotiated rulemaking and alternative dispute resolution procedures under Chapter 2009, Government Code.

Impact: The transition from telephone based 911 emergency communications systems to a state-level Internet Protocol based emergency communications system (NG 911) will present many challenges to CSEC. While HB 1861 does not require action by UT System institutions, the initial planning process established by HB 1861 for the development and implementation of NG 911 are processes that should be monitored

closely, as the new system's functionality, security, and compatibility with UT System's communication systems and procedures are critically important.

Effective: June 17, 2011

Mark Gentle

HB 2758 by Pena and Zaffirini

Relating to mandatory emergency alert systems at institutions of higher education.

HB 2758 requires all institutions of higher education, including public, private and independent, to establish an emergency alert system for the institution's students and staff, including faculty. Institutions must timely provide e-mail or telephone notifications in addition to any other alert methods to provide timely notification of emergencies affecting the institution, its students, and staff. The institutions must collect telephone or e-mail address information from students upon initial enrollment and from staff upon initial hiring, with all personal identifying information considered confidential and not subject to disclosure under the Texas public information law (Chapter 552, Government Code). A student or staff member may elect not to participate in the alert system by notifying the institution either electronically or in writing as selected by the institution. The election must be renewed at the start of each academic year. The institutions must implement the alert system not later than the spring 2012 semester.

Impact: HB 2758 impacts all UT System institutions by requiring the development or refinement of policies and procedures to implement the emergency alert system and notification election process.

Effective: June 17, 2011

Mark Gentle

SB 1 – **First Called Session** by Duncan, et al. and Pitts

Relating to certain state fiscal matters; providing penalties.

SB 1, First Called Session, is composed of approximately 70 articles and 262 pages, designed primarily to make changes to the manner of distribution and methods of providing revenue for the support of public schools. SB 1 has little direct effect on higher education or UT System. Many of the other provisions of the bill adjust the schedule for payment of various taxes and fees, moving payments from the following biennium to the current biennium (requiring prepayment followed by a reconciliation) or delaying transfers from general revenue to a special fund, all with a purpose of increasing the amount held in general revenue during the fiscal biennium ending August 31, 2013. This includes prepayment of alcoholic beverage taxes (Article 10) and sales taxes (Article 13).

The following describes matters of interest to higher education, even though most of the described provisions generally have no direct impact on higher education or UT System.

Article 1 defers foundation school fund payments to school districts (and therefore charter schools) from August 2013 to September 2013, moving the cost of those payments to the following fiscal biennium.

Article 17 transfers from the comptroller of public accounts to the Coordinating Board a report on the physician education loan repayment assistance program under Subchapter J, Chapter 61, Education Code.

Article 20 eliminates the statutory requirement that the secretary of state produce bound copies of the “session laws” after each session of the legislature.

Article 21 authorizes the attorney general to charge a fee for the electronic filing of documents with the attorney general.

Article 23 continues the Department of Information Resources (DIR) in operation for the next two years (the DIR sunset bill from the regular session having been vetoed). SB 1 provides DIR authority to employ best value purchasing for information technology commodity items. It also authorizes DIR to set and charge a fee to each entity that receives services from DIR.

Article 27 eliminates the statutory authority of the Commission on State Emergency Communications to establish a regional poison control center in Harris County and authorizes the commission to standardize the operations of and implement management controls to improve the efficiency of regional poison control centers.

Article 28 expands the use of three tobacco settlement funds (not those managed by UT System) to pay principal and interest on bonds issued by the Cancer Prevention and Research Institute of Texas (CPRIT).

Article 34 requires the Legislative Budget Board (LBB) to conduct public hearings on expenditure reduction plans requested by leadership, and agencies to provide to the LBB plans in response to such a request. In addition, Article 34 requires the comptroller of public accounts to publish online a schedule of all revenue to the state from fees authorized by statute (implicitly including higher education fees).

Article 50 limits eligibility for education aide tuition exemptions to persons seeking teacher certification in subject areas experiencing teacher shortages, as determined by the Texas Education Agency.

Article 54 removes the comptroller of public accounts as an ex officio member of the Texas Guaranteed Student Loan Board and reduces the board from 10 to nine members. It also authorizes the governor to name the chair of the board.

Articles 42 and 65 relate to correctional health care. Article 42 changes the composition of the correctional managed health care committee, reducing the committee to five voting

members plus the state Medicaid director as a nonvoting member, and reducing the term of office to four years. Article 42 also transfers from the committee to the Texas Department of Criminal Justice (TDCJ) the responsibility to contract for correctional managed care and requires TDCJ, in cooperation with the committee, to contract for a biennial review of expenditures. Article 65 requires TDCJ to adopt policies designed to manage inmate populations based on similar health conditions. It requires each inmate to pay an annual \$100 health services fee instead of a co-pay. It requires TDCJ to make over-the-counter medicines available to inmates and requires TDCJ, in cooperation with UT Medical Branch at Galveston (UTMB) and Texas Tech University Health Sciences Center, to develop and implement, not later than January 1, 2012, a training program for corrections medications aides. It further exempts from end-stage renal disease licensing requirements any clinics or hospitals providing dialysis in correctional managed care.

Article 71 authorizes the Health and Human Services Commission to apply for a federal Medicaid waiver relating to benefits for individuals with chronic health conditions.

Impact: In general, SB 1 has little direct impact on UT System or its institutions. No amendments to rules or policies are necessary, nor are changes to catalogues, websites, or notices. Institutional business offices should be aware of the described provisions of SB 1.

State payments to campus charter schools will be briefly delayed from August to September of 2013.

Offices filing documents electronically with the attorney general, such as campus legal counsel, and offices receiving services from DIR will pay fees not previously paid.

Financial aid offices should be aware of the changes to qualifications for the educational aide tuition exemption, and should monitor the Texas Education Agency for rules determining which areas of teacher certification will qualify an individual for the exemption.

UTMB is directly affected by the described changes to correctional managed care.

The Southeast Texas Poison Center at UTMB and the South Texas Poison Center at UT Health Science Center at San Antonio should monitor changes in policies and procedures of the Commission on State Emergency Communications.

Effective: Each of the described provisions takes effect September 28, 2011, as does the bill generally. Some provisions have specified later effective dates.

Steve Collins

Workers' Compensation

[HB 2605](#) by Taylor and Huffman

Relating to the continuation and functions of the division of workers' compensation of the Texas Department of Insurance.

HB 2605 extends the sunset date of the division of workers' compensation of the Texas Department of Insurance to September 1, 2017. Section 26 of HB 2605 allows the investigation unit of the division of workers' compensation to make unannounced site visits to inspect all workers' compensation records of workers' compensation carriers, such as the UT System Workers' Compensation Insurance Program, and employers, such as each UT System institution.

Impact: The UT System Workers' Compensation Insurance Program and each institution may receive unannounced site visits by the investigation unit of the division of workers' compensation to inspect all workers' compensation records. The human resources department of each UT System institution and the UT System Workers' Compensation Insurance Program should be aware of HB 2605 and the possibility of unannounced site visits.

Effective: September 1, 2011

Jack O'Donnell

Alcoholic Beverages

[SB 351](#) by Williams, et al. and Deshotel

Relating to the maximum capacity of a container of wine sold to a retail dealer.

SB 351 increases the maximum container capacity in which a person may sell wine to a retail dealer from 4.9 gallons to 8 gallons.

Impact: Winery operations are conducted on property owned by UT System. Entities involved in those operations should be aware of SB 351.

Effective: April 21, 2011

Scott A. Patterson

[SB 438](#) by Nelson and Geren

Relating to the number of days a winery may sell wine under a winery festival permit.

The law authorizes the holder of a winery festival permit to sell wine at a civic or wine festival, farmers' market, celebration, or similar event. SB 438 modifies that authority so that a winery festival permit holder may not offer wine for sale for more than four consecutive days at the same location.

Impact: Winery operations are conducted on property owned by UT System. Entities involved in these operations should be aware of SB 438.

Effective: June 17, 2011

Scott A. Patterson

[SB 799](#) by Nelson and Geren

Relating to the definition of "first sale" for purposes of the taxes imposed on certain liquor.

SB 799 amends the law relating to taxes on liquor other than ale and malt liquor. SB 799 provides that, for liquor not imported into Texas by a wholesaler, a "first sale" does not include the first sale by the holder of a winery permit to either another winery permit holder or the holder of a wholesaler's permit.

Impact: Winery operations are conducted on property owned by UT System. Entities involved in those operations should be aware of SB 799.

Effective: June 17, 2011

Scott A. Patterson

[SB 890](#) by Carona and Hamilton

Relating to certain promotional activities for certain alcoholic beverage permit holders.

SB 890 authorizes the Alcoholic Beverage Commission to adopt rules relaxing specific restrictions in the Alcoholic Beverage Code against wholesaler dealings with retailers or consumers, so that persons holding certain wholesaler permits (or their agents) can perform the cleaning and maintenance of coil connections for the dispensing of wine.

Impact: Winery operations are conducted on property owned by UT System. Entities involved in those operations should be aware of SB 890.

Effective: September 1, 2011

Scott A. Patterson

[SB 1331](#) by Watson, et al. and Gallego

Relating to criminal offenses regarding the possession or consumption of alcoholic beverages by a minor and providing alcoholic beverages to a minor.

SB 1331 makes changes to certain criminal offenses established by the Alcoholic Beverage Code.

Sections 106.04 and 106.05 of the Alcoholic Beverage Code make it a criminal offense for a minor to consume or possess an alcoholic beverage. SB 1331 amends those statutes to establish exceptions to those criminal offenses if the minor is the first person to request emergency medical assistance in response to the possible alcohol overdose of the minor or another person, remains on the scene until medical assistance arrives, and cooperates with medical assistance and law enforcement.

Section 106.06 of the Alcoholic Beverage Code makes it a criminal offense for a person to act with criminal negligence in purchasing, giving, or making available an alcoholic beverage to a minor. SB 1331 identifies additional penalties, conditions, and obligations that a judge is required or authorized to impose on a person placed under community supervision for such an offense if the offense occurred at a gathering where participants were involved in the abuse of alcohol, including binge drinking or forcing or coercing individuals to consume alcohol.

Impact: UT System and UT System institutions should consider whether changes to their policies and procedures regarding the sale, provision, consumption, and possession of alcoholic beverages on UT System property are necessary.

Effective: September 1, 2011

Scott A. Patterson

[HB 1936](#) by Gutierrez and Lucio

Relating to importation and shipment of alcoholic beverages for personal consumption.

HB 1936 expands the ability of persons to import alcoholic beverages into Texas for personal use. It also repeals the law providing that a person purchasing wine at a Texas winery may ship that wine to the person's residence if the winery verifies that the person is at least 21 years of age and if the person is present when the wine is delivered to the person's residence.

Impact: Winery operations are conducted on property owned by UT System. Entities involved in those operations should be aware of HB 1936.

Effective: September 1, 2011

Scott A. Patterson

[HB 1952](#) by Kuempel and Eltife

Relating to alcoholic beverage seller-servers and to seller training programs.

Section 106.14 of the Alcoholic Beverage Code protects an employer that sells alcoholic beverages from having the actions of its employees attributed to the employer, so long as the employer meets certain requirements. One requirement is that the employer must have its employees attend a seller training program approved by the Texas Alcoholic Beverage Commission (TABC).

HB 1952 amends that law to provide the TABC with greater authority to cancel or suspend its approval of seller training programs, as well as the certification of trainers or alcoholic beverage seller-servers under those programs, if there is a violation of law or a TABC rule.

Impact: The UT System Board of Regents' *Rules and Regulations* identify circumstances in which the sale or use of alcoholic beverages may be permitted on property and in buildings owned or controlled by UT System or its institutions. HB 1952 impacts those activities.

Effective: May 28, 2011

Scott A. Patterson

[HB 1953](#) by Kuempel and Eltife

Relating to notice by sign of an alcoholic beverage permit or license application.

HB 1953 provides that an applicant for an alcoholic beverage permit or license must post an outdoor sign at the location for which the application is made stating that alcoholic beverages are intended to be served on the premises. HB 1953 requires the sign to be posted no later than 60 days before the permit or license is issued.

Impact: The UT System Board of Regents' *Rules and Regulations* identify circumstances in which the sale or use of alcoholic beverages may be permitted on property and in buildings owned or controlled by UT System or its institutions. HB 1953 may impact those activities.

Effective: September 1, 2011

Scott A. Patterson

[HB 1956](#) by Thompson and Carona

Relating to appeal of an order of the Texas Alcoholic Beverage Commission or the commission's administrator refusing, canceling, or suspending a license or permit.

HB 1956 increases from 10 days to 20 days the time period within which an appeal of an order of the Alcoholic Beverage Commission refusing, cancelling, or suspending an alcoholic beverage permit or license must be heard by or tried before a judge.

Impact: The UT System Board of Regents' *Rules and Regulations* identify circumstances in which the sale or use of alcoholic beverages may be permitted on property and in buildings owned or controlled by UT System or its institutions. HB 1956 may impact licenses or permits obtained to conduct those activities.

Effective: September 1, 2011

Scott A. Patterson

[HB 1959](#) by Thompson and Carona

Relating to appeal of the certification of an area's wet or dry status.

The law requires counties and cities to certify whether an address for which an application for an alcoholic beverage license or permit has been submitted is in a wet area and is not otherwise prohibited from receiving the permit or license due to order of the county's commissioners court or the city's charter or ordinances. HB 1959 provides that if the city or county refuses to issue the certification, the applicant for the permit or license is entitled to contest the refusal at a hearing before the county judge.

Impact: The UT System Board of Regents' *Rules and Regulations* identify circumstances in which the sale or use of alcoholic beverages may be permitted on property and in buildings owned or controlled by UT System or its institutions. HB 1959 may impact licenses or permits obtained to conduct those activities.

Effective: September 1, 2011

Scott A. Patterson

[HB 2012](#) by Thompson and Gallegos

Relating to certain prohibited dealings between a wholesaler and retailer of alcoholic beverages.

Section 102.32 of the Alcoholic Beverage Code establishes credit restrictions applicable to the purchase of liquor by retailers. HB 2012 amends that law to make it clear that a retailer subject to that law includes a person who holds a winery permit and who purchases wine from the holder of a wholesaler's permit for resale to ultimate consumers in unbroken packages.

Impact: Winery operations are conducted on property owned by UT System. Entities involved in those operations should be aware of HB 2012.

Effective: September 1, 2011

Scott A. Patterson

[HB 2033](#) by Hamilton and Eltife

Relating to the separate statement of the mixed beverage tax for informational purposes.

Chapter 183, Tax Code, establishes the gross receipts tax assessed on the sale of mixed beverages by persons who possess a permit to sell mixed beverages. HB 2033 allows a person holding a mixed beverage permit to provide, for informational purposes only, that each invoice, billing, sales slip, or ticket that it issues to a customer for the purchase of a mixed beverage includes a separate statement clearly disclosing the amount of the gross receipts tax imposed on that beverage. The tax may not be separately charged to or paid by the customer.

Impact: The UT System Board of Regents' *Rules and Regulations* identify circumstances in which the sale or use of alcoholic beverages may be permitted on property and in buildings owned or controlled by UT System or its institutions. Any institution or contractor that possesses a permit to sell mixed beverages should be aware of HB 2033.

Effective: June 17, 2011

Scott A. Patterson

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Employment

[SB 321](#) by Hegar, et al. and Kleinschmidt

Relating to an employee's transportation and storage of certain firearms or ammunition while on certain property owned or controlled by the employee's employer.

SB 321 provides that a public or private employer may not prohibit an employee who holds a license to carry a concealed handgun or who lawfully possesses firearm ammunition from transporting or storing a lawfully possessed firearm or ammunition in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the employer provides for employees.

However, the above restriction does not permit a person who lawfully possesses a firearm or ammunition to carry or possess the firearm or ammunition on any property where possession of a firearm or ammunition is prohibited by state or federal law. Additionally, SB 321 specifically provides that it does not prohibit an employer from prohibiting an employee who holds a concealed handgun license from possessing a firearm on the premises of the employer's business. The above restriction also does not apply to:

- a vehicle owned or leased by the employer and used by an employee in the course and scope of the employee's employment, unless the employee is required to transport or store a firearm in the official discharge of the employee's duties;
- a school district, open-enrollment charter school, or private school;
- property owned or controlled by a person, other than the employer, that is subject to a valid, unexpired oil, gas, or other mineral lease that contains a provision prohibiting the possession of firearms on the property; or
- property owned by certain chemical manufacturers and oil and gas refiners.

SB 321 provides that the employer or the employer's agent is not liable in a civil action for damages arising from an occurrence involving a firearm or ammunition that the employer is required to allow on the employer's property, except in cases of gross negligence. Additionally, the presence of a firearm or ammunition on the employer's property as authorized by SB 321 does not by itself constitute a failure by the employer to provide a safe workplace. However, the immunity provided to employers does not extend to the personal liability of an individual who harms another by using a firearm or ammunition, of an individual who aids or encourages another to cause harm by using a firearm or ammunition, or of an employee who transports or stores a firearm or ammunition on the employer's property but who fails to comply with the requirements of SB 321.

Finally, SB 321 provides that it does not impose a duty on the employer or the employer's agent to patrol, inspect, or secure its employee parking areas or any privately owned motor vehicle located in the parking area, nor is the employer obligated to investigate or determine an employee's compliance with firearm laws.

Impact: UT System institutions should review their Handbook of Operating Procedures and any policy dealing with handguns to ensure that there are no provisions that would prohibit an employee with a concealed handgun license from storing or transporting a firearm or ammunition in their locked, privately owned vehicle that is in a parking area provided by the institution for its employees. Institution police should also be made aware of SB 321 to ensure that firearms found in vehicles are properly addressed.

Effective: September 1, 2011

Esther L. Hajdar

SB 431 by Jackson, Mike and Smith, Wayne

Relating to the use of fraudulent or fictitious military records; creating an offense.

SB 431 makes it an offense to use a military record that the person knows is fraudulent or fictitious or has been revoked if the person has the intent to:

- obtain priority in receiving certain job training and employment assistance services or resources;
- qualify for a veteran's employment preference;
- obtain an occupational license or certificate;
- obtain a promotion, compensation, or other benefit, or an increase in compensation or other benefit in employment or the practice of a trade, profession, or occupation;
- obtain a benefit, service, or donation from another;
- obtain admission to an educational program; or
- gain a position in state government with authority over another person.

Impact: SB 431 could deter individuals from fraudulently using military records for the purpose of obtaining certain employment or admission benefits, and thus indirectly impacts UT System institutions.

Effective: September 1, 2011

Karen Lundquist

SB 1638 by Davis and Geren

Relating to the exception of certain personal information from required disclosure under the public information law.

SB 1638 excepts from disclosure under the Texas public information law the emergency contact information provided by a government employee or official, assuming the employee or official has made the necessary election. Additionally, SB 1638 excepts from disclosure motor vehicle information, driver's license information, motor vehicle title or registration information, or personal identification information from another state or country. Finally, SB 1638 makes expressly confidential a copy of any identification badge issued to an employee or official of a governmental body.

Impact: SB 1638 expands the scope of information that is excepted from disclosure under the public information law. To comply with SB 1638, UT System and its institutions should review the administrative forms under which employees may make an election to withhold personal information. These election forms will likely need to be revised to give an employee the option to protect from disclosure any emergency contact information provided by the employee.

UT System public information officers should be aware of SB 1638.

Effective: June 17, 2011

Zeena Angadicheril

HB 1178 by Flynn and Birdwell

Relating to employment protection for members of the state military forces and specialty license plates for female members of the armed forces.

HB 1178 amends Chapter 431, Government Code, which deals with the rights of employees called to training or duty in the armed forces, the National Guard, and other specialty units. It borrows definitions from the Labor Code for "employee" and "employer," among others. Of note is that these definitions include public institutions of higher education among the list of employers covered by these amendments. HB 1178 further provides that employers may not terminate the employment of an employee who is a member of the state military forces (National Guard) of this state or any other state because the employee is ordered to training or to duty, and provides that the employee is entitled to return to the employee's same position afterwards without loss of time, efficiency rating, vacation time, or any other benefit of employment during or because of the absence. Prior law applied only to private employers; now it applies to state employers as well, including public institution of higher education employers and their employees.

HB 1178 also provides that a violation is an unlawful employment practice and provides an administrative and civil enforcement scheme borrowed nearly verbatim from Chapter 21, Labor Code, which covers employment discrimination claims. Practitioners will note

that among the sections not borrowed from the Labor Code are the ordinary provisions relating to a deadline for filing claims of 180 days after the complained-of action occurred, the usual ability to dismiss untimely claims, the customary two-year statute of limitations, and the commission's 180-day deadline to resolve the complaint or dismiss it. HB 1178 appears to eliminate the common procedural hurdles that ordinary employment discrimination claimants face in favor of a more lenient approach for members of the state military forces asserting claims under HB 1178.

Finally, HB 1178 authorizes specialty license plates for female veterans.

Impact: HB 1178 impacts UT System and its institutions. The protections afforded to members of the National Guard who are called to duty or training now apply to all employers, including public institutions of higher education, as does the potential for facing civil lawsuits for equitable relief (including reinstatement), money damages, and attorney's fees.

Effective: June 17, 2011

Terence L. Thompson

[HB 2463](#) by Reynolds and Ellis

Relating to access to certain records regarding an employment discrimination claim.

HB 2463 restricts the authority of the Texas Workforce Commission (TWC) to disclose records of employment discrimination complaints to the parties to the complaint. Under prior law, the TWC was authorized to provide the records to either party upon the party's written request as long as the TWC had already taken final action on the complaint or a federal lawsuit was filed based on the complaint.

HB 2463 amends this to forbid the TWC from providing any records that disclose identifying information about persons other than the parties or witnesses to the complaint. HB 2463 also forbids the TWC from disclosing identifying information about, or statements from, confidential witnesses. In addition, it forbids the TWC from disclosing certain sensitive medical information about the charging party or a witness to another person if the information is not relevant to the issues raised in the complaint. HB 2463 also forbids the TWC from providing identifying information about a person other than the charging party that is found in sensitive medical information.

Moreover, HB 2463 forbids the TWC from disclosing even non-sensitive medical information relevant to the complaint if disclosure would invade a person's privacy. HB 2463 also forbids the disclosure of information about settlement offers exchanged, or conciliation agreements reached, between the parties. Finally, HB 2463 forbids the TWC from disclosing identifying information about a person on whose behalf a charge was filed, if he or she has asked that his or her identity as the charging party remain confidential.

Impact: HB 2463 narrows the scope of information that UT System institutions and complainants receive after a TWC investigation has closed.

Each institution's Equal Employment Opportunity officer and other personnel charged with responding to TWC employment discrimination complaints should be apprised of HB 2463 so that they will better understand the likelihood that information submitted to the TWC will be disclosed in subsequent litigation.

Effective: September 1, 2011

Omar A. Syed

HB 2937 by Lewis and Zaffirini

Relating to access to the criminal history record information of certain individuals by public or private institutions of higher education and the Texas Higher Education Coordinating Board.

HB 2937 amends the law that authorizes institutions of higher education to obtain criminal history record information from the Texas Department of Public Safety (DPS) secure site to check the criminal background of prospective employees. It amends the definition of "security sensitive position" so that the definition now includes a position that has access to the personal information or identifying information of another person and a position that has access to the financial information of the employer or another person. It also requires an institution of higher education to destroy the criminal history record information obtained from this secure site related to an individual who is not hired after the information is used for its authorized purpose. HB 2937 also authorizes the Coordinating Board to have access to the criminal history record information database maintained by the DPS for purposes of evaluating applicants for employment for security sensitive positions.

Impact: HB 2937 impacts UT System Administration and UT System institutions because many of them use the DPS secure site to conduct a criminal background check on applicants for security sensitive positions. UT System offices of human resources/employee services and UT System police departments should be aware of HB 2937. The change in the definition of "security sensitive position" should not impact the criminal background check processes since most, if not all, positions at UT System and UT System institutions are classified as security sensitive under the definition that existed before HB 2937 passed. UT System Administration and UT System institutions should, however, review their criminal background check policies to update the definition of "security sensitive position" if one is provided in the policy. Moreover, the provision of the policy that addresses the destruction of criminal history record information should be reviewed and if necessary changed to state that criminal history record information obtained from this secure site related to an individual who is not hired will be destroyed after the information is used for its authorized purpose.

Effective: June 17, 2011

Priscilla A. Lozano

Compensation and Leave

[SB 5](#) by Zaffirini and Branch

Relating to the administration and business affairs of public institutions of higher education.
(Payroll Deduction)

SB 5 is an omnibus bill that affects a variety of areas of law governing higher education with a purpose of eliminating unfunded mandates, improving efficiency, and providing administrative flexibility to institutions of higher education. This analysis summarizes the payroll deduction provisions.

SB 5 authorizes the governing board of an institution of higher education to allow employees to elect a payroll deduction for any purpose that the board determines serves a public purpose and benefits employees. The employee must request the deduction in writing, including the amount and the entity to which the deduction is to be transferred. The institution may adopt policies and procedures governing these payroll deductions, and may collect an administrative fee to cover costs. Payroll deductions are not authorized for dues or fees payable to a union or employee association. (Section 3.01)

SB 5 also provides that, should employees be charged a premium contribution for basic coverage under the group insurance program, an employee participating in the program is considered to have authorized a payroll deduction for that purpose. (Section 3.04)

Impact: The UT System Board of Regents will need to act to approve the specific purposes for which payroll deductions are authorized. For example, this would permit the Board of Regents to approve a voluntary payroll deduction for contributions to a savings plan approved by the Board of Regents. An institution offering a payroll deduction approved by the Board of Regents may collect an administrative fee for that purpose.

The premium deduction provision eliminates the need for employees to execute permission for a payroll deduction for an employee contribution to basic group insurance coverage. Any other payroll deduction will require the written consent of the employee.

Effective: June 17, 2011

Steve Collins

[SB 5](#) by Zaffirini and Branch

Relating to the administration and business affairs of public institutions of higher education.
(Financial Management)

SB 5 is an omnibus bill that affects a variety of areas of law governing higher education with a purpose of eliminating unfunded mandates, improving efficiency, and providing

administrative flexibility to institutions of higher education. This analysis summarizes the provisions relating to financial management.

SB 5 clarifies that funds must be deposited in the institutional depository within seven days of “receipt” under Section 51.003(b), Education Code. (Section 1.01)

SB 5 also amends Section 51.003, Education Code, to permit an institution to maintain a bank account in a foreign depository from which to pay local vendors in support of the institution’s academic and research operations in that country. (Section 1.01)

SB 5 eliminates the separate annual financial report that institutions of higher education were required to submit in a form prescribed by the comptroller and Coordinating Board. Instead, institutions will be required to submit the standard annual financial report required of all state agencies under Section 2101.011, Government Code. (Section 1.02)

SB 5 authorizes an institution of higher education to maintain an unclaimed money fund composed of credit balances of less than \$25 that are presumed abandoned under escheat laws. The institution will hold and account for those funds, and may expend those funds, as other educational and general funds, instead of transferring those funds to the comptroller of public accounts. The institution remains responsible to pay claims. These provisions apply to credit balances held on or after June 17, 2011. (Sections 1.02, 1.07, 1.08)

SB 5 authorizes an institution to make any payment through electronic funds transfer or by electronic pay card. (Section 1.02)

SB 5 requires each institution of higher education to post its “checkbook” on the institution’s Internet website, including for each payment from general revenue or from tuition and fees the amount, date, and purpose of the payment, in addition to the name of the payee. As an alternative to posting that information on the institutional website, an institution may instead provide an easily noticeable, direct link to similar information on the comptroller’s website. (Section 1.03)

SB 5 exempts institutional debt, such as revenue finance system debt, from approval by the Texas Bond Review Board if the state’s general revenue is not pledged to the payment of the debt and the institution’s or system’s debt rating is at least AA-. (Sections 1.05 and 1.06)

SB 5 requires the Legislative Budget Board and the governor’s office, in consultation with institutions of higher education, to review the forms for higher education legislative appropriation requests (LARs) to identify opportunities to improve efficiency, provide transparency, and eliminate unnecessary and duplicative requirements. (Section 6.06)

Impact: A UT System institution will be in compliance with the statutory requirement if payments received by a collecting agency through on-line and credit card payments, which of necessity are first deposited into a trust account of the collector, are deposited in the institutional depository within seven days of receipt from the collecting agency.

An institution that opens a bank account with a foreign depository must ensure that the depository meets the statute's requirement that the bank be licensed by a central bank, be annually audited, and meet the capitalization requirements. An institution may not deposit in the account any money other than that collected from students participating in the foreign program.

The requirement for a duplicative annual financial report unique to institutions of higher education is eliminated.

To maintain an unclaimed money fund, an institution is required to adopt procedures for an owner of the credit balance to make a claim and be paid and must maintain a database that permits the public to search for unclaimed funds.

An institution is authorized to make any payment by electronic funds transfer or electronic pay card and thereby save the expense of paper checks. An institution will likely need to adopt procedures for that purpose. Although a house amendment removed an express reference to payment of salary and wages, an institution is not prohibited from paying salary and wages through use of a pay card.

At a minimum, each institution will need to provide the "easily noticeable direct link" to similar "checkbook" information on the comptroller of public accounts' website. The law specifies that the purpose of the link must be "clearly identifiable."

Debt issued by the UT System Office of Finance under the systemwide revenue financing system is no longer subject to approval by the Texas Bond Review Board, which should facilitate the ability of the system to move quickly in the refinance market and otherwise avoid the expense and time requirements of bond review board review and approval.

UT System institutions and System Administration should consider the extent to which they will be proactive in seeking to participate with the LBB, the governor, and other institutions concerning improvement of the LAR forms.

Effective: June 17, 2011

Steve Collins

SB 1737 by Van de Putte and Flynn

Relating to accrual and use of leave of absence for certain training or duty, including military training or duty, by public employees and officers.

SB 1737 amends Section 431.005, Government Code, to provide that state employees and officers who are members of the state military forces, a reserve component of the armed forces, or an authorized urban search and rescue team -- who are already entitled to 15 workdays of paid leave per fiscal year for authorized training or duty -- may carry forward from year to year up to 45 days of accumulated leave for these purposes.

SB 1737 also amends Section 431.0825, Government Code, to provide up to 22 workdays of paid emergency leave to state employees in the National Guard who are called to federal active duty to assist civil authorities in a declared emergency or for training specifically related thereto, and to provide that such leave is to be paid without loss of military leave under Section 431.005 or annual leave. Section 431.0825 already provides for unlimited emergency leave when the governor calls the employee to state active duty.

Impact: The amendment to Section 431.0825 impacts all employees of UT System and its institutions who are members of the state military forces (the National Guard) who are called to duty by the federal government to assist civilian authorities in the event of a declared disaster, or to train specifically for that purpose. (SB 1737 makes clear that ordinary training is covered by Section 431.005.)

Both provisions affect managers and human resource personnel who are charged with keeping track of leave balances and for accurately maintaining payroll records for these employees, as well as the employees themselves who will need to properly account for this leave.

Effective: September 1, 2011

Terence L. Thompson

Health Benefits

SB 5 by Zaffirini and Branch

Relating to the administration and business affairs of public institutions of higher education. (Health Benefits)

SB 5 is an omnibus bill that affects a variety of areas of law governing higher education with a purpose of eliminating unfunded mandates, improving efficiency, and providing administrative flexibility to institutions of higher education. This analysis summarizes the health benefits provisions.

SB 5 authorizes the system group insurance program to provide premium discounts or other incentives for an individual who participates in a system-approved program promoting disease prevention, wellness, and health. (Section 3.02)

SB 5 authorizes the system to pay more than half the premium for tenured faculty who enter into a phased retirement agreement under which the individual will work part-time for a set period of time, at the end of which the faculty member will retire. (Section 3.03)

SB 5 also provides that, should employees be charged a premium contribution for basic coverage under the group insurance program, an employee participating in the program is considered to have authorized a payroll deduction for that purpose. (Section 3.04)

Impact: UT System's Office of Employee Benefits will need to approve both the incentives to be offered for participation in wellness programs as well as the programs that qualify for the incentives. Through a combination of actions, individuals participating in approved programs may ultimately pay less for health insurance than other persons. This is broader authority than the tobacco surcharge authorized for persons participating in the Employee Retirement System group insurance.

The authority for phased retirement agreements will permit a faculty member to agree to work part-time without being subject to the 50 percent limit on the system contribution to health benefits. UT System's Office of Employee Benefits will need to adopt policies governing these agreements.

The premium deduction provision eliminates the need for employees to execute permission for a payroll deduction for an employee contribution to basic group insurance coverage. Any other payroll deduction will require the written consent of the employee.

Effective: June 17, 2011

Steve Collins

[SB 5](#) by Zaffirini and Branch

Relating to the administration and business affairs of public institutions of higher education. (Payroll Deduction)

SB 5 is an omnibus bill that affects a variety of areas of law governing higher education with a purpose of eliminating unfunded mandates, improving efficiency, and providing administrative flexibility to institutions of higher education. This analysis summarizes the payroll deduction provisions.

SB 5 authorizes the governing board of an institution of higher education to allow employees to elect a payroll deduction for any purpose that the board determines serves a public purpose and benefits employees. The employee must request the deduction in writing, including the amount and the entity to which the deduction is to be transferred. The institution may adopt policies and procedures governing these payroll deductions, and may collect an administrative fee to cover costs. Payroll deductions are not authorized for dues or fees payable to a union or employee association. (Section 3.01)

SB 5 also provides that, should employees be charged a premium contribution for basic coverage under the group insurance program, an employee participating in the program is considered to have authorized a payroll deduction for that purpose. (Section 3.04)

Impact: The UT System Board of Regents will need to act to approve the specific purposes for which payroll deductions are authorized. For example, this would permit the Board of Regents to approve a voluntary payroll deduction for contributions to a savings plan approved by the Board of Regents. An institution offering a payroll deduction approved by the Board of Regents may collect an administrative fee for that purpose.

The premium deduction provision eliminates the need for employees to execute permission for a payroll deduction for an employee contribution to basic group insurance coverage. Any other payroll deduction will require the written consent of the employee.

Effective: June 17, 2011

Steve Collins

SB 29 by Zaffirini and Branch

Relating to the eligibility of certain postdoctoral fellows and graduate students to participate in health benefit programs at public institutions of higher education.

SB 29 clarifies that post-doctoral fellows with stipends from a fellowship are eligible to participate in the UT System employee group insurance program (EGIP) (or the Employees Retirement System of Texas or the Texas A&M EGIPS, as applicable), but only as non-employee members. It also makes graduate students with fellowships that exceed \$10,000 per year eligible to participate in the EGIP, also as non-employee members. A member of either group:

- is eligible to participate in the UT System EGIP only if the fellow or student is currently receiving a stipend from a fellowship;
- is required to pay the entire cost of the premium for EGIP coverage unless the individual's employing institution elects to make contributions toward the coverage from sources other than funds appropriated from the general revenue fund;
- is not considered to be a UT System employee by virtue of participation in the EGIP; and
- can obtain EGIP coverage for eligible dependents.

Institutions are required to identify and notify all eligible individuals that they may apply for the coverage.

Impact: UT System may begin to voluntarily enroll these individuals for the plan year beginning September 1, 2011, and must enroll them beginning January 1, 2012. Since these individuals are not UT System employees, they will not be eligible for state premium sharing, nor can they participate in the cafeteria plan that would allow payment of the individual's out-of-pocket portion of the premium to be paid from non-taxable salary. In addition, they cannot participate in the UT FLEX medical and dependent savings account plans or any retirement plans.

Institutions must develop policies for notifying and enrolling these individuals and their non-eligible dependents and determining if institutional money other than funds used to pay premiums for employee members of the EGIP will be used to pay some or all of these individuals' EGIP premiums. The UT System Office of Employee Benefits will

also need to amend the plan document for the self-funded medical plan and existing policies and plan descriptions and future contracts to include these potential participants in the EGIP.

Effective: September 1, 2011. However, the new provisions will apply only to plans renewed on or after January 1, 2012, unless the respective governing boards decide to voluntarily adopt them earlier.

Barbara Holthaus

[SB 423](#) by Lucio, et al. and Menendez

Relating to health insurance coverage and financial assistance for eligible survivors of certain public servants killed in the line of duty.

The law authorizes the surviving dependents of the following individuals who die in the line of duty to purchase health coverage provided by the employee group insurance program (EGIP) operated by the Employee Retirement System of Texas (ERS) or, in the case of political subdivision, the EGIP provided by the political subdivision:

- an individual who is employed as a peace officer by the state or a political subdivision;
- a corrections officer;
- a jailer or jail guard;
- an employee of the state or a political or legal subdivision whose employment requires certification by the Texas Commission on Fire Protection; or
- an employee of the state or a political or legal subdivision whose principal duties are aircraft crash and rescue fire fighting.

SB 423 extends these provisions to apply to the surviving dependents of an individual who is employed as a trainee for one of the positions listed above and who dies in the line of duty. It also clarifies that: 1) a surviving dependent of such an employee already enrolled in the EGIP health plan at the time of the employee's death can remain on the plan; 2) the plan coverage can be purchased by a surviving eligible dependent even if the dependent was not enrolled in the employee's health plan at the time of the employee's death; and 3) coverage cannot be denied on the basis that the surviving dependent already has coverage under another employer health plan.

SB 423 also provides a window of time in which previously eligible surviving dependents of individuals who died in the line of duty on or after September 1, 1993, and who failed to elect surviving dependent coverage can come back and apply for that coverage any time before September 1, 2012.

Impact: Nothing in the law amended by SB 423 (Chapter 615, Government Code) indicates that UT System must enroll the qualifying surviving dependents of a UT System employee who dies in the line of duty in the UT System EGIP. (It should be noted that surviving dependents of all employees who die during employment are entitled under Chapter 1601, Insurance Code, to participate in the UT System EGIP.) To the extent that Chapter 615 can be read to apply to peace officers employed by UT System, SB 423 imposes no additional duties on UT System under that chapter. However, given the lack of clarity as to how this chapter would apply to an employee of a UT System institution, surviving dependents of such an employee may attempt to claim eligibility for ERS or EGIP coverage under this statute, and thus UT System human resources offices should be aware of SB 423.

Effective: May 12, 2011

Barbara Holthaus

Unemployment Compensation

SB 439 by Van de Putte and Sheets

Relating to an exclusion from unemployment compensation chargebacks for certain employers of uniformed service members.

The law states that, in certain situations, an employer is exempt from having its unemployment compensation benefit account charged for unemployment benefits paid to a qualifying recipient. SB 439 adds one item to that list of situations. Specifically, it extends the employer's exemption to situations in which an employee loses his or her job because the employer reinstates a uniformed servicemember to the job as required by the Uniformed Services Employment and Reemployment Rights Act of 1994.

Impact: SB 439 may marginally decrease UT System's reimbursements to the state's Unemployment Trust Fund. As a consequence, it may negligibly decrease the unemployment insurance premiums that affected institutions pay to the Unemployment Compensation Insurance Fund administered by UT System.

Each institution's personnel charged with responding to unemployment benefits claims or budgeting for unemployment insurance premiums should be apprised of SB 439.

Effective: September 1, 2011

Omar A. Syed

[SB 458](#) by Seliger and Woolley

Relating to initial claims under the unemployment compensation system.

Existing laws require the Texas Workforce Commission (TWC) to mail notice of an unemployment compensation claim to the person for whom the claimant last worked. SB 458 makes it clear that the TWC must send the notice either to: (1) the last person for whom the claimant actually worked (if the claimant worked for that person at least 30 hours during a week); or (2) the employer for whom the claimant last worked.

Impact: SB 458 eliminates the unemployment benefits liability of UT System's Unemployment Compensation Insurance Fund in cases in which former UT System employees separate from UT System to work for another person at least 30 hours per week, and then become unemployed.

On the other hand, SB 458 will create or maintain the unemployment benefits liability of UT System's Fund in cases in which former UT System employees go on to work for another person who is not an "employer" under the law, proceed to work for less than 30 hours per week, and then become unemployed. For the purposes of this law, an "employer" is a person or entity that pays wages of \$1,500 or more during a calendar quarter in the current or preceding calendar year, or that employed at least one individual for a portion of at least one day during 20 or more different calendar weeks of the current or preceding calendar year.

In the end, SB 458 should have limited effect on UT System's reimbursements to the state's Unemployment Trust Fund, and thus limited effect on the unemployment insurance premiums that UT System institutions pay to UT System's Fund.

Each institution's personnel charged with responding to unemployment benefits claims or budgeting for unemployment insurance premiums should be apprised of SB 458.

Effective: September 1, 2011

Omar A. Syed

[HB 14](#) by Murphy, et al. and Eltife

Relating to the eligibility for unemployment benefits of a person receiving certain forms of remuneration.

HB 14 disqualifies a person from receiving unemployment benefits while he or she is receiving severance pay. It defines "severance pay" as income paid on the employee's termination that is in addition to the employee's regular pay. It also states that "severance pay" does not include any income paid to the employee under a settlement agreement reached with the employer to resolve a claimed civil rights violation or other employment-based dispute. Finally, under HB 14, "severance pay" also does not include income the employee receives under a written contract negotiated with the employer before termination.

Impact: HB 14 protects UT System institutions from unemployment claims filed by separated employees who depart after signing settlement or other written agreements, such as agreements under voluntary retirement incentive programs. Consequently, it will insulate the affected institutions from the higher unemployment insurance premiums they otherwise would owe to UT System's Unemployment Compensation Insurance Fund.

To ensure that its institution receives the benefit of this protection, each institution's office charged with responding to unemployment claims should inquire with the human resources office (or its equivalent) to determine whether the former employee left the institution under a settlement agreement or other written contract.

Effective: September 1, 2011

Omar A. Syed

[HB 2579](#) by Davis, John, et al. and Deuell

Relating to relief for certain employers from penalties and sanctions under the Texas Unemployment Compensation Act.

HB 2579 permits an employer to rely on a published decision by a Texas court, or on a Texas Workforce Commission (TWC) unemployment compensation decision specific to the employer, that determines certain service is not employment for unemployment compensation purposes. HB 2579 also provides that, if the employer loses an unemployment compensation case after relying on one of these decisions, the employer will not owe the penalties and interest it otherwise would owe.

HB 2579 also provides that an employer may rely on these decisions until the earlier of: (1) their reversal by a court or the TWC; or (2) three years after the due date of the unemployment benefits contribution based on the employment service in question.

Finally, HB 2579 provides that an employer can benefit from these changes only if the TWC determines that the nature of the employer's business and the employment service in question are substantially unchanged since the court decision or TWC decision was made.

Impact: HB 2579 saves all UT System institutions from paying interest and penalties if they base their decisions not to pay certain unemployment benefits on past court decisions or TWC decisions that remain valid. Consequently, it may proportionally decrease the UT System Unemployment Compensation Insurance Fund's reimbursements, if any, to the state's Unemployment Trust Fund for penalties and interest that otherwise would apply for a wrongful denial of benefits. These decreases may, in turn, marginally decrease the institutions' unemployment insurance premiums paid to the fund.

Each UT System institution's personnel charged with responding to unemployment benefits claims should be apprised of HB 2579. In that way, each of these personnel will

better understand the additional latitude the institution is given to rely upon existing court decisions and TWC decisions

Effective: September 1, 2011

Omar A. Syed

[HB 2831](#) by Darby and Eltife, et al.

Relating to maximizing federal funding of extended unemployment benefits.

HB 2831 authorizes the Texas Workforce Commission (TWC) to issue a rule adjusting the time period for which persons are eligible for extended unemployment benefits. These benefits are available to workers who exhaust regular unemployment benefits during periods of high unemployment. HB 2831 makes the TWC's rulemaking authority contingent on full federal funding of the extended benefits.

Impact: If Congress fully funds these benefits past 2012, HB 2831 will continue to impact UT System and UT System institutions during periods of high unemployment, especially if an institution reduced its workforce over the coming fiscal year.

Specifically, HB 2831 will proportionally increase the UT System Unemployment Compensation Insurance Fund's reimbursements to the state's Unemployment Trust Fund for benefits paid to former UT System institution employees. In turn, those increases may require institutions to pay proportionally higher unemployment insurance premiums to UT System.

Each institution's personnel charged with responding to unemployment benefits claims and budgeting for premiums payable to UT System's Fund should be apprised of HB 2831 so that they will better understand the obligation to pay extended unemployment benefits.

Effective: May 28, 2011

Omar A. Syed

Retirement

[SB 1664](#) by Duncan and Truitt, et al.

Relating to the powers and duties of and contributions to and benefits from the systems and programs administered by the Employees Retirement System of Texas.

SB 1664 makes numerous miscellaneous changes to the Employees Retirement System of Texas (ERS) pension plan and the Texas Employees Group Benefits Act. The changes that might apply to UT System employees who are members of the ERS are as follows:

- (1) A so-called slayer provision is added to Section 609.015, Government Code, which applies to any IRC Section 457(b) or Section 401(k) plans. Thus this section applies not only to such ERS plans but also to UT System UTSaver Deferred Compensation Plan (457(b) plan). Any benefits, funds, or account balances payable to a person because of the death of a member who is convicted or adjudged of causing the death of the member will be paid as if the person predeceased the member. This provision applies to a person who pleads guilty or nolo contendere to or is found guilty by a court or jury in a criminal proceeding of causing the member's death, or to a person found liable by a court or jury in a civil proceeding, if time for appeal has expired in both cases.
- (2) Also, the existing slayer provision concerning the ERS pension plan is amended to extend the provision to all benefits, funds, or account balances and to cover payments to beneficiaries who are found liable in civil proceedings (in addition to the current provisions involving criminal convictions) for having caused the death of a member (if the time for appeal has expired).
- (3) SB 1664 allows retirees of ERS to elect to have part of their retirement annuities paid to the state employee charitable campaign and to serve on the state and local policy committees of that campaign. These provisions are almost identical to the provisions of HB 1608, but SB 1664 contains a clause saying that, if there is any conflict between SB 1664 and any other Act of the 82nd legislature, SB 1664 prevails.
- (4) A new provision covers the costs of implementing the new law. It directs the ERS board and state employee charitable campaign committee to coordinate the administration of the charitable contribution from the retired employee annuity payments. The state policy committee is authorized to approve a budget to fund the expenses of the new program. In order to meet the budget, the ERS board and the state policy committee may phase in the program in stages. The ERS board is authorized to charge an administrative fee for expenses in excess of the budget to be paid by the participating charitable organizations in the same proportion that the contributions to each charitable organization bear to the total contributions to the campaign. The ERS board shall adopt rules to collect the fee.
- (5) SB 1664 requires the ERS board, no later than June 1, 2016, and every five years thereafter, to provide the comptroller of public accounts with the name, address, social security number, and date of birth of each member, retiree, and beneficiary from ERS records. Prior law required annual reports.
- (6) Sections 813.404 and 813.505(a), Government Code, are amended governing contributions by elected class and employee class members of ERS to receive credit for membership service not previously credited to the member under ERS. The amendment replaces a contribution of 6 percent of the monthly salary of the member for each month of uncredited service with the appropriate member contribution set for the member under Section 815.402 – which

currently could be 6.5 percent for the employee class and 8 percent for the elected class.

- (7) Prior law set eligibility rules for retirement of an employee class member of ERS for a member who was not an ERS member on the date of hire and who was hired on or after September 1, 2009, to retire at the earlier of age 65 with at least 10 years of service OR the member's age and years of service credit equals or exceeds 80 if the employee member has at least 5 years of service. SB 1664 increases the rule of 80 minimum service from 5 to 10 years. This amendment applies only to members who retire on or after September 1, 2011.
- (8) SB 1664 changes the allocation of certain court costs paid by a person convicted of an offense by replacing the allocation to the operator's and chauffeur's license fund with an allocation to the law enforcement and custodial officer supplemental retirement fund. A related amendment directs the comptroller to deposit those fees to the credit of the law enforcement and custodial officer supplemental retirement fund of ERS.
- (9) The law related to the ERS standard retirement annuity for certain peace officers states that a peace officer who retires before 55 years of age will have an annuity reduced by 5 percent for each year the officer retires before reaching 55. SB 1664 clarifies that this actuarial reduction is in addition to any other actuarial reduction required by law.
- (10) SB 1664 also provides that, if the state contribution from September 1, 2011, to September 1, 2012, is less than 6.5 percent for the ERS fund and less than 0.5 percent for the law enforcement and custodial officer supplemental retirement fund, the member contributions to those funds will not be reduced to the state percentage contributions as otherwise required.
- (11) SB 1664 makes several amendments to the Texas Employees Group Benefits Act providing health insurance benefits of the ERS members as follows:
 - The maximum age for a dependent unmarried child is changed from 25 to 26. The ERS board may adopt rules to make sure that the Texas Employees Group Benefits Act is in compliance with federal laws and regulations.
 - The law that prevents payment of benefits to a beneficiary who is convicted of causing the death of the insured member is amended to expand the prohibition to all benefits, funds, or account balances and also to prevent payments to a beneficiary who is found liable by a court or jury in a civil proceeding for causing the death of the member or annuitant and no appeal of the judgment is pending and the time provided for the appeal has expired.
 - The ERS board must develop a plan not later than January 1, 2012, providing for group benefits program tobacco cessation coverage for participants that will include prescription drugs to aid participants in ceasing

the use of tobacco products. The ERS board must assess each tobacco user participant a tobacco user premium differential on a monthly basis, and must determine the fee unless the legislature sets a premium differential during the biennium. State contributions may not be used to pay the tobacco user premium differential.

- (12) The new slayer provisions apply only to offenses committed on or after September 1, 2011.

Impact: The slayer provision of Chapter 609, Government Code, applies to the UT System UT Saver Deferred Compensation Plan. All other provisions impact UT System employees who are members of ERS.

UT System and institutional offices of employee benefits should be aware of SB 1664.

Effective: September 1, 2011, except that Section 13 takes effect September 1, 2013

Donald Jansen

SB 1667 by Duncan and Truitt

Relating to the administration of and benefits payable by the Teacher Retirement System of Texas and to certain domestic relations orders.

SB 1667 makes many changes to the laws governing the Teacher Retirement System of Texas (TRS). The major provisions that could impact UT System members of TRS are as follows:

- (1) SB 1667 modifies the contents of a qualified domestic relations order (QDRO) for all retirement systems (not just TRS). The retirement system may allow, in lieu of stating the social security number of the member and the alternative payee in the QDRO, use of an alternate method to verify the social security number. A retirement system may establish a QDRO model order which must be used by the member and alternate payee in order to be accepted as a QDRO. Finally, a retirement system may assess administrative fees to a party under the QDRO to pay for the review of the order, and those fees may be taken from the payments directed by the order. This change only applies to a QDRO entered into on or after September 1, 2011. (Section 804.003, Government Code.)
- (2) SB 1667 allows a TRS member to notify the TRS in writing of service that has not been properly credited if done on or before the last day of the fifth school year after the end of the school year in which the error occurred. The member must provide verification and make deposits before the TRS may correct the service. For service not credited before September 1, 2011, the member must notify the TRS by the later of the above date or August 31, 2016. (Section 823.002(b).)

- (3) SB 1667 allows the TRS to deduct a member's indebtedness to TRS from the amounts payable to the person, the person's estate, or the distributees from the person's estate. If TRS makes an improper payment to a participant who is deceased, TRS may deduct the amount of the payment from any amount payable by TRS to a person who received the payment or from that person's estate and distributees from the estate. (Section 824.008.)
- (4) SB 1667 provides that, if a retiree changes his or her beneficiary designation after his retirement, the new designated beneficiary of the survivor's portion of a TRS annuity at the retiree's death shall receive the monthly payments for life if the newly designated beneficiary at the time of the retiree's retirement is a trust and the newly designated beneficiary was the sole beneficiary of the trust. This is an exception to the law requiring the annuity payment to the new beneficiary to be the shorter of the life expectancy of the beneficiary designated at retirement and the new beneficiary's life. Since a trust otherwise would not have a life expectancy, there would have been no survivor annuity but for this exception. (Section 824.1013(c-).)
- (5) SB 1667 adds two more categories which would allow payment of retirement benefits to a default beneficiary: a revoked beneficiary designation caused by a divorce decree, or the beneficiary is involved with causing the death of the TRS member as prescribed in new Section 824.105. (Section 824.103(a).)
- (6) Under current law, a beneficiary designation is revoked for a person convicted of causing the TRS member's death. SB 1667 extends the revocation to situations where the person causing the death of the member is found not guilty by reason of insanity or, if the person is the subject of an indictment, information, or complaint or other charging instrument alleging the person caused the death of the member, the person is determined to be incompetent to stand trial. This applies only to the death of a TRS member on or after September 1, 2011. (Section 824.105.)
- (7) SB 1667 moves the grandfather date from September 1, 2006, to September 1, 2007, for the newer and tighter rules for standard service retirement and early service retirement. (Section 824.202.)
- (8) SB 1667 requires the TRS board of trustees to adjust the actuarial tables, in determining the actuarially reduced TRS death benefit for a beneficiary of a deceased inactive member or for a deceased active member for an annuity to the beneficiary for life, to attained ages of the member earlier than age 55. (Section 824.405.)
- (9) SB 1667 allows TRS to release a deceased participant's records, when an executor or administrator has not been named, to a person or entity who the executive director determines is acting in the interest of the deceased participant's estate, or an heir, legatee, or devisee of the deceased participant.

This applies only to the release of records on or after September 1, 2011. (Section 825.507(b).)

- (10) SB 1667 requires TRS to maintain records for each member who is a peace officer as to whether the member is an employee of an institution or higher education or a public school. (Section 825.515(a).)
- (11) SB 1667 provides that for fiscal year 2012 only, the state TRS contribution required by Section 825.404(a) may be less than the amount contributed by members during that fiscal year.

Impact: Most of the UT System employees are members of the TRS, and all of the above provisions impact some or all members of the TRS. The QDRO provision impacts not only TRS but it would also apply to UT System employees participating in the Optional Retirement Program (ORP), the UTSaver Tax-Sheltered Annuity program (TSA) and the UTSaver Deferred Compensation Plan (DCP).

Employees in the human resources/employee benefits departments at System Administration and UT System institutions should be aware of SB 1667 and should make any necessary changes to policies, procedures, and disseminated information.

Effective: September 1, 2011

Donald Jansen

[**SB 1668**](#) by Duncan and Truitt

Relating to purchase of service credit in the Teacher Retirement System of Texas.

SB 1668 amends the law governing the purchase of TRS service credit for military service, out-of-state public school service, developmental leave, reinstatement of cancelled service, and missed payments for prior service as follows:

- (1) USERRA reemployment rights of a person on active duty with the military with regard to TRS: If a veteran makes deposits to receive service credit for military service, the previous 5 percent compounded fee for delayed deposit is eliminated. To the extent required by USERRA, TRS may grant the person service credit for the period of active duty in the armed forces as if the veteran had been employed in a position eligible for membership and credit with TRS if the person establishes credit by making the required deposits, or, if the person has not made the required deposits, consider the period of active duty for the purpose of determining whether the veteran meets the length-of-service eligibility requirements for retirement or other benefits administered by TRS as if the person had established credit.
- (2) Purchased TRS service credit for the time the member is on developmental leave: To purchase this type of service credit, the member must have five years of credited service before the developmental leave and one year of credited

service after return from the developmental leave. The law requires the member to file a notice of intent to take leave and the employer must certify that the leave is valid. Under SB 1668, the form of the notice of intent and certification is to be established by TRS and leave is not creditable if the notice and certification is not done. Finally, a deposit to purchase the credit must be the actuarial present value of the additional annuity payable because of the credited service at the time of the deposit (this replaces the prior requirement that the member deposit the missed contributions during the leave plus the state's contribution during the year of leave).

- (3) Purchased TRS service credit for out-of-state public school service: The law allows a member with at least five years of TRS service to purchase service credit for out-of-state public school service. SB 1668 requires at least one year of completed service credit with TRS after the relevant out-of-state service before being eligible to purchase the service credit.
- (4) Reinstatement Fee: SB 1668 increases the reinstatement fee from 6 percent to 8 percent for a TRS member who has withdrawn the member's contributions to TRS to be reinstated by re-depositing the contributions.
- (5) Unpaid contributions by a TRS member: SB 1668 states that TRS may not provide benefits for service or compensation for the time of the missing payments. The member may establish service and compensation by paying the actuarial present value of the additional standard retirement annuity benefits attributable to the purchased service and compensation credit (replacing the current provision that the deposit is to be the missing contributions plus a 5 percent compounded fee). Under prior law, proof of service with the employer required proof from employer documents or, in lieu thereof, the employee's personal records. SB 1668 eliminates proof from the employee's personal records.
- (6) Grandfather provisions: With regard to purchase of service credit for developmental leave, unpaid member contributions, and member reinstatement, the member may pay the deposits as specified under the law as it existed before September 1, 2011, if the person otherwise meets the eligibility requirements under the amended sections dealing with such purchases, the service for which the credit is sought is before September 1, 2011, and the deposit or the installment payment agreement is entered into no later than August 31, 2013.

Impact: SB 1668 impacts UT System employees who are members of TRS. The office of employee benefits at UT System Administration and UT System institutions should be aware of SB 1668.

Effective: September 1, 2011

Donald Jansen

[SB 1669](#) by Duncan and Truitt

Relating to the resumption of service by retirees under the Teacher Retirement System of Texas.

SB 1669 broadens the ability of a retiree of the Teacher Retirement System of Texas (TRS) to return to work with a Texas public education institution without suspension of monthly annuity payments.

SB 1669 provides that the law that suspends service and disability payments under TRS for any month a retiree is employed in any position by a Texas public education institution does not apply to retirees whose effective date of retirement is on or before January 1, 2011.

Section 824.602, Government Code, establishes exceptions to the rule that monthly annuity payments are suspended for a retiree who becomes employed with a Texas public education institution. SB 1669 amends that law as follows:

- It creates a new exception for any retiree who has been separated from service with all Texas public education institutions for at least 12 full consecutive months.
- It deletes the current exceptions for classroom teachers in an acute shortage area, and principals and faculty members, all of whom have been separated from service for at least 12 months, since the limited 12-month exceptions are now covered by the new 12-month overall exception. It also makes conforming amendments as a result of these deletions. Note that the current exception from suspension for bus drivers in subsection is also deleted, and bus drivers would fall under the consecutive 12-month rule also.
- Prior law provided that TRS disability retirees who are part-time are not able to be re-employed without suspension except for employment that does not exceed three consecutive months in a school year. SB 1669 continues the exception, but the employment must be no more than three consecutive months without regard to it being in one school year.

If a retiree is currently re-employed by a Texas public education institution and his or her monthly retirement annuity was suspended under prior law, TRS shall resume future annuity payments after June 17, 2011, but the employee is not entitled to recover suspended annuity payments before that date.

Impact: SB 1669 allows TRS retirees to be employed full time with UT System after 12 consecutive months of retirement without suspending TRS annuity payments. However, the current prohibition against earning more credited service remains. Also, SB 1669 totally exempts from the suspension rule TRS members who retired on or before January 1, 2011.

Effective: June 17, 2011

Donald Jansen

HB 1608 by Strama and Watson

Relating to participation in and contributions to the state employee charitable campaign by retired state employees.

HB 1608 allows retirees of the Employees Retirement System of Texas (ERS) to elect to have part of their retirement annuities paid to the state employee charitable campaign and to serve on the state and local policy committees of that campaign. It permits a person receiving an ERS annuity to authorize a deduction from the monthly annuity for a contribution to the state employee charitable campaign for a maximum of one campaign year unless earlier revoked. The ERS is authorized to adopt rules to administer this provision, consistent with the comptroller's rules related to the state employee charitable campaign, and to provide for the start date.

HB 1608 also allows retired state employees receiving benefits from ERS to be appointed to the policy committee for the state employee charitable campaign. It also allows retired state employees receiving benefits from ERS to be members of the local state employee charitable campaign committee.

Finally, HB 1608 directs the ERS board and state employee charitable campaign policy committee to coordinate the administration of the charitable deduction from retired employee annuity payments. The state policy committee is authorized to approve a budget to fund the expenses of the new program. In order to meet the budget, the ERS board and the state policy committee may phase in the program in stages. The ERS board is authorized to charge an administrative fee for expenses in excess of the budget, which is to be paid by the participating charitable organizations in the same proportion that the contributions to each charitable organization bear to the total contributions to the campaign. The ERS board must adopt rules to collect the fee.

Impact: UT System employees who are also ERS retirees may elect to have part of their retirement annuities paid to the state employee charitable campaign.

Effective: June 17, 2011

Donald Jansen

HB 2120 by Miller, Doug, et al. and Duncan

Relating to the composition of the board of trustees of the Teacher Retirement System of Texas.

Currently, one of the nine members on the board of trustees of the TRS is a higher education active member appointed by the governor from a list of three candidates nominated by active TRS members who are employees of higher education institutions.

HB 2120 replaces the higher education member of the TRS board with any member of the TRS (active public school employees and higher education institution employees and retirees) appointed by the governor from a list of three candidates nominated by active members of the public schools and higher education institutions and by retirees. This would apply only to a replacement of the current higher education institution representative on or after September 1, 2011. The current higher education institution representative would complete his or her term.

Impact: Most of UT System employees are members of TRS. Although TRS members who are employees of UT System may be nominated for one seat on the TRS board, the TRS board will no longer have a seat reserved for a TRS member who is employed by an institution of higher education.

Effective: September 1, 2011

Donald Jansen

HB 2460 by Truitt and Wentworth

Relating to confidentiality of information held by a public retirement system.

HB 2460 makes the governing body of a public retirement system subject to the Texas public information law (Chapter 552, Government Code) in the same manner as a governmental body. Further, records of individual members, annuitants, retirees, beneficiaries, alternate payees, program participants, or persons eligible for benefits from a retirement system are confidential in the hands of the governing body of a public retirement system as well as in the hands of another governmental body that is acting in cooperation with the retirement system.

Neither the retirement system nor a governmental body need accept or comply with a request for information about such a record or seek a ruling from the attorney general regarding that information.

Records may be released to certain authorized parties, such as the individual whose records are at issue, another governmental body that has a legitimate interest in the records, or an entity acting on behalf of the retirement system. A release to an authorized party or individual does not waive the confidentiality of the records.

If the records become part of the public record of an administrative or judicial proceeding related to a contested case, the individual member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits waives the confidentiality of the records, including medical records.

A record includes any identifying information about a person, living or deceased, who was a member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits from the retirement system under any retirement plan or program administered by the retirement system. To the extent that this provision conflicts with another law with respect to confidential information held by a public

retirement system or governmental body acting in cooperation with the public retirement system, the provision that provides greater protection for an individual's privacy prevails.

Impact: The governing body of public retirement systems, systems in which employees of UT System and its institutions participate, will clearly be subject to the Texas public information law. Regardless, entities such as the Teachers Retirement System have been complying with requests under that law even without this provision. Further, identifying records of individual members, annuitants, retirees, beneficiaries, alternate payees, program participants, or persons eligible for benefits from a retirement system are confidential in the hands of the governing body or public retirement system or in the hands of a governmental body acting in cooperation with the public retirement system. Thus, to the extent that UT System and its institutions maintain any such records, they are confidential, and neither UT System nor its institutions need accept, comply with, or seek a ruling from the attorney general with regard to a request for these records, except to the extent that the request is made by an individual or party that is authorized to access the records.

Effective: June 17, 2011

Neera Chatterjee

[HB 2561](#) by Eissler and Duncan

Relating to the definition of "school year" for purposes of the Teacher Retirement System of Texas.

HB 2561 changes the definition of "school year" for Teacher Retirement System (TRS) purposes to a 12-month period beginning on September 1 and ending August 31 of the next calendar year. The new definition begins with the 2012-2013 school year.

Before the enactment of HB 2561, the definition of "school year" was not a "bright line" definition. It stated that the school year was a period beginning "approximately" September 1 and ending the following August 31. An alternative definition, which is also deleted, was a period of no more than 12 months beginning with a member's employment contract or oral or written work agreement dated after June 30 and continuing after August 31 of the same calendar year.

Impact: HB 2561 could affect the period for determining the compensation and years of credited service for some of the UT System employees who are members of TRS. Human resources offices should be aware of HB 2561.

Effective: September 1, 2011

Donald Jansen

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Ethics and Compliance

[SB 5](#) by Zaffirini and Branch

Relating to the administration and business affairs of public institutions of higher education. (Ethics and Compliance)

SB 5 is an omnibus bill that affects a variety of areas of law governing higher education with a purpose of eliminating unfunded mandates, improving efficiency, and providing administrative flexibility to institutions of higher education. This analysis summarizes the ethics and compliance provisions.

SB 5 establishes new and clarified requirements governing contracts with business entities in which a member of the governing board of an institution of higher education has an interest. (Section 2.01) The provision amends Section 51.923, Education Code, to include any entity recognized by law through which business is conducted. (Prior law was limited to corporations.) If a member of the governing board has an interest that does not meet the statutory standard of a substantial interest, the business is not disqualified from contracting with an institution under that board's governance. If the interest qualifies as a "substantial interest," such as the regent owning 10 percent or more of the voting stock of the business entity or sitting on the board of directors, and the contract is one that requires board approval, the regent must disclose that interest in an open meeting and abstain from voting.

The provision also permits contracts with nonprofit corporations in relation to which a regent serves as an officer or employee.

Impact: The Office of the Board of Regents will need to develop procedures for disclosure in open meeting of certain regental interests in contracts that require board approval.

Effective: June 17, 2011

Steve Collins

[SB 918](#) by Wentworth and Thompson

Relating to immunity for reporting insurance fraud.

The law provides that a person is not civilly liable for furnishing information relating to a suspected, anticipated, or completed fraudulent insurance act if the information is provided to certain organizations. SB 918 expands the list of recipient organizations to include an organization primarily dedicated to the detection, investigation, and prosecution of insurance fraud if the person is a member of the organization.

Impact: UT System and its institutions should be aware of the reporting requirements for suspected acts of insurance fraud, along with the civil liability protections afforded under state law for reporting those activities.

Effective: September 1, 2011

Walter Mosher

SB 1269 by Wentworth and Branch

Relating to transportation, lodging, and meals offered to and accepted by public servants.

The Penal Code prohibits a public servant from accepting an honorarium for services that he or she would not have been requested to provide but for his or her official position. However, it permits the acceptance of transportation and lodging expenses and meals in connection with a conference or similar event in which the public servant renders services that are more than merely perfunctory. SB 1269 clarifies that the permitted expenses are not a political contribution, nor are they a prohibited gift for purposes of the Penal Code gift law. SB 1269 is a response to Ethics Advisory Opinion No. 484, which was withdrawn by the Texas Ethics Commission in December 2010.

Impact: The honorarium law applies to UT System officers and employees. SB 1269 clarifies a long-standing interpretation of the Texas Ethics Commission that transportation, lodging, and meals accepted under the honorarium law are not prohibited gifts.

Effective: September 1, 2011

Karen Lundquist

SB 1327 by Watson and Howard, Donna

Relating to the confidentiality of information obtained by a compliance office of an institution of higher education.

Pursuant to SB 1327, information collected or produced from a systemwide compliance office for the purpose of reviewing compliance processes at a component institution of a university system is excepted from disclosure under the Texas public information law (Chapter 552, Government Code). That information, as well as information relating to a compliance program investigation, may be made available upon request to: (1) a law enforcement agency; (2) a governmental agency responsible for investigating the matter, including the Texas Workforce Commission and the Equal Employment Opportunity Commission; and (3) an officer or employee of an institution of higher education or a compliance officer of a university system administration who is responsible for a compliance program investigation or is responsible for reviewing the investigation. A disclosure to these individuals or entities does not waive the confidentiality of the subject information.

Impact: SB 1327 makes information relating to a systemwide compliance office's review of compliance processes at component institutions of higher education confidential. It also explicitly allows that information, as well as information relating to a compliance program investigation, to be shared with certain individuals or entities as

necessary to carry out the investigation or review without violating the provision or waiving the confidentiality of the information.

UT System public information officers and compliance officers should be aware of SB 1327.

Effective: May 28, 2011

Neera Chatterjee

Board of Regents

[SB 5](#) by Zaffirini and Branch

Relating to the administration and business affairs of public institutions of higher education. (Ethics and Compliance)

SB 5 is an omnibus bill that affects a variety of areas of law governing higher education with a purpose of eliminating unfunded mandates, improving efficiency, and providing administrative flexibility to institutions of higher education. This analysis summarizes the ethics and compliance provisions.

SB 5 establishes new and clarified requirements governing contracts with business entities in which a member of the governing board of an institution of higher education has an interest. (Section 2.01) The provision amends Section 51.923, Education Code, to include any entity recognized by law through which business is conducted. (Prior law was limited to corporations.) If a member of the governing board has an interest that does not meet the statutory standard of a substantial interest, the business is not disqualified from contracting with an institution under that board's governance. If the interest qualifies as a "substantial interest," such as the regent owning 10 percent or more of the voting stock of the business entity or sitting on the board of directors, and the contract is one that requires board approval, the regent must disclose that interest in an open meeting and abstain from voting.

The provision also permits contracts with nonprofit corporations in relation to which a regent serves as an officer or employee.

Impact: The Office of the Board of Regents will need to develop procedures for disclosure in open meeting of certain regental interests in contracts that require board approval.

Effective: June 17, 2011

Steve Collins

[SB 5](#) by Zaffirini and Branch

Relating to the administration and business affairs of public institutions of higher education. (Board Appointments)

SB 5 is an omnibus bill that affects a variety of areas of law governing higher education with a purpose of eliminating unfunded mandates, improving efficiency, and providing administrative flexibility to institutions of higher education. This analysis summarizes the provisions relating to board appointments.

SB 5 excepts from disclosure under the public information law information that would tend to identify an applicant for chief executive officer of an institution of higher education. (Section 5.01)

SB 5 eliminates a requirement that the UT System Board of Regents appoint a regent to serve on the Type 2 Diabetes Risk Assessment Advisory Council, a council that advises a program administered by UT Pan American. (Section 5.02))

SB 5 also eliminates a duty of the UT System Board of Regents, never exercised, to name an ex-officio, nonvoting member to the board of the Gaines County Solid Waste Management District. (Sections 5.03, 5.04, and 9.01(a)(12))

Impact: The revised public information law exception, which under prior law excepted from disclosure only the name of an applicant, will enable UT System institutions to protect from public disclosure any information that would tend to identify an applicant for institutional president or system chancellor. UT System public information officers should be aware of this provision.

The Office of the Board of Regents should notify the Type 2 Diabetes Risk Assessment Advisory Council that a regental position on that council is no longer required by law.

Effective: June 17, 2011

Steve Collins

[HB 1206](#) by Guillen and Zaffirini

Relating to training for members of governing boards of public junior college districts.

Currently, appointed members of governing boards of institutions of higher education must attend a training program concerning their powers and duties. HB 1206 extends the requirement to elected members, which means that members of the governing board of a public junior college district must now take the training. The training for those elected board members must include information about best practices in financial management, financial ratio analysis, and case studies using financial indicators. The minutes of the last regular meeting held by the governing board of a public junior college district during a calendar year must reflect whether each member of the governing board has completed any training required to be completed by the member under this law.

HB 1206 also requires the Coordinating Board to provide an equivalent training program by electronic means in the event a member of the governing board of an institution of higher education is unable to attend the training program in person.

Impact: HB 1206 impacts the training that members of the UT System Board of Regents are required to take during their first two years of service by allowing them to take the training by electronic means if they are unable to attend a training program in person. It will also require the Board of Trustees of Texas Southmost College to take the training concerning their powers and duties.

Effective: September 1, 2011

Karen Lundquist

[HB 2825](#) by Otto and Williams

Relating to the composition and appointment of the board of directors of a corporation to which the board of regents of The University of Texas System delegates investment authority for the permanent university fund or other funds under the control of the board of regents.

HB 2825 requires the Texas A&M Board of Regents to appoint two directors to the University of Texas Investment Management Company (UTIMCO) board. Currently, the UT System Board of Regents appoints all directors, with one selected from a list of candidates recommended by the Texas A&M Board.

Impact: UTIMCO must propose conforming amendments to its corporate bylaws, which must then be submitted to the UT System Board of Regents for approval.

Effective: June 17, 2011

Jim Phillips

UTB/TSC Partnership

[SB 1909](#) by Lucio and Oliveira

Relating to The University of Texas at Brownsville, including its partnership agreement with the Texas Southmost College District.

SB 1909 facilitates the dissolution of the partnership between UT-Brownsville (UTB) and Texas Southmost College (TSC). To the extent that the authority does not already exist, it would enable the parties to enter into agreements to, among other things, transfer students and student credit hours and share property and facilities. It would further enable UTB to offer bachelor's, master's, and doctoral degrees and to create departments and schools, subject to prior approval by the Coordinating Board.

SB 1909 is intended to facilitate the independent operation of UTB and TSC, but does not affect the authority of the two to continue the partnership or establish a new one.

The two institutions are to cooperate to ensure that each timely achieves separate accreditation from the appropriate agency before terminating the existing partnership and must continue in a partnership agreement until August 21, 2015, to the extent necessary to ensure accreditation.

UTB and TSC must submit semiannual reports to the legislature on the status of the partnership until each achieves accreditation and the existing partnership is terminated.

Impact: Primarily, UTB and TSC leadership, the Executive Vice Chancellor for Academic Affairs, and staff of the Office of General Counsel should be aware of SB 1909. This provides an important next step in the UTB and TSC separation process. In addition to the considerable work attendant to dissolving the partnership, each institution will have to submit semiannual reports to the legislature.

Effective: June 17, 2011

Dan Sharphorn

Privacy

[HB 300](#) by Kolkhorst, et al. and Nelson

Relating to the privacy of protected health information; providing administrative, civil, and criminal penalties.

HB 300 takes effect September 1, 2012, and provides the following:

- HB 300 confirms that medical records held by state agencies that are also required to comply with the Health Insurance Portability and Accessibility Act (HIPAA) are confidential under Texas law and are not subject to disclosure under the Texas public information law.
- HB 300 makes changes to the current state breach reporting statute (Section 521.053, Business and Commerce Code). It clarifies that notices must be sent to any person whose “sensitive personal information” is the subject of a breach, not just to Texas residents. If a breach notice is provided to the resident of another state under the breach notification laws of that state, compliance with the Texas state law breach notice requirements is deemed to have occurred. HB 300 also adds increased criminal penalties for identity theft as defined in Chapter 521.
- HB 300 also requires certain covered entities, as defined in Chapter 181, Health and Safety Code, including many already subject to HIPAA, as well as other entities, to comply with both HIPAA *and* the requirements added by HB 300 to

Chapter 181, some of which are more restrictive than the comparable terms of the HIPAA privacy rule. Under these new requirements:

- All covered entities are now required to provide a training program to employees about state and federal law concerning protected health information (PHI) as it relates to the employing entity's business and the employing entity's scope of employment. The training must be provided within 60 days after the date of hire and repeated at least once every two years. The employee must sign a verification that he or she received the training and the employer must retain the verification.
- Covered entities are prohibited from providing any PHI in exchange for direct or indirect remuneration to anyone other than another covered entity, or an entity defined in Section 602.001, Insurance Code (essentially all fully-funded insurance plans, HMOS, third party administrators, and agents that are licensed by the Texas Department of Insurance), and only then for the purpose of treatment, payment, health care operations, or an insurance or HMO function described in Section 602.053, Insurance Code, or as permitted or required by state or federal law. When PHI is transferred for a purpose listed in Section 602.053, the remuneration may not exceed the cost of preparing or transmitting the PHI.
- Covered entities (except entities described in Section 602.001, Insurance Code, that are not subject to HIPAA, such as life insurance or auto insurance companies) are required to provide notices to and obtain authorizations from persons whose PHI the covered entity will be disclosing electronically. However, authorizations are not required if the proposed release is to another covered entity for the purpose of payment, treatment, or health care operations or to perform an insurance or HMO function described in Section 602.053, or as permitted or required by state or federal law. The attorney general must adopt a standard authorization form for use by covered entities by January 1, 2013.
- All health care providers that use an electronic health records system must provide requested electronic health records to a patient within 15 business days after receipt of a request from the patient if the system is capable of providing such a record, unless the patient agrees to accept the record in some other form. The provider does not need to provide PHI that HIPAA would exempt from disclosure. The executive commissioner of the Health and Human Services Commission (HHSC), in consultation with the Department of State Health Services (DSHS), the Texas Medical Board, and the Texas Department of Insurance (TDI), may recommend by rule a standard format for the release of those records.
- The attorney general and state licensing agencies will receive and enforce complaints against covered entities for violations of Chapter 181. Potential

sanctions and fines are increased significantly. In some cases penalties may run as high as \$1.5 million annually.

- HHSC, in coordination with the attorney general, the Texas Health Services Authority, and TDI, may also request the US Secretary of Health and Human Services to audit covered entities subject to HIPAA and must monitor audit results. Additionally, HHSC may request a licensing agency to audit a licensee of that agency for suspected patterns of violations of Chapter 181.
- The attorney general is required to maintain a website that provides:
 - Information about consumer privacy rights concerning protected health information under state and federal law; and
 - A list of state agencies that regulate covered entities, the agencies' contact information, and details about the agencies' complaint enforcement processes.
- The attorney general is required to submit annual reports, which de-identifies any complainant's PHI, to the legislature about consumer complaints received by all state agencies. Each agency that receives those complaints must report information required by the attorney general for the compilation of the report.
- Finally, HB 300 requires the Texas Health Services Authority, a non-profit corporation previously created by law, to develop and recommend privacy and security standards for the sharing of electronic health care records by health care providers, state agencies, insurers, and other parties involved in health care and health care payment for adoption by HHSC. HHSC, in conjunction with the authority and the Texas Medical Board, is required to prepare a study on the maintenance and security of electronic PHI created by covered entities that cease to operate and to make recommendations to appropriate standing committees of the legislature. A task force is also created to make recommendations for handling electronic records of covered entities that cease to operate. HHSC is required to adopt the standards for the sharing of electronic health care records by health care providers, state agencies, insurers, and other parties involved in health care and health care payment by January 1, 2013.

Impact: All UT System institutions will continue to withhold PHI that is requested under the Texas public information law. Many UT System institutions are "covered entities" or contain covered entities that are subject to HIPAA and will be subject to the new requirements established by HB 300. As these requirements are analyzed by the Office of General Counsel and other offices involved with privacy and security compliance, specific guidance will be provided to assist UT System institutions in understanding what changes will be required to existing policies and practices to ensure compliance with HB 300, once it takes effect in September of 2012, as well as the final changes to the HIPAA privacy, security, and breach regulations which are expected to be released before the end of 2011.

Effective: September 1, 2012

Barbara Holthaus

[HB 1529](#) by Miller, Sid, et al. and Wentworth

Relating to the offense of fraudulent use or possession of identifying information.

HB 1529 makes the unauthorized possession of a person's social security number (SSN) a crime, even if the offender does not also have the person's name.

Impact: UT System employees who are not authorized to access a person's SSN and do so could be charged with a crime. Institutional and systemwide policies that address employee access to confidential information and or SSNs (for example, UTS 165) may need to be amended, and employees should receive additional training.

Effective: September 1, 2011

Barbara Holthaus

Public Information

[SB 5](#) by Zaffirini and Branch

Relating to the administration and business affairs of public institutions of higher education. (Public Information)

SB 5 is an omnibus bill that affects a variety of areas of law governing higher education with a purpose of eliminating unfunded mandates, improving efficiency, and providing administrative flexibility to institutions of higher education. This analysis summarizes the public information provisions.

SB 5 provides that certain information related to commercialization and research is not subject to the public information law (Chapter 552, Government Code). The information exempted from the application of that law consists of information that would reveal an institution's plans or negotiations for commercialization or a proposed research agreement, contract, or grant. The law also exempts information that consists of unpublished research or data that may be commercialized. The exemption does not apply to information that has been published, is patented, or is otherwise subject to an executed license, sponsored research agreement, or research grant or contract. (Section 6.04)

SB 5 excepts from disclosure under the public information law information that would tend to identify an applicant for chief executive officer of an institution. (Section 5.01)

Impact: Rather than making information confidential or excepting information from mandatory disclosure, SB 5 takes certain information related to commercialization

and research outside the application of the public information law. As a result, the typical requirements for disclosure of the information or timely submitting information for review by the attorney general do not apply.

While prior law excepted from disclosure only the name of an applicant, the provision relating to chief executive officers will enable a UT System institution to protect from public disclosure any information that would tend to identify an applicant for institutional president or system chancellor.

UT System public information officers should be aware of these provisions.

Effective: June 17, 2011

Steve Collins

SB 602 by Rodriguez and Marquez

Relating to confidential information under the public information law and to procedures and deadlines under the public information law in relation to the redaction of certain confidential information by a governmental body.

SB 602 proposes numerous changes to confidential information under the Texas public information law and related statutes. First, SB 602 makes confidential the personal information of an individual maintained in an institution's emergency notification system. SB 602 expressly states that this information is not subject to disclosure under the public information law. SB 602 provides that the term "personal information" includes an email address or telephone number maintained in order to notify an individual of an emergency.

Second, SB 602 provides that the enumerated eighteen categories of public information listed in Section 552.022, Government Code, can now be protected if the information is "made confidential under [the public information law] or other law." Currently, Section 552.022 lists eighteen categories of information that are considered public unless they are "expressly confidential under other law." As a result, under prior law, the exceptions to disclosure codified by Sections 552.101-552.151, Government Code, do not apply to and cannot protect information that falls within any of the eighteen enumerated categories. SB 602 allows governmental bodies to apply the exceptions in Sections 552.101-552.151 to information that falls within the eighteen categories listed in Section 552.022. SB 602 also deletes the prior language that information must be "expressly" confidential in order to be protected. The attorney general has historically interpreted the term "expressly confidential under law" very narrowly so that in situations in which statutory or other law indicates that certain information is confidential but does not specifically use the word "confidential," the attorney general would find that this other law did not specifically make the information confidential and that therefore, it was public. This result should no longer be the case.

Further, SB 602 allows a governmental body (subject to the Motor Vehicle Records Disclosure Act) to automatically redact information relating to a motor vehicle operator's

license, a driver's license, or a personal identification document issued by a state or local agency without the need to seek a ruling from the attorney general's office. SB 602 also allows governmental bodies to redact information relating to a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body without the necessity of requesting a decision from the attorney general. If a governmental body redacts the above 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 of SB 602's provisions, 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 the redacted information, the attorney general is required to issue its ruling within 45 business days.

Additionally, SB 602 states that if a requestor modifies his or her request for public information after receiving notice that a deposit or bond is required for the request, the modified request will be considered a separate request for purposes of the public information law, and will be considered received on the date the governmental body receives the written modified request.

SB 602 also provides that in circumstances in which a governmental body receives a written request through the US Mail but cannot establish the date it received the request, the request will be considered to have been received by the governmental body on the third business day after the date of the postmark (assuming the request was properly addressed).

Finally, SB 602 proposes the non-substantive renaming of the headings of Sections 552.102-552.151.

Impact: The changes to Section 552.022, Government Code, expand the scope of documents that are protected from disclosure if one of the exceptions codified in Sections 552.101-552.151 apply to the information at issue. With the statutory change, UT System and its institutions will also have a more compelling case to present to the attorney general's office that certain records (such as settlement negotiations which are non-discoverable under both the Texas Rules of Evidence and the Federal Rules of Evidence) are confidential under these rules even though these rules do not expressly say that such information is confidential. The change to Section 552.130 does not have a significant impact on UT System or its institutions, as this change merely codifies what is already allowed to be protected pursuant to an Open Records Decision issued by the attorney general. The change to 552.136 gives governmental bodies greater autonomy by allowing governmental bodies the discretion to withhold any information they consider to be an access device, without the need to seek a ruling from the attorney general's office. The change to 552.263 clarifies how a governmental body must treat a modified request received after the governmental body gives notice to a requestor that a bond is required. Finally, the proposed change to 552.301 provides guidance for UT System and its institutions to rely on the postmark date of a request, in the event it cannot be determined when a request was received.

Public information officers should be aware of SB 602.

Effective: September 1, 2011

Zeena Angadicheril

SB 1106 by Harris, et al. and Madden

Relating to the exchange of confidential information concerning certain juveniles.

SB 1106 requires a school district or charter school to disclose, in certain circumstances, information in a student's educational records to a juvenile service provider, defined as a governmental entity that provides juvenile justice or prevention, medical, educational or other support to a juvenile. Charter schools are explicitly included in the definition of "juvenile service provider."

Specifically, at the request of a juvenile service provider, an independent school district or charter school must disclose to a juvenile service provider confidential information in a student's educational records if the student has been taken into custody under Section 52.01, Family Code, or if the student has been referred to a juvenile court for allegedly engaging in delinquent conduct or conduct indicating a need for supervision. If an independent school district or charter school discloses confidential information to a juvenile service provider, it cannot destroy the information it disclosed until seven years after the date it was disclosed. A juvenile service provider that receives information must certify that it will not disclose the information except to another juvenile service provider and that it will use the information only to verify the identity of a student involved in the juvenile justice system and to provide prevention or treatment services to the student. The provision does not affect the confidential status of the information being shared.

In addition, at the request of a juvenile service provider, another juvenile service provider must disclose a multi-system youth's personal health information or a history of governmental services provided to that individual. A "multi-system youth" is defined as a person who is younger than 19 years of age and has received services from two or more juvenile service providers. The information may be disclosed only for the purposes of identifying a multi-system youth, coordinating care for the individual, and improving the quality of services. A juvenile service provider may enter into a memorandum of understanding with another such provider to share information. The provision does not affect the confidential status of the information being shared.

A juvenile service provider that receives information pursuant to SB 1106 must pay a fee relating to the costs associated with disclosing the information identical to the costs that would be charged under the Texas public information law (Subchapter F, Chapter 552, Government Code). A juvenile service provider does not have to pay the fee if: (1) there is a memorandum of understanding that prohibits the payment of a fee, provides for the waiver of the fee, or provides an alternative method of assessing a fee; (2) the fee is waived; or (3) disclosure of the information is required by other law.

SB 1106 also allows information contained in the juvenile justice information system for use of the Department of Public Safety to be shared with a county, justice, or municipal court exercising jurisdiction over a juvenile.

A videotaped interview of a child described under Section 264.408, Family Code, is subject to production under Article 39.14, Code of Criminal Procedure, and Rule 615, Texas Rules of Evidence. This provision applies to a criminal action in which the information or indictment was filed on or after June 17, 2011.

Impact: SB 1106 impacts UT System institution charter schools because if they receive a request from a juvenile service provider for the educational records of a student who has been taken into custody or referred to a juvenile court, the UT System institution charter schools will be required to provide those records. Further, because UT System institution charter schools are also juvenile service providers as defined in SB 1106, they may make requests for the educational records of a student. In certain circumstances, UT System institution charter schools may charge for disclosing educational information to a juvenile service provider (or be charged in requesting such information) pursuant to Subchapter F, Chapter 552, Government Code.

In addition, SB 1106 may have a similar impact on the University of Texas Medical Branch at Galveston (UTMB), as they have contracted with the Texas Youth Commission to provide health care to individuals in the juvenile justice system. As such, UTMB may be considered a juvenile service provider and would have to comply with the provisions that would require, in certain circumstances, the disclosure of health information relating to multi-system youths to another juvenile service provider. In addition, as a juvenile service provider, they may make requests for such information from other juvenile service providers. Finally, UTMB may charge for disclosing health information to a juvenile service provider (or be charged in requesting such information) pursuant to Subchapter F, Chapter 552, Government Code.

Ultimately, SB 1106 will allow for increased sharing of information between governmental bodies relating to youths in the juvenile justice system, but that information will remain confidential with regard to third parties seeking the information.

Effective: June 17, 2011

Neera Chatterjee

SB 1327 by Watson and Howard, Donna

Relating to the confidentiality of information obtained by a compliance office of an institution of higher education.

Pursuant to SB 1327, information collected or produced from a systemwide compliance office for the purpose of reviewing compliance processes at a component institution of a university system is excepted from disclosure under the Texas public information law (Chapter 552, Government Code). That information, as well as information relating to a compliance program investigation, may be made available upon request to: (1) a law

enforcement agency; (2) a governmental agency responsible for investigating the matter, including the Texas Workforce Commission and the Equal Employment Opportunity Commission; and (3) an officer or employee of an institution of higher education or a compliance officer of a university system administration who is responsible for a compliance program investigation or is responsible for reviewing the investigation. A disclosure to these individuals or entities does not waive the confidentiality of the subject information.

Impact: SB 1327 makes information relating to a systemwide compliance office's review of compliance processes at component institutions of higher education confidential. It also explicitly allows that information, as well as information relating to a compliance program investigation, to be shared with certain individuals or entities as necessary to carry out the investigation or review without violating the provision or waiving the confidentiality of the information.

UT System public information officers and compliance officers should be aware of SB 1327.

Effective: May 28, 2011

Neera Chatterjee

SB 1638 by Davis and Geren

Relating to the exception of certain personal information from required disclosure under the public information law.

SB 1638 excepts from disclosure under the Texas public information law the emergency contact information provided by a government employee or official, assuming the employee or official has made the necessary election. Additionally, SB 1638 excepts from disclosure motor vehicle information, driver's license information, motor vehicle title or registration information, or personal identification information from another state or country. Finally, SB 1638 makes expressly confidential a copy of any identification badge issued to an employee or official of a governmental body.

Impact: SB 1638 expands the scope of information that is excepted from disclosure under the public information law. To comply with SB 1638, UT System and its institutions should review the administrative forms under which employees may make an election to withhold personal information. These election forms will likely need to be revised to give an employee the option to protect from disclosure any emergency contact information provided by the employee.

UT System public information officers should be aware of SB 1638.

Effective: June 17, 2011

Zeena Angadicheril

[SB 1907](#) by Wentworth and Geren

Relating to access to certain archaic information.

SB 1907 adds a new provision to the Texas public information law (Chapter 552, Government Code), whereby information that is not confidential but is excepted from required disclosure under Subchapter C becomes available to the public on or after the 75th anniversary of the date the information was originally created or received by the governmental body (except as provided by other law). This provision does not limit a governmental body's authority to establish record retention policies for records under applicable law.

SB 1907 also amends Section 201.009, Local Government Code, to allow public inspection of a birth record as well as other records to which public access is denied under the Texas public information law if still in existence 75 years after creation or receipt. Finally, SB 1907 amends Section 159.002, Occupations Code, to keep medical records confidential under that provision for only 75 years if they are requested for historical research purposes.

Impact: SB 1907 impacts UT System and its institutions by making certain records available to the public if they are still in existence 75 years after they were created or received. UT System's public information officers should be aware of SB 1907.

Effective: September 1, 2011

Neera Chatterjee

[HB 2460](#) by Truitt and Wentworth

Relating to confidentiality of information held by a public retirement system.

HB 2460 makes the governing body of a public retirement system subject to the Texas public information law (Chapter 552, Government Code) in the same manner as a governmental body. Further, records of individual members, annuitants, retirees, beneficiaries, alternate payees, program participants, or persons eligible for benefits from a retirement system are confidential in the hands of the governing body of a public retirement system as well as in the hands of another governmental body that is acting in cooperation with the retirement system.

Neither the retirement system nor a governmental body need accept or comply with a request for information about such a record or seek a ruling from the attorney general regarding that information.

Records may be released to certain authorized parties, such as the individual whose records are at issue, another governmental body that has a legitimate interest in the records, or an entity acting on behalf of the retirement system. A release to an authorized party or individual does not waive the confidentiality of the records.

If the records become part of the public record of an administrative or judicial proceeding related to a contested case, the individual member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits waives the confidentiality of the records, including medical records.

A record includes any identifying information about a person, living or deceased, who was a member, annuitant, retiree, beneficiary, alternate payee, program participant, or person eligible for benefits from the retirement system under any retirement plan or program administered by the retirement system. To the extent that this provision conflicts with another law with respect to confidential information held by a public retirement system or governmental body acting in cooperation with the public retirement system, the provision that provides greater protection for an individual's privacy prevails.

Impact: The governing body of public retirement systems, systems in which employees of UT System and its institutions participate, will clearly be subject to the Texas public information law. Regardless, entities such as the Teachers Retirement System have been complying with requests under that law even without this provision. Further, identifying records of individual members, annuitants, retirees, beneficiaries, alternate payees, program participants, or persons eligible for benefits from a retirement system are confidential in the hands of the governing body or public retirement system or in the hands of a governmental body acting in cooperation with the public retirement system. Thus, to the extent that UT System and its institutions maintain any such records, they are confidential, and neither UT System nor its institutions need accept, comply with, or seek a ruling from the attorney general with regard to a request for these records, except to the extent that the request is made by an individual or party that is authorized to access the records.

Effective: June 17, 2011

Neera Chatterjee

[HB 2538](#) by Vo and Jackson

Relating to the confidentiality of certain identifying information regarding students of career schools or colleges and other educational entities; providing a criminal penalty.

Under HB 2538, student information in the possession of the Texas Workforce Commission (TWC) is not public information for purposes of Chapter 552, Government Code. A student includes any prospective, current or former student of a career school or college or of any other school, educational institution, or business entity from which the TWC receives information through its administration of Chapter 132, Education Code. Student information means identifying information of a student and includes a student's education records as defined in the Family Educational Rights and Privacy Act (FERPA), name, address, telephone number, social security number, e-mail address, date of birth, and any other identifying information that could be combined with other publicly available information to reveal identifying information regarding the student. A person commits a Class A misdemeanor if he or she solicits, discloses, receives, uses, authorizes,

permits, participates in, or acquiesces in another person's use of student information, unless it is authorized by Subchapter F, Chapter 301, Labor Code, or TWC rule.

Impact: HB 2538 has no direct impact on UT System or its institutions, as it relates to information in the possession of the TWC. However, UT System and its institutions should be aware of the provision to the extent that they maintain information that would also be in the possession of the TWC. In such instances, this provision could apply such that student information would not be subject to the Texas public information law and thus would not be subject to disclosure.

Effective: September 1, 2011

Neera Chatterjee

[HB 2866](#) by Harper-Brown and Ellis

Relating to the electronic submission of certain documents to the attorney general and the submission of certain documents by the attorney general; imposing certain fees.

HB 2866 allows the attorney general to charge a fee for the electronic submission of documents to its office. In addition, governmental agencies and third parties may submit (but are not required to submit) correspondence and documents related to public information requests under Chapter 552, Government Code, to the attorney general's office through an electronic filing system. Likewise, the attorney general's office may correspond electronically with governmental bodies and third parties for public information purposes. The attorney general's office may adopt rules that will allow it to charge a fee for the use of the electronic filing system until September 1, 2015.

Impact: HB 2866 impacts UT System and its institutions because the attorney general's office has never before accepted correspondence relating to public information requests under Chapter 552, Government Code, through an electronic filing system. Communication with the attorney general's office will likely be much more convenient and efficient through this electronic filing system, though at this point it is unclear whether the fee for using such a system will be prohibitive.

UT System public information officers should be aware of HB 2866.

Effective: June 17, 2011

Neera Chatterjee

[HB 2971](#) by Smith, Todd and Davis, Wendy

Relating to the confidentiality of documents evaluating the performance of public school teachers and administrators.

HB 2971 makes confidential a document evaluating the performance of a teacher or administrator at an open-enrollment charter school regardless of whether the individual is

certified under the Education Code. However, an open-enrollment charter school may provide a copy of an evaluation of a teacher or administrator to a school district or other open-enrollment charter school to which the individual has applied for employment. The provision applies to documents created before, on, or after the effective date of HB 2971.

Impact: HB 2971 impacts UT System institution charter schools by making evaluations of teachers and administrators at those schools confidential.

UT System public information officers should be aware of HB 2971.

Effective: June 17, 2011

Neera Chatterjee

Reports

[SB 5](#) by Zaffirini and Branch

Relating to the administration and business affairs of public institutions of higher education. (Reports and Notices)

SB 5 is an omnibus bill that affects a variety of areas of law governing higher education with a purpose of eliminating unfunded mandates, improving efficiency, and providing administrative flexibility to institutions of higher education. This analysis summarizes the provisions relating to reports and notices.

SB 5 eliminates or modifies numerous reports and notices required by law of institutions of higher education:

- The small class report under Section 51.403(b), Education Code, is eliminated (Section 6.02);
- Institutions of higher education are exempted from the state agency annual report on employees, space, fees, etc. under Section 2101.0115, Government Code (Sections 6.08 and 6.09);
- Energy conservation plans under Section 388.005(f), Health and Safety Code, will be filed annually instead of quarterly (Section 6.12); and
- Institutions of higher education are exempted from the annual report to the State Office of Risk Management under Section 412.053, Labor Code. (Section 6.13)

SB 5 expressly repeals the following reports effective September 1, 2011:

- Crime statistics report under Section 51.216, Education Code;

- Class size reports under Sections 51.403(b) and (c), Education Code;
- Timely graduation report under Section 51.4033, Education Code;
- Expert witness report under Section 61.0815, Education Code;
- Uniform recruitment and retention strategy report under Section 61.086, Education Code;
- Matching scholarship report under Section 61.087(c), Education Code;
- Report on Texas Fund for Geography Education under Section 61.9685, Education Code;
- Consolidated public junior and community college strategic plan under Section 2056.011, Government Code;
- Annual debt report to the attorney general under Section 2107.005, Government Code; and
- Report on insurance policies to State Office of Risk Management under Section 412.042(c), Education Code. (Section 9.01(a).)

In addition, SB 5 repeals 29 specifically identified reports required by law, as well most reports required by agency rule or policy, effective September 1, 2013. (Sections 6.03, 9.01(b).)

Impact: Eliminating or modifying numerous reports should free institutions from the administrative burden of compiling information and completing reports. Institutions should carefully review the text of SB 5 to determine whether particular reports are identified for repeal in SB 5.

Effective: June 17, 2011, except that Section 9.01(a) takes effect September 1, 2011, and Section 9.01(b) takes effect September 1, 2013

Steve Collins

[**SB 5**](#) by Zaffirini and Branch

Relating to the administration and business affairs of public institutions of higher education.
(Financial Management)

SB 5 is an omnibus bill that affects a variety of areas of law governing higher education with a purpose of eliminating unfunded mandates, improving efficiency, and providing administrative flexibility to institutions of higher education. This analysis summarizes the provisions relating to financial management.

SB 5 clarifies that funds must be deposited in the institutional depository within seven days of “receipt” under Section 51.003(b), Education Code. (Section 1.01)

SB 5 also amends Section 51.003, Education Code, to permit an institution to maintain a bank account in a foreign depository from which to pay local vendors in support of the institution’s academic and research operations in that country. (Section 1.01)

SB 5 eliminates the separate annual financial report that institutions of higher education were required to submit in a form prescribed by the comptroller and Coordinating Board. Instead, institutions will be required to submit the standard annual financial report required of all state agencies under Section 2101.011, Government Code. (Section 1.02)

SB 5 authorizes an institution of higher education to maintain an unclaimed money fund composed of credit balances of less than \$25 that are presumed abandoned under escheat laws. The institution will hold and account for those funds, and may expend those funds, as other educational and general funds, instead of transferring those funds to the comptroller of public accounts. The institution remains responsible to pay claims. These provisions apply to credit balances held on or after June 17, 2011. (Sections 1.02, 1.07, 1.08)

SB 5 authorizes an institution to make any payment through electronic funds transfer or by electronic pay card. (Section 1.02)

SB 5 requires each institution of higher education to post its “checkbook” on the institution’s Internet website, including for each payment from general revenue or from tuition and fees the amount, date, and purpose of the payment, in addition to the name of the payee. As an alternative to posting that information on the institutional website, an institution may instead provide an easily noticeable, direct link to similar information on the comptroller’s website. (Section 1.03)

SB 5 exempts institutional debt, such as revenue finance system debt, from approval by the Texas Bond Review Board if the state’s general revenue is not pledged to the payment of the debt and the institution’s or system’s debt rating is at least AA-. (Sections 1.05 and 1.06)

SB 5 requires the Legislative Budget Board and the governor’s office, in consultation with institutions of higher education, to review the forms for higher education legislative appropriation requests (LARs) to identify opportunities to improve efficiency, provide transparency, and eliminate unnecessary and duplicative requirements. (Section 6.06)

Impact: A UT System institution will be in compliance with the statutory requirement if payments received by a collecting agency through on-line and credit card payments, which of necessity are first deposited into a trust account of the collector, are deposited in the institutional depository within seven days of receipt from the collecting agency.

An institution that opens a bank account with a foreign depository must ensure that the depository meets the statute’s requirement that the bank be licensed by a central bank, be

annually audited, and meet the capitalization requirements. An institution may not deposit in the account any money other than that collected from students participating in the foreign program.

The requirement for a duplicative annual financial report unique to institutions of higher education is eliminated.

To maintain an unclaimed money fund, an institution is required to adopt procedures for an owner of the credit balance to make a claim and be paid and must maintain a database that permits the public to search for unclaimed funds.

An institution is authorized to make any payment by electronic funds transfer or electronic pay card and thereby save the expense of paper checks. An institution will likely need to adopt procedures for that purpose. Although a house amendment removed an express reference to payment of salary and wages, an institution is not prohibited from paying salary and wages through use of a pay card.

At a minimum, each institution will need to provide the “easily noticeable direct link” to similar “checkbook” information on the comptroller of public accounts’ website. The law specifies that the purpose of the link must be “clearly identifiable.”

Debt issued by the UT System Office of Finance under the systemwide revenue financing system is no longer subject to approval by the Texas Bond Review Board, which should facilitate the ability of the system to move quickly in the refinance market and otherwise avoid the expense and time requirements of bond review board review and approval.

UT System institutions and System Administration should consider the extent to which they will be proactive in seeking to participate with the LBB, the governor, and other institutions concerning improvement of the LAR forms.

Effective: June 17, 2011

Steve Collins

SB 1179 by Nelson and Harper-Brown

Relating to the elimination of certain required reports prepared by state agencies and institutions of higher education and other obsolete provisions of law.

SB 1179 repeals numerous reports for state agencies and institutions of higher education. Section 25 repeals the following sections affecting institutions of higher education:

- Sec. 51.216, Education Code--crime statistics reports
- Sec. 51.403(d), Education Code--small class report
- Sec. 51.504--duty to submit to Coordinating Board a list of critical needs for engineering and related equipment (related to engineering excellence fund)

- Sec. 51.917(e)--description of programs, and Coordinating Board approval of programs, to assist faculty whose primary language is not English
- Sec. 56.206(c), Education Code--detailed report on students benefitting from early high school graduation scholarship program
- Sec. 61.051(r), Education Code--Coordinating Board review of and report on doctoral programs
- Sec. 61.069, Education Code--annual Coordinating Board report on all funds received and disbursed
- Sec. 61.087(c), Education Code--institutional report on scholarships and grants offered by out-of-state institutions for which the reporting institution offered a matching scholarship or grant to retain the student
- Sec. 61.806(f), Education Code--annual report by institutions under Texas partnership and scholarship program
- Secs. 61.823(e) and (f), Education Code--Coordinating Board report on field of study curricula
- Sec. 86.52(m), Education Code--annual report on funds received and disbursed by the Texas A&M University real estate research center
- Secs. 130.0033(d) and (e), Education Code--expired reports on junior college tuition reduction pilot project
- Sec. 130.152, Education Code--junior college program to serve the disadvantaged
- Sec. 143.006, Education Code--annual institutional report on use of funds received under the advanced technology program
- Sec. 552.274(b), Government Code--biennial report on state agency procedures for charging and collecting fees for providing copies of public information
- Sec. 2112.005, Government Code--institutional report every four years to the Legislative Budget Board and the comptroller on audit of utility bills
- Sec. 2171.101(d), Government Code--office of vehicle fleet management duty to review annually each agency's vehicle fleet and report to the legislature
- Sec. 2203.001, Government Code--daily report by state employees on use of a state-owned vehicle
- Sec. 34.0191, Natural Resources Code--annual financial report of the board for lease

Impact: Many of the repealed reports are prepared by a variety of institutional offices. Each UT System institution will need to circulate a list of repealed reports to appropriate campus offices as soon as possible. Because the repeal is effective immediately, it is likely that reports that are in preparation for fiscal or academic year due dates may be discontinued.

Effective: June 17, 2011

Steve Collins

[SB 1618](#) by Seliger, et al. and Craddick

Relating to reporting requirements of state agencies and school districts.

SB 1618 revises certain reporting requirements placed on state agencies and school districts under Texas law so that those reports must be provided in electronic format. One revision made by SB 1618 requires state agencies, including institutions of higher education, to provide reports and notices that are legally required to be given to members of the legislature only in an electronic format determined by the Texas Legislative Council.

Impact: UT System and its institutions must provide reports to the legislature in an electronic format as required by SB 1618.

Effective: September 1, 2011

Scott A. Patterson

[HB 726](#) by Sheffield and Huffman

Relating to the electronic distribution of information to legislators by state agencies.

HB 726 requires state agencies to send electronic notice, in lieu of a written notice, to legislators to determine if the legislator wants a copy of agency publications. It also authorizes legislators to respond to the agency electronically.

Impact: HB 726 will simplify the communication between UT System institutions and state legislators relating to the availability of certain agency reports.

Effective: June 17, 2011

Mark Gentle

[HB 1781](#) by Price, et al. and Nelson

Relating to obsolete or redundant reporting requirements applicable to state agencies and to certain reports, communications, publications, and other documents involving the attorney general.

HB 1781 changes a number of reporting requirements placed on state agencies and institutions of higher education. Two changes affect UT System and its institutions.

First, HB 1781 requires the executive director of each state agency, including institutions of higher education, to provide an electronic report by August 1, 2012, to the governor, the lieutenant governor, the speaker of the house, legislative committee chairs, the Legislative Budget Board (LBB), and the Texas State Library and Archives Commission identifying which of the agency's statutory reporting requirements are not necessary, are redundant, or are required at a frequency for which data is not available.

Second, current law requires the LBB to submit an annual report to the governor and the presiding officers of both houses of the legislature regarding faculty or staff members at institutions of higher education who are paid consultants or expert witnesses in suits to which the state is a party. HB 1781 deletes the requirement for the attorney general to collect data for the report, resulting in the president of each institution being solely responsible for collecting all data for the report.

Impact: By August 1, 2012, the chancellor of UT System, assisted by institutional presidents, should provide the report identifying unnecessary and redundant reports as required by HB 1781. Additionally, UT System institutions should be aware that the attorney general will no longer assist in collecting data for the expert witness report.

Effective: June 17, 2011

Scott A. Patterson

Relationship with the Attorney General

[SB 367](#) by Ogden and Cook

Relating to the review by the attorney general of invoices related to legal services provided to state agencies by outside counsel.

The attorney general (AG) provides legal services to state agencies. With the exception of the Texas Turnpike Authority and constitutionally established agencies, state agencies in the executive department must seek approval from the AG to contract for outside counsel. SB 367 requires state agencies to submit an invoice they receive from contracted outside counsel to the AG for a determination of payment eligibility. It also requires outside counsel to pay an administrative fee to the AG for this review. Lastly, SB 367 authorizes the AG to adopt rules to implement and administer the statute, which

includes approval and review of outside counsel services and the provision of legal services the AG provides to state agencies.

Impact: SB 367 impacts UT System and its institutions in contracting for outside counsel. Pursuant to delegated board authority, the Office of General Counsel acts as the clearinghouse and coordination point for requests to the Office of the Attorney General to retain outside counsel, and is the liaison between UT System institutions and the Office of the Attorney General on all outside counsel arrangements. The Office of General Counsel will be involved in the attorney general rulemaking in this matter and will disseminate information to the appropriate institutional personnel upon adoption of the rule.

Effective: June 17, 2011

Helen Bright

[HB 1129](#) by Kolkhorst and Hegar

Relating to a study by the attorney general of the effects on state law and authority of certain international and other agreements and bodies.

HB 1129 requires the attorney general to conduct a study to determine whether state law or legislative authority is or may be restricted, nullified, superseded, preempted, or otherwise directly affected by:

- an existing or proposed arrangement between the US, Texas, or a political subdivision and a foreign governmental entity;
- certain international organizations acting in coordination with a federal, state, or local government or with a stated purpose of influencing governmental action or public policy; or
- any foreign or international body acting in connection with or under an arrangement described by the first point above through any means.

HB 1129 also authorizes the attorney general to enter into an agreement with a public law school to use its resources and personnel to conduct the study.

By December 1, 2012, the attorney general must report the findings of the study to the legislature.

Impact: The attorney general may select the law school at UT Austin to assist in conducting the study required by HB 1129.

Effective: June 17, 2011

Karen Lundquist

HB 2866 by Harper-Brown and Ellis

Relating to the electronic submission of certain documents to the attorney general and the submission of certain documents by the attorney general; imposing certain fees.

HB 2866 allows the attorney general to charge a fee for the electronic submission of documents to its office. In addition, governmental agencies and third parties may submit (but are not required to submit) correspondence and documents related to public information requests under Chapter 552, Government Code, to the attorney general's office through an electronic filing system. Likewise, the attorney general's office may correspond electronically with governmental bodies and third parties for public information purposes. The attorney general's office may adopt rules that will allow it to charge a fee for the use of the electronic filing system until September 1, 2015.

Impact: HB 2866 impacts UT System and its institutions because the attorney general's office has never before accepted correspondence relating to public information requests under Chapter 552, Government Code, through an electronic filing system. Communication with the attorney general's office will likely be much more convenient and efficient through this electronic filing system, though at this point it is unclear whether the fee for using such a system will be prohibitive.

UT System public information officers should be aware of HB 2866.

Effective: June 17, 2011

Neera Chatterjee

SB 1 – First Called Session by Duncan, et al. and Pitts

Relating to certain state fiscal matters; providing penalties.

SB 1, First Called Session, is composed of approximately 70 articles and 262 pages, designed primarily to make changes to the manner of distribution and methods of providing revenue for the support of public schools. SB 1 has little direct effect on higher education or UT System. Many of the other provisions of the bill adjust the schedule for payment of various taxes and fees, moving payments from the following biennium to the current biennium (requiring prepayment followed by a reconciliation) or delaying transfers from general revenue to a special fund, all with a purpose of increasing the amount held in general revenue during the fiscal biennium ending August 31, 2013. This includes prepayment of alcoholic beverage taxes (Article 10) and sales taxes (Article 13).

The following describes matters of interest to higher education, even though most of the described provisions generally have no direct impact on higher education or UT System.

Article 1 defers foundation school fund payments to school districts (and therefore charter schools) from August 2013 to September 2013, moving the cost of those payments to the following fiscal biennium.

Article 17 transfers from the comptroller of public accounts to the Coordinating Board a report on the physician education loan repayment assistance program under Subchapter J, Chapter 61, Education Code.

Article 20 eliminates the statutory requirement that the secretary of state produce bound copies of the “session laws” after each session of the legislature.

Article 21 authorizes the attorney general to charge a fee for the electronic filing of documents with the attorney general.

Article 23 continues the Department of Information Resources (DIR) in operation for the next two years (the DIR sunset bill from the regular session having been vetoed). SB 1 provides DIR authority to employ best value purchasing for information technology commodity items. It also authorizes DIR to set and charge a fee to each entity that receives services from DIR.

Article 27 eliminates the statutory authority of the Commission on State Emergency Communications to establish a regional poison control center in Harris County and authorizes the commission to standardize the operations of and implement management controls to improve the efficiency of regional poison control centers.

Article 28 expands the use of three tobacco settlement funds (not those managed by UT System) to pay principal and interest on bonds issued by the Cancer Prevention and Research Institute of Texas (CPRIT).

Article 34 requires the Legislative Budget Board (LBB) to conduct public hearings on expenditure reduction plans requested by leadership, and agencies to provide to the LBB plans in response to such a request. In addition, Article 34 requires the comptroller of public accounts to publish online a schedule of all revenue to the state from fees authorized by statute (implicitly including higher education fees).

Article 50 limits eligibility for education aide tuition exemptions to persons seeking teacher certification in subject areas experiencing teacher shortages, as determined by the Texas Education Agency.

Article 54 removes the comptroller of public accounts as an ex officio member of the Texas Guaranteed Student Loan Board and reduces the board from 10 to nine members. It also authorizes the governor to name the chair of the board.

Articles 42 and 65 relate to correctional health care. Article 42 changes the composition of the correctional managed health care committee, reducing the committee to five voting members plus the state Medicaid director as a nonvoting member, and reducing the term of office to four years. Article 42 also transfers from the committee to the Texas Department of Criminal Justice (TDCJ) the responsibility to contract for correctional managed care and requires TDCJ, in cooperation with the committee, to contract for a biennial review of expenditures. Article 65 requires TDCJ to adopt policies designed to manage inmate populations based on similar health conditions. It requires each inmate to pay an annual \$100 health services fee instead of a co-pay. It requires TDCJ to make

over-the-counter medicines available to inmates and requires TDCJ, in cooperation with UT Medical Branch at Galveston (UTMB) and Texas Tech University Health Sciences Center, to develop and implement, not later than January 1, 2012, a training program for corrections medications aides. It further exempts from end-stage renal disease licensing requirements any clinics or hospitals providing dialysis in correctional managed care.

Article 71 authorizes the Health and Human Services Commission to apply for a federal Medicaid waiver relating to benefits for individuals with chronic health conditions.

Impact: In general, SB 1 has little direct impact on UT System or its institutions. No amendments to rules or policies are necessary, nor are changes to catalogues, websites, or notices. Institutional business offices should be aware of the described provisions of SB 1.

State payments to campus charter schools will be briefly delayed from August to September of 2013.

Offices filing documents electronically with the attorney general, such as campus legal counsel, and offices receiving services from DIR will pay fees not previously paid.

Financial aid offices should be aware of the changes to qualifications for the educational aide tuition exemption, and should monitor the Texas Education Agency for rules determining which areas of teacher certification will qualify an individual for the exemption.

UTMB is directly affected by the described changes to correctional managed care.

The Southeast Texas Poison Center at UTMB and the South Texas Poison Center at UT Health Science Center at San Antonio should monitor changes in policies and procedures of the Commission on State Emergency Communications.

Effective: Each of the described provisions takes effect September 28, 2011, as does the bill generally. Some provisions have specified later effective dates.

Steve Collins

Law Enforcement and Security

SB 244 by Patrick and Fletcher

Relating to the continuing education requirements for certain peace officers.

SB 244 allows the second in command of a police department (such as the police department of a UT System institution) to take the same continuing education program that police chiefs take at the Bill Blackwood Law Enforcement Institute of Texas.

Impact: UT System's Office of Director of Police and UT System police chiefs need to be aware of this option for the police officers who are second in command to the police chiefs.

Effective: September 1, 2011

Jack O'Donnell

[SB 321](#) by Hegar, et al. and Kleinschmidt

Relating to an employee's transportation and storage of certain firearms or ammunition while on certain property owned or controlled by the employee's employer.

SB 321 provides that a public or private employer may not prohibit an employee who holds a license to carry a concealed handgun or who lawfully possesses firearm ammunition from transporting or storing a lawfully possessed firearm or ammunition in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the employer provides for employees.

However, the above restriction does not permit a person to possess a firearm or ammunition on any property where possession of a firearm or ammunition is prohibited by state or federal law. Additionally, SB 321 specifically provides that it does not prohibit an employer from prohibiting an employee who holds a concealed handgun license from possessing a firearm on the premises of the employer's business. The above restriction also does not apply to:

- a vehicle owned or leased by the employer and used by an employee in the course and scope of the employee's employment, unless the employee is required to transport or store a firearm in the official discharge of the employee's duties;
- a school district, open-enrollment charter school, or private school;
- property owned or controlled by a person, other than the employer, that is subject to a valid, unexpired oil, gas, or other mineral lease that contains a provision prohibiting the possession of firearms on the property; or
- property owned by certain chemical manufacturers and oil and gas refiners.

SB 321 provides that the employer or the employer's agent is not liable in a civil action for damages arising from an occurrence involving a firearm or ammunition that the employer is required to allow on the employer's property, except in cases of gross negligence. Additionally, the presence of a firearm or ammunition on the employer's property does not by itself constitute a failure by the employer to provide a safe workplace. However, the immunity provided to employers does not extend to the personal liability of an individual who harms another by using a firearm or ammunition, or to an employee who transports or stores a firearm or ammunition on the employer's property but who fails to comply with the requirements of SB 321.

Finally, SB 321 provides that it does not impose a duty on the employer or the employer's agent to patrol, inspect, or secure its employee parking areas or any privately owned motor vehicle located in the parking area, nor is the employer obligated to investigate or determine an employee's compliance with firearm laws.

Impact: UT System institutions should review their Handbook of Operating Procedures and any policy dealing with handguns to ensure that there are no provisions that would prohibit an employee with a concealed handgun license from storing or transporting a firearm or ammunition in their locked, privately owned vehicle that is in a parking area provided by the institution for its employees. Institution police should also be made aware of SB 321 to ensure that firearms found in vehicles are properly addressed.

Effective: September 1, 2011

Esther L. Hajdar

[SB 542](#) by Hegar and Fletcher

Relating to the regulation of law enforcement officers by the Commission on Law Enforcement Officer Standards and Education.

SB 542 precludes an applicant for a peace officer license from proving a lack of drug dependency or illegal drug use through a physician's physical exam. However, SB 542 continues to allow the applicant to make this showing through a blood test or other medical test.

In addition, SB 542 requires all police chiefs to complete initial training and continuing education provided by the Bill Blackwood Law Enforcement Management Institute of Texas, based at Sam Houston State University in Huntsville. The initial training requirement includes at least 80 hours of training, and the continuing education totals at least 40 hours in each 24-month period.

Impact: SB 542 requires UT System's Office of the Director of Police to amend the admission requirements for the UT System Police Academy. Specifically, the academy will no longer be allowed to admit applicants who use only a physical exam to demonstrate a lack of drug dependency and use.

In addition, SB 542 will require each UT System institution's police chief to complete 80 hours of initial training, and 40 hours of continuing education, in addition to his or her existing training requirements.

Each UT System institution should apprise its police department of SB 542 so that its chief understands the new training obligations.

Effective: September 1, 2011

Omar A. Syed

SB 545 by Seliger and Driver

Relating to employment records for law enforcement officers, including procedures to correct employment termination reports; providing an administrative penalty.

Under prior law, a police department was required to file a report with the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) every time an officer left the department, and to provide a copy of it to the officer. The form, known as an F-5 form, briefly explains the reasons for the officer's departure. SB 545 makes several changes to the procedures that apply when a department is required to file an F-5.

First, SB 545 requires a department to file the F-5 with TCLEOSE and provide it to the officer within seven business days after an officer has both departed from the job and exhausted all applicable internal appeals available to him or her. Formerly, the seven business days began to run once either event occurred.

Second, SB 545 creates more formal procedures for officers who wish to appeal the contents of their F-5 forms. Under SB 545, an officer must file his or her appeal petition on a specific form issued by TCLEOSE, and cannot simply write a letter relating his or her objections. In addition, TCLEOSE must now immediately refer the officer's appeal to the State Office of Administrative Hearings (SOAH), rather than attempt to mediate the dispute itself, as it has done in the past. SB 542 also authorizes TCLEOSE to issue a monetary penalty against a police department head who fails to correct the F-5 if ordered to do so by an administrative law judge.

Finally, SB 545 make confidential all information submitted to TCLEOSE regarding the appeal of an F-5's contents, unless the officer resigned or was terminated due to substantiated incidents of excessive force or violations of law other than traffic offenses. Under prior law, only reports or statements submitted in these proceedings were confidential.

Impact: For situations in which an officer is terminated, SB 545 will permit a UT System institution to delay filing an F-5 until the officer's termination appeal is exhausted. This change will provide each department greater flexibility for its legal arguments during the appeal, since it will no longer be bound by the information in an existing F-5 form.

SB 545 also streamlines the F-5 appeal process. Under prior law, TCLEOSE's mediation efforts sometimes elongated the process without providing any greater clarity or finality to the UT System institution. Now that TCLEOSE must refer all F-5 appeals to SOAH, both sides will have their positions heard and decided more rapidly.

Each UT System institution should apprise its police department of SB 545.

Effective: September 1, 2011

Omar A. Syed

[SB 1292](#) by Hegar and Fletcher, et al.

Relating to the issuance of a driver's license to a peace officer that includes an alternative to the officer's residence address.

SB 1292 requires the Texas Department of Transportation (TxDOT) to adopt special procedures for issuing a driver's license to a peace officer. The procedures will allow an officer to obtain a driver's license that omits the officer's actual home address and substitutes in its place another address in the same city or county where the officer lives.

If an officer wishes to receive this special license, SB 1292 requires the officer to apply to TxDOT, provide sufficient evidence that he or she is a peace officer, and surrender his or her existing license.

Moreover, SB 1292 requires an officer who receives this special license to notify TxDOT no later than 30 days after changing his or her address, or changing his or her name.

Finally, SB 1292 requires an officer who receives this special license to apply for a standard license no later than 30 days after ceasing to be a peace officer in Texas.

Impact: Once TxDOT adopts the appropriate procedures, SB 1292 will allow every UT System institution police officer to obtain a driver's license that displays an alternate address rather than his or her actual home address. In turn, this change will afford UT System police officers the option to enhance their personal security and the privacy of their home addresses.

Each institution should apprise its police department and each of its police officers of SB 1292.

Effective: September 1, 2011

Omar A. Syed

[SB 1616](#) by West and Gallego, et al.

Relating to the collection, storage, preservation, analysis, retrieval, and destruction of biological evidence.

SB 1616 provides standards for the collection, storage, preservation, analysis, retrieval, and destruction of biological evidence by a governmental or public entity or an individual, including a law enforcement agency, prosecutor's office, court, public hospital, or crime laboratory. Biological evidence includes the contents of a sexual assault examination kit or any item that contains any identifiable biological material collected as part of an investigation of an alleged felony offense or conduct constituting a

felony offense that could reasonably be used to identify a person committing the offense or engaging in the conduct or to exclude a person from those who could have committed the offense or engaged in the conduct constituting the offense.

These entities must ensure that biological evidence collected in an investigation or prosecution of a felony offense or conduct constituting a felony offense is retained and preserved for at least 40 years or until the applicable statute of limitations has expired, if there is an unapprehended actor associated with the offense. In a case in which a defendant has been convicted, placed on deferred adjudication community supervision, or adjudicated as having engaged in delinquent conduct and there are no additional unapprehended actors associated with the offense, then biological evidence must be retained and preserved as follows, depending on the applicable situation:

- Until the inmate is executed, dies, or is released on parole, if the defendant is convicted of a capital felony;
- Until the defendant dies, completes the defendant's sentence, or is released on parole or mandatory supervision, if the defendant is sentenced to a term of confinement or imprisonment in the Texas Department of Criminal Justice;
- Until the defendant completes the term of community supervision, including deferred adjudication community supervision, if the defendant is placed on community supervision;
- Until the defendant dies, completes the defendant's sentence, or is released on parole, mandatory supervision, or juvenile probation, if the defendant is committed to the Texas Youth Commission; or
- Until the defendant completes the defendant's term of juvenile probation, if the defendant is placed on juvenile probation.

The Department of Public Safety (DPS), after consultation with various agencies, experts, and organizations, is to adopt standards and rules by September 1, 2012, that specify the manner of collection, storage, preservation, and retrieval of biological evidence. Individuals and entities subject to SB 1616 are not required to comply with these standards before January 1, 2013.

SB 1616 applies to biological evidence in possession of an individual or entity on June 17, 2011.

Impact: SB 1616 and rules adopted by DPS may affect the handling of biological evidence by campus police offices. Additionally, UT System hospitals and their employees who staff hospital emergency rooms and may be involved in the collection of biological evidence or employees who are involved in the analysis of biological evidence will need to comply with SB 1616 and with DPS rules. Policies and training should be reviewed for compliance.

Effective: June 17, 2011

Melodie Krane

[SB 1636](#) by Davis, Wendy, et al. and McClendon

Relating to the collection, analysis, and preservation of sexual assault or DNA evidence.

In general, SB 1636 establishes a timeline and procedures for the collection, analysis, and preservation of sexual assault or DNA evidence by law enforcement agencies. “Law enforcement agency” is defined as a state or local law enforcement agency with jurisdiction over the investigation of a sexual assault.

SB 1636 amends the Government Code to prohibit a failure by the Department of Public Safety (DPS) to expunge a DNA record from serving as the sole grounds for a court to exclude evidence derived from the contents of the record in a criminal proceeding.

SB 1636 prohibits the release of evidence collected under the Sexual Assault Prevention and Crisis Services Act unless a signed written consent to release is obtained in accordance with the bill’s provisions. Medical, law enforcement, DPS, and laboratory personnel who handle sexual assault evidence must maintain the chain of custody from the time the evidence is collected until the evidence is destroyed.

With regard to physical evidence in an active criminal case for sexual assault, a law enforcement agency that receives sexual assault evidence must submit that evidence to a public accredited crime laboratory for analysis by the 30th day after the date on which the evidence was received and provide to the laboratory the following signed, written certification: “This evidence is being submitted by (name of person making submission) in connection with a criminal investigation.” The laboratory must complete the analysis as soon as practicable, if personnel and resources are available. DPS and applicable public accredited crime laboratories may contract with private accredited crime laboratories subject to quality assurance reviews.

On the request of any appropriate person, after analysis of biological evidence by an accredited crime laboratory and any quality assurance reviews, DPS must compare the DNA profile obtained with DNA profiles in state and federal databases.

Written consent is required for the release of evidence contained in an evidence collection kit with signature as follows:

- By the survivor, for survivors 14 years of age or older;
- By the survivor’s parent or guardian or an employee of the Department of Family and Protective Services, for survivors younger than 14 years of age; or
- By the survivor’s personal representative, for deceased survivors.

SB 1636 also addresses written consent by incapacitated persons, the specificity of any written consent, the withdrawal of consent, and the extent to which re-disclosure is permitted.

DPS must ensure that any unanalyzed sexual assault evidence in the possession of a law enforcement agency that is collected on or after August 1, 2011, is analyzed in accordance with the time frames set out in SB 1636. For evidence collected before August 1, 2011, DPS must analyze the evidence as nearly as possible to the time frames set out by SB 1636.

For law enforcement agencies in possession of sexual assault evidence that has not been submitted for laboratory analysis, the following deadlines apply:

- By October 15, 2011, the agency must submit a list to DPS of the agency's active criminal cases in which sexual assault evidence has not been submitted for analysis.
- By April 1, 2012, subject to laboratory storage space availability, the agency must submit to DPS or a public accredited crime laboratory all sexual assault evidence in active criminal cases that has not been submitted for analysis (and specific follow-up information must be sent to DPS).

DPS may request additional funding to accomplish the duties required by SB 1636 and must report projected timelines for completion of laboratory analyses. By September 1, 2014, to the extent funding is available, DPS must complete the required database comparisons.

SB 1636 does not apply to sexual assault evidence collected before September 1, 1996.

Impact: SB 1636 and rules adopted by DPS may affect the handling of sexual assault evidence by campus police offices. Additionally, UT System hospitals and their employees who may be involved in the collection of sexual assault evidence or employees who are involved in the analysis of sexual assault evidence will need to comply with SB 1636 and with DPS rules. Policies and training should be reviewed for compliance.

Effective: September 1, 2011

Melodie Krane

[SB 1787](#) by Patrick and Martinez Fischer

Relating to the information provided by a peace officer before requesting a specimen to determine intoxication.

Under Texas' implied consent law, every time a person operates a vehicle in public or a watercraft, he or she is deemed to consent to giving a blood or breath specimen for DUI-related testing. Existing law states that a peace officer must give a person six verbal and

written advisories regarding his or her rights before asking a person to give a blood or breath specimen.

SB 1787 requires peace officers to add a seventh advisory to the list. This advisory will tell the person that, if he or she refuses to give the specimen, the officer may apply for a warrant allowing the specimen to be taken.

Impact: SB 1787 requires every UT System institution police officer to receive training about the new requirement. It will also require each institution to update the written forms it uses to communicate these advisories.

Each institution should apprise its police department and each of its police officers of SB 1787.

Effective: September 1, 2011

Omar A. Syed

[HB 1083](#) by Elkins, et al. and Hegar

Relating to the issuance of an identification card to certain honorably retired peace officers.

On request by an honorably retired peace officer who holds a certificate of firearms proficiency, HB 1083 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 1083 requires UT System's Office of Director of Police and institutional police departments to issue the identification cards to qualifying honorably retired officers on request. In the past, the law being amended by HB 1083 permitted, but did not require, law enforcement agencies to issue the identification cards. Because HB 1083 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 17, 2011

Jack O'Donnell

[HB 1503](#) by White, et al. and Nichols

Relating to the qualifications to serve as a special peace officer at a polling place.

A presiding judge of a polling place is authorized to appoint special peace officers to preserve order and prevent breaches of the peace during voting. HB 1503 now makes it clear that only persons licensed as peace officers by the Texas Commission on Law Enforcement Officer Standards and Education may serve as special peace officers.

Impact: HB 1503 makes it clear that special peace officers appointed at on-campus polling places must be licensed law enforcement officers, and cannot be other members of the public who might believe themselves entitled to bring firearms onto an institution's property under the pretext that they are special peace officers.

Each institution's police department should be apprised of HB 1503. In that way, its officers will learn of their obligation to allow properly-licensed peace officers, and only those persons, to exercise law enforcement authority at polling places.

Effective: September 1, 2011

Omar A. Syed

[HB 1891](#) by Davis, Sarah, et al. and Huffman

Relating to the execution of a search warrant for data or information contained in or on certain devices.

HB 1891 clarifies that if a warrant is issued to seize data contained in a data storage device or data base, it is not necessary for the law enforcement agency that executes the data to recover or analyze the data from the device or data base before the date that the warrant expires, as long as the device or data base was seized during the period in which the warrant was in effect.

Impact: HB 1891 could impact how the Office of the Director of Police and institutional police departments handle information gathered pursuant to a search warrant. Policies should be reviewed to see if they should be amended, and police officers should be trained on this new requirement.

Effective: September 1, 2011

Barbara Holthaus

[HB 2131](#) by Geren, et al. and Eltife

Relating to issuance of a pass for expedited access to the State Capitol.

HB 2131 requires the Texas Department of Public Safety to prescribe procedures under which a person may acquire an access pass permitting expedited entry in the Capitol instead of going through security screening. To acquire a pass, a person will undergo the same background checks as an applicant for a concealed handgun license.

Impact: For UT System personnel who frequent the Capitol, such as System executive officers, institutional presidents, and governmental relations staff, the access pass will provide a convenient means of avoiding the delay of going through security screening.

Effective: May 30, 2011

Steve Collins

[HB 3823](#) by Thompson and Ellis

Relating to the regulation of certain telecommunicators; providing penalties.

HB 3823 authorizes the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) to regulate telecommunicators, commonly known as police dispatchers. HB 3823 does the following:

- permits TCLEOSE to establish minimum standards for the employment of dispatchers, including standards for education, training, physical and mental condition, and moral standards;
- requires TCLEOSE to establish reporting standards and procedures for the employment and termination of dispatchers;
- permits TCLEOSE to visit, inspect and review training courses offered for dispatchers and determine if the course and school are complying with TCLEOSE rules;
- disqualifies a person from being a dispatcher if he or she has been convicted of barratry;
- requires a state agency to provide each of its dispatchers 24 hours of crisis communications instruction approved by TCLEOSE within the first year of employment;
- requires peace officers taking courses toward a basic proficiency certificate to receive training on employment laws that relate to dispatchers; and
- prohibits a state agency from hiring a dispatcher unless he or she is at least 18 years old and holds a high school diploma or G.E.D.

Impact: HB 3823 affects every UT System police department. Most significantly, it may lead TCLEOSE to issue rules further regulating the hiring, firing, and employment discipline of police dispatchers. If it does so, the UT System's Office of the Director of Police will have to update its policies to conform to those rules.

In addition, HB 3823 may require UT System police departments to change the typical job description for dispatchers to conform to the new, higher standards. Because dispatchers are not usually highly-compensated employees in their institutions, these standards may lessen the typical applicant pool for a dispatcher position and cause compensation personnel to reconsider dispatchers' pay scale.

Finally, HB 3823 requires each police department to provide all new dispatchers with 24 hours of crisis communications training within the first year on the job.

Each institution should apprise its police department and compensation management personnel of HB 3823.

Effective: September 1, 2011

Omar A. Syed

Civil Liability and Legal Services

[SB 367](#) by Ogden and Cook

Relating to the review by the attorney general of invoices related to legal services provided to state agencies by outside counsel.

The attorney general (AG) provides legal services to state agencies. With the exception of the Texas Turnpike Authority and constitutionally established agencies, state agencies in the executive department must seek approval from the AG to contract for outside counsel. SB 367 requires state agencies to submit an invoice they receive from contracted outside counsel to the AG for a determination of payment eligibility. It also requires outside counsel to pay an administrative fee to the AG for this review. Lastly, SB 367 authorizes the AG to adopt rules to implement and administer the statute, which includes approval and review of outside counsel services and the provision of legal services the AG provides to state agencies.

Impact: SB 367 impacts UT System and its institutions in contracting for outside counsel. Pursuant to delegated board authority, the Office of General Counsel acts as the clearinghouse and coordination point for requests to the Office of the Attorney General to retain outside counsel, and is the liaison between UT System institutions and the Office of the Attorney General on all outside counsel arrangements. The Office of General Counsel will be involved in the attorney general rulemaking in this matter and will disseminate information to the appropriate institutional personnel upon adoption of the rule.

Effective: June 17, 2011

Helen Bright

[SB 899](#) by Ogden, et al. and Schwertner

Relating to the legislature's consent or approval of a settlement of a claim or action against this state.

Legislative consent or approval must be obtained if a settlement involving a state agency requires the state to pay total monetary damages in an amount that exceeds \$25,000,000 in a state fiscal biennium. SB 899 lowers the damage amount to \$10,000,000 in a state fiscal biennium, and applies to a settlement on or after September 1, 2011, without regard to whether the claim or action commenced before, on, or after that date.

Impact: SB 899 requires that approval or consent be obtained from the legislature in a settlement involving UT System, its institutions, or its employees when total monetary damages exceed \$10,000,000 in a state fiscal biennium.

Effective: September 1, 2011

Helen Bright

[SB 1160](#) by Seliger and Jackson, Jim

Relating to the liability of landowners for damage or injury, including liability for harm to a trespasser.

SB 1160 provides that owners, lessees, or occupants of land do not owe a duty of care to a trespasser on their land and are not liable for any injury to a trespasser on their land, except when their actions are willful, wanton, or grossly negligent. An exception is provided when injury of a child is caused by a highly dangerous artificial condition on the land. SB 1160 also limits the liability of owners, lessees, or occupants of agricultural land for damages to any person or property that arises from actions of a peace officer or a federal law enforcement officer when that officer enters or causes another person to enter the agricultural land with or without the permission of the owner, lessee, or occupant of the agricultural land.

Impact: SB 1160 codifies Texas' common-law that land possessors generally owe no duty to trespassers, subject to narrow exceptions, and will thus continue to limit the liability of UT System and its institutions in personal injury and property damage suits filed by individuals who enter UT System property without legal right. It will also limit the liability for personal injury and property damage that occur on any UT System agricultural land and that arise from actions of peace officers or federal law enforcement officers.

Effective: May 20, 2011

Helen Bright

Sunset Bills

[SB 652](#) by Hegar and Bonnen

Relating to governmental and certain quasi-governmental entities subject to the sunset review process.

SB 652 revises the sunset dates of numerous state agencies. The following agencies are of interest to UT System:

- Sec. 1.02: The Coordinating Board is subject to review by 2013, as opposed to 2015 under current law.
- Sec. 1.04: The Texas Windstorm Insurance Association is subject to review by 2013, as opposed to 2015 under current law.
- Sec. 1.07: The Railroad Commission of Texas is subject to review by 2013, as opposed to 2011 under current law.
- Secs. 1.08 and 1.09: The Public Utility Commission and the Electric Reliability Council of Texas are subject to review by 2013, as opposed to 2011 under current law.
- Sec. 2.01: Regional education service centers are subject to review by 2015, as opposed to no sunset review under current law.
- Sec. 2.06: The Health and Human Services Commission, the agencies under its umbrella, and other health and human services agencies are subject to review in 2015, as opposed to various dates under current law. See also Secs. 2.08 - 2.21.
- Sec. 2.22: The Texas Workforce Commission is subject to review by 2015, as opposed to 2013 under current law.
- Secs. 3.04 and 3.05: The State Bar of Texas and the Board of Law Examiners are subject to review by 2017, as opposed to 2015 under current law.
- Secs. 3.06 - 3.10: The State Board of Dental Examiners, the Executive Council of Physical Therapy and Occupational Therapy Examiners, the Board of Physical Therapy Examiners, the Board of Occupational Therapy Examiners, and the Board of Orthotics and Prosthetics are subject to review by 2017, as opposed to earlier years under current law.
- Secs. 4.01, 4.04, 4.07, and 4.08: The Department of Public Safety, the School Land Board, the Board of Professional Geoscientists, and the Board of Professional Land Surveying are subject to review by 2019, as opposed to earlier years under current law.

- Secs. 5.02 - 5.05: The Prepaid Higher Education Tuition Board, the Guaranteed Student Loan Corporation, the Economic Development and Tourism Office, and the Office of State-Federal Relations are subject to review by 2021, as opposed to earlier years under current law.

Impact: SB 652 does not directly impact UT System. However, the review of the Coordinating Board in 2013 could affect some of the higher education programs administered by the Coordinating Board.

Effective: June 17, 2011

Karen Lundquist

SB 663 by Nichols, et al. and Anchia

Relating to the continuation and functions of the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments; providing an administrative penalty.

The State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments (committee) regulates fitters and dispensers of hearing instruments who measure human hearing for the purposes of selecting, adapting, or selling hearing aids. The committee is administratively attached to the Department of State Health Services (DSHS).

SB 663 is the committee's sunset bill. It adopts the Sunset Advisory Commission recommendations to continue the committee until September 1, 2017, and includes several statutory modifications to improve the committee's licensing practices and consistency of its operations.

SB 663 requires the committee and the State Board of Examiners for Speech-Language Pathology and Audiology to jointly adopt rules to establish requirements for each sale of a hearing instrument. The rules must address the information and other provisions required in each written contract for the purchase of a hearing instrument, records that must be retained, and guidelines for the 30-day trial period during which a person may cancel the purchase of a hearing instrument. The rules must also require that the written contract and 30-day trial period information provided to a purchaser of a hearing instrument be in plain language designed to be easily understood by the average consumer.

SB 663 also authorizes the committee to add oral or practical tests to the written examination of applicants for a license to dispense hearing instruments.

Impact: Any UT System institution that employs a person who fits or dispenses hearing instruments should be aware of SB 663 and the resulting adopted rules.

Effective: September 1, 2011

Lannis Temple

[HB 1861](#) by Anchia and Whitmire

Relating to the continuation and functions of the Commission on State Emergency Communications.

HB 1861 continues the operation of the Commission on State Emergency Communications (CSEC) until September 1, 2023, and authorizes CSEC to appoint the Emergency Communications Advisory Committee. With the assistance of this advisory committee, CSEC is authorized to coordinate the development, implementation, and management of an interconnected, state-level emergency services Internet Protocol network. HB1861 also directs CSEC to develop and implement a policy that encourages negotiated rulemaking and alternative dispute resolution procedures under Chapter 2009, Government Code.

Impact: The transition from telephone based 911 emergency communications systems to a state-level Internet Protocol based emergency communications system (NG 911) will present many challenges to CSEC. While HB 1861 does not require action by UT System institutions, the initial planning process established by HB 1861 for the development and implementation of NG 911 are processes that should be monitored closely, as the new system's functionality, security, and compatibility with UT System's communication systems and procedures are critically important.

Effective: June 17, 2011

Mark Gentle

[HB 2605](#) by Taylor and Huffman

Relating to the continuation and functions of the division of workers' compensation of the Texas Department of Insurance.

HB 2605 extends the sunset date of the division of workers' compensation of the Texas Department of Insurance to September 1, 2017. Section 26 of HB 2605 allows the investigation unit of the division of workers' compensation to make unannounced site visits to inspect all workers' compensation records of workers' compensation carriers, such as the UT System Workers' Compensation Insurance Program, and employers, such as each UT System institution.

Impact: The UT System Workers' Compensation Insurance Program and each institution may receive unannounced site visits by the investigation unit of the division of workers' compensation to inspect all workers' compensation records. The human resources department of each UT System institution and the UT System Workers' Compensation Insurance Program should be aware of HB 2605 and the possibility of unannounced site visits.

Effective: September 1, 2011

Jack O'Donnell

SB 1 – **First Called Session** by Duncan, et al. and Pitts

Relating to certain state fiscal matters; providing penalties.

SB 1, First Called Session, is composed of approximately 70 articles and 262 pages, designed primarily to make changes to the manner of distribution and methods of providing revenue for the support of public schools. SB 1 has little direct effect on higher education or UT System. Many of the other provisions of the bill adjust the schedule for payment of various taxes and fees, moving payments from the following biennium to the current biennium (requiring prepayment followed by a reconciliation) or delaying transfers from general revenue to a special fund, all with a purpose of increasing the amount held in general revenue during the fiscal biennium ending August 31, 2013. This includes prepayment of alcoholic beverage taxes (Article 10) and sales taxes (Article 13).

The following describes matters of interest to higher education, even though most of the described provisions generally have no direct impact on higher education or UT System.

Article 1 defers foundation school fund payments to school districts (and therefore charter schools) from August 2013 to September 2013, moving the cost of those payments to the following fiscal biennium.

Article 17 transfers from the comptroller of public accounts to the Coordinating Board a report on the physician education loan repayment assistance program under Subchapter J, Chapter 61, Education Code.

Article 20 eliminates the statutory requirement that the secretary of state produce bound copies of the “session laws” after each session of the legislature.

Article 21 authorizes the attorney general to charge a fee for the electronic filing of documents with the attorney general.

Article 23 continues the Department of Information Resources (DIR) in operation for the next two years (the DIR sunset bill from the regular session having been vetoed). SB 1 provides DIR authority to employ best value purchasing for information technology commodity items. It also authorizes DIR to set and charge a fee to each entity that receives services from DIR.

Article 27 eliminates the statutory authority of the Commission on State Emergency Communications to establish a regional poison control center in Harris County and authorizes the commission to standardize the operations of and implement management controls to improve the efficiency of regional poison control centers.

Article 28 expands the use of three tobacco settlement funds (not those managed by UT System) to pay principal and interest on bonds issued by the Cancer Prevention and Research Institute of Texas (CPRIT).

Article 34 requires the Legislative Budget Board (LBB) to conduct public hearings on expenditure reduction plans requested by leadership, and agencies to provide to the LBB plans in response to such a request. In addition, Article 34 requires the comptroller of public accounts to publish online a schedule of all revenue to the state from fees authorized by statute (implicitly including higher education fees).

Article 50 limits eligibility for education aide tuition exemptions to persons seeking teacher certification in subject areas experiencing teacher shortages, as determined by the Texas Education Agency.

Article 54 removes the comptroller of public accounts as an ex officio member of the Texas Guaranteed Student Loan Board and reduces the board from 10 to nine members. It also authorizes the governor to name the chair of the board.

Articles 42 and 65 relate to correctional health care. Article 42 changes the composition of the correctional managed health care committee, reducing the committee to five voting members plus the state Medicaid director as a nonvoting member, and reducing the term of office to four years. Article 42 also transfers from the committee to the Texas Department of Criminal Justice (TDCJ) the responsibility to contract for correctional managed care and requires TDCJ, in cooperation with the committee, to contract for a biennial review of expenditures. Article 65 requires TDCJ to adopt policies designed to manage inmate populations based on similar health conditions. It requires each inmate to pay an annual \$100 health services fee instead of a co-pay. It requires TDCJ to make over-the-counter medicines available to inmates and requires TDCJ, in cooperation with UT Medical Branch at Galveston (UTMB) and Texas Tech University Health Sciences Center, to develop and implement, not later than January 1, 2012, a training program for corrections medications aides. It further exempts from end-stage renal disease licensing requirements any clinics or hospitals providing dialysis in correctional managed care.

Article 71 authorizes the Health and Human Services Commission to apply for a federal Medicaid waiver relating to benefits for individuals with chronic health conditions.

Impact: In general, SB 1 has little direct impact on UT System or its institutions. No amendments to rules or policies are necessary, nor are changes to catalogues, websites, or notices. Institutional business offices should be aware of the described provisions of SB 1.

State payments to campus charter schools will be briefly delayed from August to September of 2013.

Offices filing documents electronically with the attorney general, such as campus legal counsel, and offices receiving services from DIR will pay fees not previously paid.

Financial aid offices should be aware of the changes to qualifications for the educational aide tuition exemption, and should monitor the Texas Education Agency for rules determining which areas of teacher certification will qualify an individual for the exemption.

UTMB is directly affected by the described changes to correctional managed care.

The Southeast Texas Poison Center at UTMB and the South Texas Poison Center at UT Health Science Center at San Antonio should monitor changes in policies and procedures of the Commission on State Emergency Communications.

Effective: Each of the described provisions takes effect September 28, 2011, as does the bill generally. Some provisions have specified later effective dates.

Steve Collins

APPROPRIATIONS

Summary of House Bill 1 and House Bill 4, 82nd Legislature, Regular Session And Senate Bill 2, 82nd Legislature, 1st Called Session 2012-13 General Appropriations Act As Modified by Governor's Veto Proclamation

The 82nd Legislature, 2011, appropriated \$12.2 billion in General Revenue to support all of higher education, including amounts estimated for employee benefits, for 2012-13. With 5 percent reductions from certain 2010-11 appropriations, as directed by the Governor and legislative leadership in January of 2010, and without inclusion of federal American Recovery and Reinvestment Act (ARRA) funds, this represents a decrease of \$794.3 million in General Revenue or 6.1 percent below 2010-11 expenditures.

The University of Texas System analyzes state appropriations from a starting point that includes 100 percent of 2010-11 General Revenue appropriations made in Senate Bill 1, 81st Legislature, and the ARRA funds. A spreadsheet provided at the end of this section titled *2010-11 Base Funding Calculations, UT System vs. Legislative Budget Board (Conference Committee Version)* shows the two different calculations of the 2010-11 base. The \$3.1 billion appropriated to the University of Texas General Academic Institutions, Health-related Institutions, and System Administration, is a decrease of \$498.3 million or 13.8 percent compared to 2010-11. General Revenue appropriations total \$1.4 billion for the nine UT General Academic Institutions; \$1.7 billion for the six UT Health-related Institutions; and \$15.9 million for the UT System Administration. Net of appropriations for tuition revenue bond (TRB) debt service, General Revenue appropriations total \$1.26 billion for the nine UT General Academic Institutions; \$1.57 billion for the six UT Health-related Institutions; and \$2.85 million for the UT System Administration, a \$475.4 million decrease from 2010-11.

The decrease net of TRB debt service of \$475.4 million for the UT institutions includes decreases to all categories of funding. On top of the 5 percent reductions in the 2010-11 biennium, the following reductions are included in House Bill 1:

- Academic Institutions
 - Formula funding for Instruction and Operations and Infrastructure is reduced 5 percent
 - The Research Development Fund is reduced 15 percent
 - Non-formula strategies including special items, workers compensation and unemployment insurance are reduced 25 percent
 - The Texas Competitive Knowledge Fund is reduced 25 percent
 - Hold harmless funding is provided so that no institution loses more than 15 percent in total General Revenue, based on a comparison to a 2010-11 level of funding that includes 95 percent of General Revenue and ARRA formula funding but not tuition revenue bond debt service

- Health-related Institutions
 - Formula funding for Instruction and Operations, Infrastructure and Research is reduced 5 percent
 - Mission Specific formula funding is reduced 5 percent
 - The Graduate Medical Education formula is reduced 5 percent
 - Most special items are reduced 20 percent
 - Certain medical education special items are reduced 10 percent
 - No hold harmless funding is provided. However, reductions in House Bill 1 are mitigated to the levels listed above by additional appropriations for each health-related institution in the supplemental appropriations bill, House Bill 4. For this summary, \$24 million appropriated to health-related institutions beginning in fiscal year 2011 is considered part of the 2012-13 appropriations.

The \$475.4 million operating funds decrease includes General Academic Institutions' decreases totaling \$221.8 million, or 15.0 percent, Health-related Institutions' decreases totaling \$252.5 million, or 13.7 percent, and UT System Administration decreases totaling \$1.2 million, or 28.7 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 2012-13 General Appropriations Act, 82nd Legislature, (House Bill 1 and House Bill 4)* at the end of this section. These spreadsheets include supplemental General Revenue Appropriations made to Higher Education Institutions through House Bill 4.

General Revenue appropriations for Higher Education Group Insurance (HEGI) contributions for the UT Institutions total \$340.3 million for the biennium, a decrease of \$8.9 million, or 2.6 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, House Bill 1, 82nd Legislature, 2012-13 General Appropriations Act, Higher Education Group Insurance – 2010-11 Biennium vs. 2012-13 Biennium* at the end of this section.

The 82nd Legislature, 1st Called Session, passed an additional supplemental appropriations bill, Senate Bill 2. The bill provided \$59.0 million for agencies and institutions of higher education. Section 18 of the bill rescinds an appropriation made in House Bill 4 to the University of Texas Health Science Center at San Antonio for the Cord Blood Bank and Section 28 directs \$1.0 million of UT Austin's funding in House Bill 1 to be used in partnership with the Texas Cultural Trust.

Two additional spreadsheets provided at the end of this section present the General Revenue funding levels for all 38 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, 2012-13 General Revenue Appropriations, House Bill 1*. These spreadsheets also include supplemental General Revenue appropriations made to higher education institutions through House Bill 4 and Senate Bill 2. A third spreadsheet provided for

House Bill 4 only includes fiscal year 2011 reductions in addition to additional appropriations. It is titled *The University of Texas System, House Bill 4 General Revenue Reductions and Supplemental General Revenue, 82nd Legislature*.

GENERAL ACADEMIC INSTITUTIONS

Total General Revenue funding for the General Academic Institutions, System Offices, Lamar State Colleges, and Texas State Technical Colleges totals \$4.2 billion for 2012-13, a decrease of \$767.3 million from original 2010-11 appropriations including ARRA funds. Net of tuition revenue bond debt service, appropriations for 2012-13 total \$3.8 billion, a \$690.2 million decrease. Funding reductions were made in formula funding, Special Items, and other non-formula strategies including workers compensation, unemployment insurance, the Research Development Fund, and the Texas Competitive Knowledge Fund.

Formula Funding

General Revenue funding for the General Academic Institutions' formulas totals \$2.9 billion for 2012-13. Formula funding is reduced 5 percent from the Legislative Budget Board's base 2010-11 General Revenue level, which is net of the 5 percent reduction taken in 2010-11 and the ARRA formula funding.

- \$2.42 billion is appropriated for Instruction & Operations. Enrollment growth is not funded.
- \$495.8 million is appropriated for Infrastructure Support and \$26 million for the small institution supplement.

Formula funding issues that are addressed in House Bill 1 include:

- The Small Institution Supplement phase-out approach begun in the 2010-11 biennium was maintained. Institutions exceeding a headcount of 5,000 will have their annual appropriation of \$750,000 gradually reduced until headcount of 10,000 is reached and it is completely eliminated.
- The Instruction & Operations Formula funds are allocated using the cost-based formula matrix, which was phased in beginning in 2006-07 and 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 2010, fall 2010, and spring 2011 semesters.

From original 2010-11 formula appropriations including ARRA funds, nine UT General Academic Institutions receive formula decreases that total \$110.1 million in General Revenue or 9.6 percent, not including hold harmless funding:

- \$150,627, or 0.1 percent, for UT Arlington
- \$54.8 million, or 12.2 percent, for UT Austin
- \$5.4 million, or 4.2 percent, for UT Dallas

- \$11.1 million, or 9.9 percent, for UT El Paso
- \$12.4 million, or 13.4 percent, for UT Pan American
- \$1.9 million, or 7.2 percent, for UT Brownsville
- \$2.5million, or 14 percent, for UT Permian Basin
- \$17 million, or 12.1 percent, for UT San Antonio
- \$4.8 million, or 14.4 percent, for UT Tyler

Hold Harmless

Institutions that were reduced more than 15 percent in total General Revenue according to LBB calculations receive a hold harmless. UT Permian Basin receives \$923,314 in hold harmless appropriations for 2012-13.

Funding for Special Items

Though existing Special Items are generally reduced 25 percent from 2010-11 LBB base levels, the 82nd Legislature adds some new or increased funding for the UT General Academic Institutions. In addition, some Special Items that were ARRA-funded in 2010-11 are partially replaced with General Revenue.

Direct appropriations in House Bill 1 to UT General Academic Institutions for Special Items total \$14.3 million and include:

- \$800,000 for the McAllen Teaching Site at UT Pan American
- \$1.47 million for the Life Sciences Institute at UT San Antonio.
- \$3 million for the College Readiness program at UT Austin
- \$6 million for the Bureau of Economic Geology at UT Austin
- \$1 million for a program in digital literacy at UT Austin that will be developed with the Texas Cultural Trust
- UT Austin also received an additional \$1 million above a 25 percent reduction for the Marine Science Institute and \$1 million above a 25 percent reduction for McDonald Observatory.

Special Item appropriations made in HB 4 total \$9.7 million and include:

- \$5 million for the Regional Nursing Education Center at UT Arlington
- \$3 million for the Middle School Brain Years program at UT Dallas

- \$1.7 million for the College of Engineering at UT Permian Basin

The Texas Competitive Knowledge Fund

The 81st Legislature in 2009 created the Research University Development Fund (RUDF) as a replacement for the Texas Competitive Knowledge Fund (TCKF), but both the 81st and 82nd Legislatures have chosen to continue funding only the original program. For 2012-13, the TCKF is funded at a reduced level from 2010-11. HB 1 appropriates funds to the original four institutions that made up the TCKF: UT Austin, Texas A&M-College Station, the University of Houston, and Texas Tech University, and UT Dallas. \$3.6 million of UT Dallas’s special item funding was converted to its TCKF appropriation. In spite of qualifying for a TCKF appropriation in fiscal year 2010, UT Arlington and UT El Paso do not receive appropriations. For 2012-13, \$93.5 million was appropriated to the TCKF, a 25 percent decrease on top of the 5 percent reduction in 2010-11. Appropriations for the five institutions are as follows:

	<u>2010-11</u>	<u>2012-13</u>	<u>Increase/(Decrease)</u>
UT Austin	\$55.1 million	\$36.8 million	(\$18.3 million)
Texas A&M	\$56.1 million	\$39.8 million	(\$16.3 million)
Univ. of Houston	\$9.1 million	\$6.1 million	(\$3 million)
Texas Tech	\$5.9 million	\$6.0 million	\$100,000
UT Dallas	\$3.6 million	\$4.7 million	\$1.1 million
Total	\$129.8 million	\$93.5 million	\$33 million

The TCKF is appropriated at a rate of \$685,050 per \$10 million in three-year average of total research expenditures for each institution, as reported to the Texas Higher Education Coordinating Board (THECB) for fiscal years 2008, 2009, and 2010. A threshold of \$50 million in total research expenditures is established for 2012-13 before an institution can receive a TCKF appropriation, but UT Arlington and UT El Paso, who met this threshold, are not included.

Research Development Fund

The Research Development Fund (RDF) is funded at \$65.3 million for 2012-13, a 15 percent decrease on top of the 2010-11 biennium 5 percent reduction. UT institutions are appropriated \$29.7 million from the RDF for 2012-13, a decrease of \$7.6 million from the original 2010-11 appropriation:

- UT Arlington \$6.0 million, a decrease of \$900,000
- UT Dallas \$8.4 million, a decrease of \$2.9 million
- UT El Paso \$6.9 million, a decrease of \$1.6 million

- UT Pan Am \$1.1 million, a decrease of \$330,000
- UT Brownsville \$900,000 million, a decrease of \$430,000
- UT Permian Basin \$306,000, a decrease of \$194,000
- UT San Antonio \$5.5 million, a decrease of \$1.3 million
- UT Tyler \$434,000, a decrease of \$22,000

Higher Education Performance Incentive Initiative

The Higher Education Performance Incentive Initiative, created by the 80th Texas Legislature, and funded as an ARRA appropriation for 2010-11, is not funded for 2012-13. Efforts to include performance funding within the base operations formula as “outcomes-based funding” did not come to fruition.

National Research Universities

The 81st Legislature in 2009 created 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 2012-13, \$35.6 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. This is a 25 percent reduction on top of the 5 percent reduction taken in the 2010-11 biennium.

In 2009 the Legislature also created 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. The 82nd Legislature passed House Bill 1000 to clarify some of the NRUF eligibility criteria, to include restricted research audit provisions and to establish a statutory distribution method. (HB 1000 changes to the original statute are included in italics below.) 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 year for which the appropriation is made, 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 *in each of the two state fiscal years preceding the state fiscal year for which the appropriation is made;*

- The institution awards at least 200 Doctor of Philosophy degrees during each of the two academic years preceding the State fiscal year *for which the appropriation is made*;
- 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.

HB 1000 also provides for a mandatory initial audit, as well as additional permissive audits, by the state auditor to verify the amount of restricted research funds and compliance by the institution and the coordinating board with the standards governing methods of accounting and reporting.

HB 1000 provides that annual appropriations from the fund not exceed 4.5 percent of the average net market value, and that each qualifying institution receive a distribution of 1/7 of the amount appropriated plus an equal share of any amount remaining after that distribution, not to exceed one-fourth of that remainder.

In the Conference Committee version of House Bill 1, Article IX Section 18.41 provides an estimated appropriation of \$12.4 to be distributed to eligible institutions for the 2012-13 biennium. The proceeds from the NRUF will be classified as the Method of Finance: Other Funds.

HEALTH-RELATED INSTITUTIONS

Total General Revenue funding for the nine public Health-related Institutions plus the Baylor College of Medicine is \$2.4 billion for the 2012-13 biennium, a decrease of \$323.5 million from 2010-11. Net of tuition revenue bond debt service, appropriations for 2012-13 total \$2.2 billion, a \$314.2 million decrease. Funding reductions are taken in all strategies, including formula funding, hospital operations and Special Items.

Formula Funding

HB 1 and HB 4 include the following formula funding amounts for the Health-related Institutions:

- \$851.6 million for Instruction & Operations. Enrollment growth is not funded.
- \$62.9 million for Research Enhancement.

- \$221.7 million for Infrastructure Support.
- \$59.9 million for Graduate Medical Education (GME).

GME appropriations for 2010-11 and 2012-13 are shown in the table below.

<u>Graduate Medical Education</u>	<u>2010-11 Biennium \$ in Millions</u>	<u>2012-13 Biennium \$ in Millions</u>	<u>\$ Decrease \$ in Millions</u>	<u>% Decrease</u>
UT Southwestern	\$17.0	\$14.4	\$2.6	15.4%
UT Medical Branch at Galveston	9.0	4.8	4.2	46.7%
UT Health Science Center (HSC) at Houston	10.5	8.3	2.2	21.2%
UT HSC at San Antonio	9.3	7.0	2.3	25.1%
UT M.D. Anderson Cancer Center	1.7	1.2	0.5	28.3%
UT HSC at Tyler	0.3	0.3	0.04	13.6%
Texas A&M HSC	6.7	5.3	1.4	20.3%
University of North Texas HSC	2.1	1.7	0.4	18.1%
Texas Tech University HSC	7.1	5.4	1.7	24.4%
TOTAL, Health Related Institutions	\$63.8	\$48.4	\$15.4	24.1%
Baylor College of Medicine (BCM)	15.3	11.5	3.7	24.7%
Total, including BCM	\$79.1	\$59.9	\$19.2	24.3%
GME Annual Formula Rate (\$ per Resident):	\$6,653	\$4,929	\$1,725	29.1%

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.

- \$212.5 million for the Cancer Center Operations Formula at UT M.D. Anderson Cancer Center.
- \$47.2 million for the Chest Disease Center Operations Formula at UT HSC at Tyler.

Formula funding issues that were addressed by the 82nd Legislature include an adjustment to the infrastructure rates for UT M.D. Anderson Cancer Center and UT HSC at Tyler, which are increased to reflect increasing tuition as a method of finance.

Six UT Health-related Institutions receive formula decreases that total \$160.1 million. From original formula appropriations including ARRA funds, decreases total:

- \$35.6 million, or 17.6 percent, for UT Southwestern Medical Center at Dallas
- \$30.3 million, or 17.5 percent, for UT Medical Branch at Galveston
- \$23.6 million, or 9.5 percent, for UT HSC at Houston
- \$36.8 million, or 16.1 percent, for UT HSC at San Antonio
- \$28.5 million, or 9.2 percent, for UT MD Anderson
- \$5.5 million, or 9.3 percent, for UT HSC at Tyler

Funding for Special Items

The 82nd Legislature does not include additional funding for special items. Existing Special Items were reduced 20 percent from 2010-11 levels except for medical education, which were reduced 10 percent. The University of Texas Health Science Center at San Antonio's appropriation for the Regional Academic Health Center, a medical education Special Item, was reduced 10 percent.

Additional Operating Funds for Health-related Institutions

HB 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 continuation of hospital operations funding appropriated to UT Medical Branch at Galveston. In 2010-11, the institution received an additional \$97 million. For 2012-13, the legislature appropriated a total of \$284.7 million in General Revenue for hospital operations, a reduction of 15 percent on top of the 5 percent reduction in the 2010-11 biennium.

Operating funds appropriated elsewhere in HB 1 that are available to UT Health-related Institutions include:

- \$858.3 million appropriated to the Department of Criminal Justice for Correctional Managed Healthcare at UT Medical Branch at Galveston and Texas Tech Health Sciences Center, a decrease of \$71.5 million from the original appropriation. With the HB 4 fiscal year 2011 supplemental appropriation for Correctional Managed Care included in the comparison, the reduction is \$139.9 million.
- A total of \$47 million appropriated to the Department of State Health Services for UT HSC Houston to operate the Harris County Psychiatric Center.
- \$600 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.

- \$140.5 million in General Revenue is appropriated to the Office of the Governor for the Emerging Technology Fund. \$138.3 million of that is previously unexpended balance.
- A total of \$133.2 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 81st 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. The 82nd Legislature provides up to \$11 million that can be used for debt service as part of UTMB's House Bill 4 supplemental appropriation for 2012-13.

HIGHER EDUCATION FUND

Funding for the Higher Education Fund (HEF) is maintained at a total of \$525 million for the biennium pursuant to Section 62.021, Education Code (HB 3001, 79th Legislature, Regular Session, 2005).

UT Brownsville and UT Pan American are the only two institutions within the UT System that are eligible for HEF appropriations. For fiscal years 2012 and 2013, each institution shall receive the following amounts, which are level with fiscal year 2011:

- UT Pan American \$24.6 million
- UT Brownsville \$ 10.1 million

TEXAS HIGHER EDUCATION COORDINATING BOARD

HB 1 appropriates a total of \$1.3 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 adjustments to these trusted programs at THECB are outlined below.

Of the total appropriation to THECB for 2012-13, \$1.0 billion is General Revenue Funds, a decrease of \$332.2 million compared to the LBB 2010-11 base. The base the LBB uses reflects the 5 percent reduction directed by legislative and executive leadership in January of 2010.

Affordability – Student Financial Aid

HB 1 appropriates a reduction of \$150.4 million in General Revenue from the Student Financial Aid Strategy at THECB, for a total appropriation of \$879.5 million in All Funds for the biennium. The following five financial aid programs are combined into one Student Financial Aid Strategy, and the minimum amounts appropriated for each program are outlined in THECB Rider 20, Student Financial Aid Programs:

- TEXAS Grants is reduced 10 percent for a total appropriation of \$559.5 million for the biennium.
- The B-on-Time Student Loan Program is reduced 40 percent in General Revenue and 23 percent in General Revenue-Dedicated, for total appropriations of \$31.4 million and \$40.6 million for the biennium, respectively.
- Funding for College Work Study is maintained at the 2010-11 level of \$15 million for the biennium.
- Level funding is maintained for Texas Educational Opportunity Grants, for a total appropriation of \$24 million for the biennium.
- Tuition Equalization Grants (TEG) are funded at a 20 percent reduction from the 2010-11 level: \$168.8 million for the biennium.

In addition to the five programs outlined above, additional financial aid programs' appropriations are reduced as follows:

- The appropriation for the Teach for Texas Loan Repayment Program is reduced \$10.5 million, for a total appropriation of \$1.0 million for 2012-13.
- \$11.9 million in General Revenue is reduced from the Top 10 Percent Scholarship program, for a total appropriation of \$39.7 million for 2012-13.

The following programs are not funded by House Bill 1:

- Early High School Graduation Scholarship Program
- TANF Scholarship Program
- Doctoral Incentive Program
- Engineering Recruitment Program
- Combat Tuition Reimbursement Program
- Texas Career Opportunity Grants

Research Programs

All but \$1.0 million for the Advanced Research Program (ARP) is eliminated for the biennium. Guidance remains on how funds shall be allocated by THECB in Rider 45, 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 2012-13 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.

The Texas Research Incentive Program (TRIP) is reduced 25 percent or \$11.9 million on top of the 5 percent reduction made in the 2010-11 biennium for total funding of \$35.6 million.

Health Programs

- A \$4.9 million decrease for formula funding is appropriated for the Baylor College of Medicine, including a decrease of \$1.7 million for GME. A total of \$82.1 million is appropriated to Baylor College of Medicine for the biennium.
- Appropriations for the Family Practice Residency Program total of \$5.6 million for the biennium, a reduction of \$14.6 million for the biennium.
- Appropriations for the Joint Admission Medical Program total of \$7.0 million for the biennium, a reduction of 25 percent from the 2010-11 base level.
- \$5.6 million is appropriated for the Physician's Education Loan Repayment Program, a decrease of \$17.6 million from 2010-11. The program is funded from revenue on a tax imposed on certain tobacco products (HB 2154, 81st Legislature, Regular Session, 2009).
- A \$17.1 million decrease is appropriated for the Professional Nursing Shortage Reduction Program, for a total of \$30.0 million for the biennium. Guidance on how funds shall be allocated by THECB is provided in Rider 37, Professional Nursing Shortage Reduction Program:
 - \$9.9 million shall be distributed to institutions based on increases in nursing students graduating.
 - \$13.8 million shall be distributed to certain institutions based on additional students enrolled.
 - \$6.4 million shall be distributed to certain other nursing programs based on additional graduates.
- \$5.2 million is appropriated for the Alzheimer's Disease Centers.

The following programs are not funded by House Bill 1:

- Preceptorship Program
- Primary Care Residency Program
- Graduate Medical Education Program
- Professional Nursing Aid Program
- Vocational Nursing Aid Program
- Dental Education Loan Repayment Program
- Hospital-Based Nursing Education Partnership Grant Program
- Children's Medicaid Loan Repayment Program

Participation Programs

- \$4.0 million in General Revenue is appropriated for the biennium for the Developmental Education Program. THECB Rider 52, Developmental Education, provides information on this program.
- \$3.0 million in General Revenue is appropriated for the biennium for Centers for Teacher Education.
- \$4.0 million in General Revenue is appropriated for the biennium for Adult Basic Education Community College Grants. THECB Rider 40, Adult Basic Education Community College Grants, provides information on the program.

The following programs are not funded by House Bill 1:

- Two-Year Enrollment Growth
- New Community College Campuses
- General Academic Enrollment Growth
- Alternative Teaching Certificate Programs at Community Colleges
- College Readiness Grants

PUBLIC COMMUNITY AND JUNIOR COLLEGES

HB 1 appropriates \$1.7 billion in General Revenue Funds for the Public Community Colleges, which is level funding with the 2010-11 biennium after the 5 percent reduction.

Total funding includes \$6.2 million in Small Institution Supplement funding.

TEXAS A&M SYSTEM AGENCIES

HB 1 appropriates \$284.1 million in General Revenue Funds for the Texas A&M System agencies. HB 4 appropriates \$81.0 million to the Texas Forest Service and \$2.0 million to the Texas Engineering Experiment Station. The Forest Service receives an additional \$40 million in SB 2.

HIGHER EDUCATION EMPLOYEES GROUP INSURANCE

Total appropriations for Higher Education Employees Group Health Insurance (HEGI) are \$1.0 billion in General Revenue for 2012-13, a decrease of \$99.3 million. The decrease in appropriations funds rate increases of 1.29 percent in 2012 and 5.42 percent in 2013 for all higher education institutions; however, for 2012-13, HEGI is funded at the following state contribution levels:

- 83.4 percent of the Employee Retirement System level for institutions in The University of Texas System and Texas A&M University System.

- A total of \$340.3 million is appropriated for HEGI contributions to the 15 UT institutions and System Administration (including UT Brownsville/Texas Southmost College). This represents a decrease of \$8.8 million from 2010-11.
- 85.8 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).
- 41.7 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 \$3.8 billion for 2012-13, a decrease of \$240.8 million. The appropriated amount represents a state retirement contribution rate of 6.0 in 2012 and 6.4 in 2013, and reflects no payroll growth.

OPTIONAL RETIREMENT PROGRAM

HB 1 appropriates a decrease of \$46.3 million for 2012 and 2013. The state contribution rate in 2010 and 2011 was 6.4 percent; 2012 and 2013 appropriations represent a state contribution rate of 6.0 percent. The total appropriation for ORP is \$247.9 million for 2012-13.

**Summary of House Bill 4 and Senate Bill 2
Supplemental Appropriation**

House Bill 4, Regular Session, and Senate Bill 2, 1st Called Session, the supplemental appropriation bills, appropriate \$338.8 million for institutions and agencies of higher education. In House Bill 4, UT System Institutions receive supplemental appropriations that total \$133.2 million, shown in the table below.

Institution	Appropriation¹	Appropriation Description
UT Southwestern Medical Center	20,587,647	Institutional Operations
UT Medical Branch at Galveston	19,863,510	Institutional Operations and Tuition Revenue Bond Debt Service
UT Health Science Center at Houston	24,145,091	Institutional Operations
UT Health Science Center at San Antonio	24,818,235	Institutional Operations

Institution	Appropriation¹	Appropriation Description
UT M.D. Anderson Cancer Center	25,383,894	Institutional Operations
UT Health Science Center at Tyler	8,752,408	Institutional Operations
The University of Texas at Arlington	5,000,000	Regional Nursing Education Center
The University of Texas at Dallas	3,000,000	Middle School Brain Years
The University of Texas of the Permian Basin	1,700,000	College of Engineering

¹All supplemental appropriations made to UT System institutions are from the General Revenue Fund.

**2010-11 Base Funding Calculations
UT System Originally Budgeted Operating Funds vs. Legislative Budget Board Actual Expenditures**

Institution	2010-11 100% GR	TRB Debt Service	Article XII ARRA Special Items	Other Appropriations	Performance Incentive	UT System 2010-11 Base (Originally Budgeted Operating Funds)
The University of Texas at Arlington	189,860,102	(19,429,859)		5,000,000	3,802,787	179,233,030
The University of Texas at Austin	571,661,017	(29,605,809)	420,000	9,902,630	4,496,185	556,874,023
The University of Texas at Dallas	155,146,155	(7,585,949)	11,462,500		2,273,262	161,295,968
The University of Texas at El Paso	159,244,244	(17,054,271)			5,384,104	147,574,077
The University of Texas - Pan American	129,006,898	(15,165,932)			3,445,477	117,286,443
The University of Texas at Brownsville	54,922,857	(13,092,243)			1,421,418	43,252,032
The University of Texas of the Permian Basin	56,394,193	(19,074,185)			544,314	37,864,322
The University of Texas at San Antonio	203,817,067	(24,964,958)	4,500,000		3,283,823	186,635,932
The University of Texas at Tyler	61,354,011	(11,567,416)		1,300,000	1,717,997	52,804,592
UT Southwestern Medical Center	304,340,633	(24,880,707)	8,000,000			287,459,926
UT Medical Branch at Galveston	566,532,697	(12,370,338)				554,162,359
UT Health Science Center at Houston	310,694,866	(27,389,269)	14,500,000			297,805,597
UT Health Science Center at San Antonio	308,824,503	(20,635,169)	10,500,000			298,689,334
UT M.D. Anderson Cancer Center	329,830,055	(12,672,884)				317,157,171
UT Health Science Center at Tyler	74,722,422	(5,422,188)				69,300,234

2010-11 100% GR	Other Appropriations	5% Reduction	LAPSE (TRB and other)	ARRA Formula	LBB Base (Actual Expenditures)
189,860,102	0	(8,329,533)	(3,860,800)	(3,839,588)	173,830,181
571,661,017	9,902,630	(26,608,290)	(2,253,316)	(9,889,405)	542,812,636
155,146,155	0	(7,224,888)	(904,582)	(3,062,438)	143,954,247
159,244,244	0	(6,975,405)	(5,287,586)	(2,681,876)	144,299,377
129,006,898	60,682	(5,579,985)	(4,113,714)	(2,241,274)	117,132,607
54,922,857	943,838	(2,064,525)	(1,638,330)	(540,108)	51,623,732
56,394,193	0	(1,845,971)	(6,041,215)	(400,587)	48,106,420
203,817,067	0	(8,766,319)	(2,324,846)	(3,525,733)	189,200,169
61,354,011	1,300,000	(2,450,479)	(2,129,823)	(777,002)	57,296,707
304,340,633		(13,542,281)	(91,477)	(8,614,303)	282,092,572
566,532,697		(27,370,860)	(102)	(6,745,161)	532,416,574
310,694,866		(13,681,598)	(5,333,653)	(9,673,646)	282,005,969
308,824,503		(13,973,250)	(4,606,353)	(8,724,332)	281,520,568
329,830,055		(15,826,148)	(1,131,401)	(634,206)	312,238,300
74,722,422		(3,461,001)	(1,658,237)	(80,210)	69,522,974

**2010-11 Base Funding Calculations
UT System Originally Budgeted Operating Funds vs. Legislative Budget Board Actual Expenditures Operating Funds**

Institution	2010-11 100% GR	TRB Debt Service	Article XII ARRA Special Items	Other Appropriations	Performance Incentive	UT System 2010-11 Base (Originally Budgeted Operating Funds)
The University of Texas at Arlington	189,860,102	(19,429,859)		5,000,000	3,802,787	179,233,030
The University of Texas at Austin	571,661,017	(29,605,809)	420,000	9,902,630	4,496,185	556,874,023
The University of Texas at Dallas	155,146,155	(7,585,949)	11,462,500		2,273,262	161,295,968
The University of Texas at El Paso	159,244,244	(17,054,271)			5,384,104	147,574,077
The University of Texas - Pan American	129,006,898	(15,165,932)			3,445,477	117,286,443
The University of Texas at Brownsville	54,922,857	(13,092,243)			1,421,418	43,252,032
The University of Texas of the Permian Basin	56,394,193	(19,074,185)			544,314	37,864,322
The University of Texas at San Antonio	203,817,067	(24,964,958)	4,500,000		3,283,823	186,635,932
The University of Texas at Tyler	61,354,011	(11,567,416)		1,300,000	1,717,997	52,804,592
UT Southwestern Medical Center	304,340,633	(24,880,707)	8,000,000			287,459,926
UT Medical Branch at Galveston	566,532,697	(12,370,338)				554,162,359
UT Health Science Center at Houston	310,694,866	(27,389,269)	14,500,000			297,805,597
UT Health Science Center at San Antonio	308,824,503	(20,635,169)	10,500,000			298,689,334
UT M.D. Anderson Cancer Center	329,830,055	(12,672,884)				317,157,171
UT Health Science Center at Tyler	74,722,422	(5,422,188)				69,300,234

2010-11 100% GR	TRB Debt Service	Other Appropriations	5% Reduction	LAPSE	ARRA Formula	LBB Base (Actual Expenditures Operating Funds)
189,860,102	(19,429,859)	0	(8,329,533)		(3,839,588)	158,261,122
571,661,017	(29,605,809)	0	(26,608,290)		(9,889,405)	505,557,513
155,146,155	(7,585,949)	0	(7,224,888)		(3,062,438)	137,272,880
159,244,244	(17,054,271)	0	(6,975,405)		(2,681,876)	132,532,692
129,006,898	(15,165,932)	60,682	(5,579,985)		(2,241,274)	106,080,389
54,922,857	(13,092,243)	943,838	(2,064,525)		(540,108)	40,169,819
56,394,193	(19,074,185)	0	(1,845,971)		(400,587)	35,073,450
203,817,067	(24,964,958)	0	(8,766,319)		(3,525,733)	166,560,057
61,354,011	(11,567,416)	1,300,000	(2,450,479)		(777,002)	47,859,114
304,340,633	(24,880,707)		(13,542,281)		(8,614,303)	257,303,342
566,532,697	(12,370,338)		(27,370,860)	(102)	(6,745,161)	520,046,236
310,694,866	(27,389,269)		(13,681,598)		(9,673,646)	259,950,353
308,824,503	(20,635,169)		(13,973,250)		(8,724,332)	265,491,752
329,830,055	(12,672,884)		(15,826,148)	(140)	(634,206)	300,696,677
74,722,422	(5,422,188)		(3,461,001)		(80,210)	65,759,023

LBB Actual Expenditures Operating Funds Base is not reduced for the fiscal year 2011 2.5 percent reduction taken in House Bill 4. As of the Conference Committee version of House Bill 1, the 2.5 percent was not reduced from the official base (as included in the LBB's ABEST reporting system).

**The University of Texas System
House Bill 1 and House Bill 4
2012-13 General Appropriations Act, 82nd Legislature**

Institution	2010-11 Biennium			2012-13 Biennium					Biennial Change		
	GR	TRB	GR	HB 1 GR	HB 4 GR	HB 4 GR	SB2	GR	\$ Increase (Decrease)	% Increase (Decrease)	
	Appropriations	Debt Service	Appropriations (less TRB)	Appropriations	Fiscal Year 2011	Appropriations	1st Called Session	TRB Appropriations			
The University of Texas at Arlington	198,662,889	(19,429,859)	179,233,030	178,867,794	-	5,000,000	-	(14,838,046)	169,029,748	(10,203,282)	-5.69%
The University of Texas at Austin	586,479,832	(29,605,809)	556,874,023	492,544,731	-	-	-	(27,753,903)	464,790,828	(92,083,195)	-16.54%
The University of Texas at Dallas	168,881,917	(7,585,949)	161,295,968	145,778,381	-	3,000,000	-	(6,687,728)	142,090,653	(19,205,315)	-11.91%
The University of Texas at El Paso	164,628,348	(17,054,271)	147,574,077	137,781,712	-	-	-	(14,591,583)	123,190,129	(24,383,948)	-16.52%
The University of Texas - Pan American	132,452,375	(15,165,932)	117,286,443	110,889,522	-	-	-	(14,436,241)	96,453,281	(20,833,162)	-17.76%
The University of Texas at Brownsville	56,344,275	(13,092,243)	43,252,032	47,424,781	-	-	-	(11,250,400)	36,174,381	(7,077,651)	-16.36%
The University of Texas of the Permian Basin	56,938,507	(19,074,185)	37,864,322	47,116,240	-	1,700,000	-	(16,960,263)	31,855,977	(6,008,345)	-15.87%
The University of Texas at San Antonio	211,600,890	(24,964,958)	186,635,932	178,547,264	-	-	-	(22,454,498)	156,092,766	(30,543,166)	-16.37%
The University of Texas at Tyler	64,372,008	(11,567,416)	52,804,592	51,804,728	-	-	-	(10,462,763)	41,341,965	(11,462,627)	-21.71%
Total - General Academic Institutions	1,640,361,041	(157,540,622)	1,482,820,419	1,390,755,153	0	9,700,000	0	(139,435,425)	1,261,019,728	(221,800,691)	-14.96%
UT Southwestern Medical Center	312,340,633	(24,880,707)	287,459,926	236,691,530	8,000,000	12,587,647	-	(24,664,410)	232,614,767	(54,845,159)	-19.08%
UT Medical Branch at Galveston	566,532,697	(12,370,338)	554,162,359	452,325,641	-	19,863,510	-	(12,360,962)	459,828,189	(94,334,170)	-17.02%
UT Health Science Center at Houston	325,194,866	(27,389,269)	297,805,597	270,136,211	-	24,145,091	-	(25,117,011)	269,164,291	(28,641,306)	-9.62%
UT Health Science Center at San Antonio	319,324,503	(20,635,169)	298,689,334	243,796,807	8,000,000	16,818,235	-	(19,421,845)	249,193,197	(49,496,137)	-16.57%
UT M.D. Anderson Cancer Center	329,830,055	(12,672,884)	317,157,171	281,051,178	8,000,000	17,383,894	-	(11,831,738)	294,603,334	(22,553,837)	-7.11%
UT Health Science Center at Tyler	74,722,422	(5,422,188)	69,300,234	63,104,171	-	8,752,408	-	(5,154,475)	66,702,104	(2,598,130)	-3.75%
Total - Health-Related Institutions	1,927,945,176	(103,370,555)	1,824,574,621	1,547,105,538	24,000,000	99,550,785	0	(98,550,441)	1,572,105,882	(252,468,739)	-13.84%
UT System Administration	17,077,250	(13,077,250)	4,000,000	15,931,200	-	-	-	(13,081,200)	2,850,000	(1,150,000)	-28.75%
GRAND TOTAL	3,585,383,467	(273,988,427)	3,311,395,040	2,953,791,891	24,000,000	109,250,785	0	(251,067,066)	2,835,975,610	(475,419,430)	-14.36%

Notes:

The 2010-11 base includes ARRA appropriations substituted for general revenue as well as Article XII, Section 25 Special Item funding from ARRA. The subsequent 5% biennial and 2.5% for 2011 reductions have not been deducted from the total.

UT Southwestern, UTHSC San Antonio, UT MD Anderson, TAMU System HSC, and Texas Tech HSC all received an additional \$8 million appropriation in HB 4 for the 2 year period beginning on the effective date of the act. UNT HSC received a \$5 million appropriation for the same period. These funds can be expended in FY 2011, 12 or 13.

Funding from HB 4 for UTMB is for Institutional Operations and for Tuition Revenue Bonds. The split between the two is undetermined although the Senate version of the bill included \$11 million for TRBs. No reduction of operating GR has been made for this \$11 million.

Funding from HB 4 for UT HSC San Antonio for Institutional Operations requires advance approval of the Legislative Budget Board in order to be utilized.

Excludes Tuition Revenue Bond debt service appropriations.

Does not include Higher Education Group Insurance contributions

**The University of Texas System
House Bill 1, 82nd Legislature
General Appropriations Act
Higher Education Group Insurance - 2010-11 Biennium vs. 2012-13 Biennium**

	2010-11 Biennium	2012	2013	2012-13 Biennium	Increase (Decrease)	Percent Change
The University of Texas at Arlington	\$ 22,304,788	\$ 9,792,137	\$ 10,322,726	\$ 20,114,863	\$ (2,189,925)	-9.8%
The University of Texas at Austin	53,098,973	23,361,945	24,627,816	47,989,761	(5,109,212)	-9.6%
The University of Texas at Dallas	13,134,629	6,806,124	7,174,915	13,981,039	846,410	6.4%
The University of Texas at El Paso	21,153,297	9,989,890	10,531,194	20,521,084	(632,213)	-3.0%
The University of Texas - Pan American	13,986,912	6,640,149	6,999,947	13,640,096	(346,816)	-2.5%
The University of Texas at Brownsville	10,457,533	4,430,266	4,670,321	9,100,587	(1,356,946)	-13.0%
The University of Texas of the Permian Basin	3,488,548	1,830,784	1,929,985	3,760,769	272,221	7.8%
The University of Texas at San Antonio	20,554,871	10,063,441	10,608,730	20,672,171	117,300	0.6%
The University of Texas at Tyler	6,327,869	3,022,595	3,186,375	6,208,970	(118,899)	-1.9%
SUBTOTAL	\$ 164,507,420	\$ 75,937,331	\$ 80,052,009	\$ 155,989,340	(8,518,080)	-5.2%
UT Southwestern Medical Center	26,028,255	12,158,486	12,817,296	24,975,782	(1,052,473)	-4.0%
UT Medical Branch at Galveston	81,828,646	39,301,227	41,430,771	80,731,998	(1,096,648)	-1.3%
UT Health Science Center at Houston	25,831,060	15,136,959	15,957,158	31,094,117	5,263,057	20.4%
UT Health Science Center at San Antonio	32,172,817	14,933,474	15,742,647	30,676,121	(1,496,696)	-4.7%
UT M.D. Anderson Cancer Center	13,437,173	5,566,514	5,868,137	11,434,651	(2,002,522)	-14.9%
UT Health Science Center at Tyler	5,271,618.00	2,522,170.00	2,658,834.00	5,181,004.00	(90,614)	-1.7%
SUBTOTAL	\$ 184,569,569	\$ 89,618,830	\$ 94,474,843	\$ 184,093,673	(475,896)	-0.3%
UT System Administration	\$ 94,867	\$ 82,973	\$ 87,469	\$ 170,442	75,575	79.7%
TOTAL	\$ 349,171,856	\$ 165,639,134	\$ 174,614,321	\$ 340,253,455	(8,918,401)	-2.6%

**State of Texas General Academic Institutions
2012-13 General Revenue Appropriations
House Bill 1, House Bill 4 and Senate Bill 2 (1st Called Session)**

Institution	2010-11 Biennium			2012-13 Biennium					Biennial Change	
	GR Appropriations	TRB Debt Service	GR Appropriations (less TRB)	HB 1 GR Appropriations	HB 4 GR Appropriations	SB2 - 1st Called Session Appropriations	TRB Debt Service	GR Appropriations (less TRB)	\$ Increase (Decrease)	% Increase (Decrease)
The University of Texas at Arlington	198,662,889	(19,429,859)	179,233,030	178,867,794	5,000,000	-	(14,838,046)	169,029,748	(10,203,282)	-5.69%
The University of Texas at Austin	586,479,832	(29,605,809)	556,874,023	492,544,731	-	-	(27,753,903)	464,790,828	(92,083,195)	-16.54%
The University of Texas at Dallas	168,881,917	(7,585,949)	161,295,968	145,778,381	3,000,000	-	(6,687,728)	142,090,653	(19,205,315)	-11.91%
The University of Texas at El Paso	164,628,348	(17,054,271)	147,574,077	137,781,712	-	-	(14,591,583)	123,190,129	(24,383,948)	-16.52%
The University of Texas - Pan American	132,452,375	(15,165,932)	117,286,443	110,889,522	-	-	(14,436,241)	96,453,281	(20,833,162)	-17.76%
The University of Texas at Brownsville	56,344,275	(13,092,243)	43,252,032	47,424,781	-	-	(11,250,400)	36,174,381	(7,077,651)	-16.36%
The University of Texas of the Permian Basin	56,938,507	(19,074,185)	37,864,322	47,116,240	1,700,000	-	(16,960,263)	31,855,977	(6,008,345)	-15.87%
The University of Texas at San Antonio	211,600,890	(24,964,958)	186,635,932	178,547,264	-	-	(22,454,498)	156,092,766	(30,543,166)	-16.37%
The University of Texas at Tyler	64,372,008	(11,567,416)	52,804,592	51,804,728	-	-	(10,462,763)	41,341,965	(11,462,627)	-21.71%
Texas A&M University	534,937,407	(13,545,776)	521,391,631	458,011,060	-	-	(5,459,796)	452,551,264	(68,840,367)	-13.20%
Texas A&M University at Galveston	33,668,076	(8,632,703)	25,035,373	30,964,674	-	-	(7,674,543)	23,290,131	(1,745,242)	-6.97%
Prairie View A&M University	110,258,881	(12,762,705)	97,496,176	90,923,868	-	-	(12,696,556)	78,227,312	(19,268,864)	-19.76%
Tarleton State University	70,112,579	(11,382,281)	58,730,298	59,464,473	-	-	(9,855,185)	49,609,288	(9,121,010)	-15.53%
Texas A&M University - Central Texas	27,450,773	(2,179,614)	25,271,159	25,352,928	-	-	(3,292,400)	22,060,528	(3,210,631)	-12.70%
Texas A&M University - Corpus Christi	102,418,715	(17,164,638)	85,254,077	81,124,416	500,000	-	(13,560,704)	68,063,712	(17,190,365)	-20.16%
Texas A&M University - Kingsville	67,252,691	(6,167,469)	61,085,222	54,030,202	-	-	(5,449,032)	48,581,170	(12,504,052)	-20.47%
Texas A&M University - San Antonio	25,460,456	(3,487,382)	21,973,074	29,287,597	-	-	(5,271,926)	24,015,671	2,042,597	9.30%
Texas A&M International University	72,524,569	(21,258,115)	51,266,454	58,009,521	-	-	(16,886,539)	41,122,982	(10,143,472)	-19.79%
West Texas A&M University	63,545,956	(8,156,830)	55,389,126	53,282,160	-	-	(7,306,463)	45,975,697	(9,413,429)	-17.00%
Texas A&M University - Commerce	75,732,492	(6,370,716)	69,361,776	66,581,226	-	-	(3,998,385)	62,582,841	(6,778,935)	-9.77%
Texas A&M University - Texarkana	38,876,331	(14,506,987)	24,369,344	30,370,655	-	-	(11,735,620)	18,635,035	(5,734,309)	-23.53%
University of Houston	341,178,546	(23,294,492)	317,884,054	257,331,674	-	-	-	257,331,674	(60,552,380)	-19.05%
University of Houston - Clear Lake	64,814,462	(6,405,282)	58,409,180	46,454,050	-	-	-	46,454,050	(11,955,130)	-20.47%
University of Houston - Downtown	63,034,239	(12,476,636)	50,557,603	39,973,395	-	-	-	39,973,395	(10,584,208)	-20.93%
University of Houston - Victoria	35,100,185	(8,306,739)	26,793,446	27,651,821	-	-	-	27,651,821	858,375	3.20%
Midwestern State University	40,913,161	(4,302,985)	36,610,176	33,382,015	-	-	(4,317,019)	29,064,996	(7,545,180)	-20.61%
University of North Texas	220,042,259	(19,798,476)	200,243,783	191,274,119	-	-	(16,744,500)	174,529,619	(25,714,164)	-12.84%
University of North Texas - Dallas	31,528,568	(7,580,309)	23,948,259	28,165,402	-	-	(6,471,850)	21,693,552	(2,254,707)	-9.41%
Stephen F. Austin University	92,548,885	(9,493,162)	83,055,723	75,640,135	-	-	(8,896,194)	66,743,941	(16,311,782)	-19.64%
Texas Southern University	126,697,221	(21,255,613)	105,441,608	104,685,201	-	-	(21,110,040)	83,575,161	(21,866,447)	-20.74%
Texas Tech University	289,645,531	(20,763,761)	268,881,770	253,976,808	-	-	(18,472,913)	235,503,895	(33,377,875)	-12.41%
Angelo State University	54,274,679	(8,248,881)	46,025,798	45,861,337	-	-	(7,966,063)	37,895,274	(8,130,524)	-17.67%
Texas Woman's University	116,331,793	(8,848,685)	107,483,108	92,467,100	-	-	(8,877,493)	83,589,607	(23,893,501)	-22.23%
Lamar University	91,345,219	(5,186,338)	86,158,881	70,849,905	-	-	(4,947,387)	65,902,518	(20,256,363)	-23.51%
Sam Houston State University	100,565,191	(5,702,919)	94,862,272	79,609,576	-	-	(5,387,330)	74,222,246	(20,640,026)	-21.76%
Texas State University - San Marcos	190,004,480	(23,451,854)	166,552,626	164,894,925	-	-	(21,857,318)	143,037,607	(23,515,019)	-14.12%
Sul Ross State University	31,059,829	(5,504,787)	25,555,042	25,758,471	-	7,000,000	(5,382,484)	27,375,987	1,820,945	7.13%
Sul Ross State University - Rio Grande	11,577,168	-	11,577,168	9,364,932	-	-	-	9,364,932	(2,212,236)	-19.11%
GRAND TOTAL	4,763,261,383	(473,776,757)	4,289,484,626	3,975,498,799	10,200,000	-	(373,053,165)	3,619,645,634	(669,838,992)	-15.62%
Recap:										
University of Texas System	1,640,361,041	(157,540,622)	1,482,820,419	1,390,755,153	9,700,000	-	(139,435,425)	1,261,019,728	(221,800,691)	-14.96%
Texas A&M University System	1,222,238,926	(125,615,216)	1,096,623,710	1,037,402,780	500,000	-	(103,187,149)	934,715,631	(161,908,079)	-14.76%
University of Houston System	504,127,432	(50,483,149)	453,644,283	371,410,940	-	-	-	371,410,940	(82,233,343)	-18.13%
Midwestern State University	40,913,161	(4,302,985)	36,610,176	33,382,015	-	-	(4,317,019)	29,064,996	(7,545,180)	-20.61%
University of North Texas	251,570,827	(27,378,785)	224,192,042	219,439,521	-	-	(23,216,350)	196,223,171	(27,968,871)	-12.48%
Stephen F. Austin University	92,548,885	(9,493,162)	83,055,723	75,640,135	-	-	(8,896,194)	66,743,941	(16,311,782)	-19.64%
Texas Southern University	126,697,221	(21,255,613)	105,441,608	104,685,201	-	-	(21,110,040)	83,575,161	(21,866,447)	-20.74%
Texas Tech University System	343,920,210	(29,012,642)	314,907,568	299,838,145	-	-	(26,438,976)	273,399,169	(41,508,399)	-13.18%
Texas Woman's University	116,331,793	(8,848,685)	107,483,108	92,467,100	-	-	(8,877,493)	83,589,607	(23,893,501)	-22.23%
Texas State University System	424,551,887	(39,845,898)	384,705,989	350,477,809	-	7,000,000	(37,574,519)	319,903,290	(64,802,699)	-16.84%
	4,763,261,383	(473,776,757)	4,289,484,626	3,975,498,799	10,200,000	7,000,000	(373,053,165)	3,619,645,634	(669,838,992)	-15.62%

The 2010-11 base includes ARRA appropriations substituted for general revenue as well as Article XII, Section 25 Special Item funding from ARRA as well as the \$5 million appropriated to THECB but passed to UT Arlington for the Professional Nursing Shortage Reduction. Selected HB 4586 Appropriations have been included as indicated: \$9,902,630 UT Austin hold harmless; \$1,300,000 UT Tyler Palestine Campus; \$2,000,000 TAMU Intl. Outreach and Enrollment; Tx Southern \$2,350,000 Admin Operation; \$150,000 Tx Southern Leland/Jordan papers; and \$617,224 TSU San Marcos School Safety Center. Appropriations made to TAMU Central Texas, TAMU San Antonio, and UNT Dallas have been reclassified from the appropriate institutions (Tarleton State, TAMU Kingsville, TAMU System, UNT and UNT System). Incentive Funding trustee to THECB is also included. The subsequent 5% biennial and 2.5% for 2011 reductions have not been deducted from the total.

University of Houston Tuition Revenue Bond debt service is appropriated directly to their System office.

Excludes Tuition Revenue Bond debt service appropriations.

Does not include Higher Education Group Insurance contributions

**State of Texas Health-Related Institutions
2012-13 General Revenue Appropriations
House Bill 1, House Bill 4 and Senate Bill 2 (1st Called Session)**

Institution	2010-11 Biennium			2012-13 Biennium				Biennial Change	
	GR Appropriations	TRB Debt Service	GR Appropriations (less TRB)	HB 1 GR Appropriations	HB 4 GR Appropriations	TRB Debt Service	GR Appropriations (less TRB)	\$ Increase (Decrease)	% Increase (Decrease)
UT Southwestern Medical Center at Dallas	312,340,633	(24,880,707)	287,459,926	236,691,530	20,587,647	(24,664,410)	232,614,767	(54,845,159)	-19.08%
UT Medical Branch at Galveston	566,532,697	(12,370,338)	554,162,359	452,325,641	19,863,510	(12,360,962)	459,828,189	(94,334,170)	-17.02%
UT Health Science Center at Houston	325,194,866	(27,389,269)	297,805,597	270,136,211	24,145,091	(25,117,011)	269,164,291	(28,641,306)	-9.62%
UT Health Science Center at San Antonio	319,324,503	(20,635,169)	298,689,334	243,796,807	24,818,235	(19,421,845)	249,193,197	(49,496,137)	-16.57%
UT M.D. Anderson Cancer Center	329,830,055	(12,672,884)	317,157,171	281,051,178	25,383,894	(11,831,738)	294,603,334	(22,553,837)	-7.11%
UT Health Science Center at Tyler	74,722,422	(5,422,188)	69,300,234	63,104,171	8,752,408	(5,154,475)	66,702,104	(2,598,130)	-3.75%
TAMU System Health Science Center	224,683,003	(10,921,619)	213,761,384	181,362,528	21,040,271	(8,827,846)	193,574,953	(20,186,431)	-9.44%
UNT Health Science Center at Fort Worth	127,104,975	(16,379,266)	110,725,709	107,848,534	10,273,298	(14,547,476)	103,574,356	(7,151,353)	-6.46%
Texas Tech Univ Health Science Center	329,746,161	(26,371,816)	303,374,345	271,634,736	28,078,384	(25,829,407)	273,883,713	(29,490,632)	-9.72%
GRAND TOTAL	2,609,479,315	(157,043,256)	2,452,436,059	2,107,951,336	182,942,738	(147,755,170)	2,143,138,904	(309,297,155)	-12.61%
Recap:									
The University of Texas System	1,927,945,176	(103,370,555)	1,824,574,621	1,547,105,538	123,550,785	(98,550,441)	1,572,105,882	(252,468,739)	-13.84%
TAMU System Health Science Center	224,683,003	(10,921,619)	213,761,384	181,362,528	21,040,271	(8,827,846)	193,574,953	(20,186,431)	-9.44%
UNT Health Science Center at Fort Worth	127,104,975	(16,379,266)	110,725,709	107,848,534	10,273,298	(14,547,476)	103,574,356	(7,151,353)	-6.46%
Texas Tech Univ Health Science Center	329,746,161	(26,371,816)	303,374,345	271,634,736	28,078,384	(25,829,407)	273,883,713	(29,490,632)	-9.72%
	2,609,479,315	(157,043,256)	2,452,436,059	2,107,951,336	182,942,738	(147,755,170)	2,143,138,904	(309,297,155)	-12.61%

Notes:

The 2010-11 base includes ARRA appropriations substituted for general revenue as well as Article XII, Section 25 Special Item funding from ARRA. The subsequent 5% biennial and 2.5% for 2011 reductions have not been deducted from the total. \$2 million for Uncompensated Care at UNTHSC appropriated through HB 4586, 81st Leg. has been included in UNTHSC's base.

UT Southwestern, UTHSC San Antonio, UT MD Anderson, TAMU System HSC, and Texas Tech HSC all received an additional \$8 million appropriation in HB 4 for the 2 year period beginning on the effective date of the act. UNT HSC received a \$5 million appropriation for the same period. These funds can be expended in FY 2011, 12 or 13.

Funding from HB 4 for UTMB is for Institutional Operations and for Tuition Revenue Bonds. The split between the two is undetermined although the Senate version of the bill included \$11 million for TRBs. No reduction of operating GR has been made for this \$11 million.

Funding from HB 4 for UT HSC San Antonio for Institutional Operations requires advance approval of the Legislative Budget Board in order to be utilized.

Excludes Tuition Revenue Bond debt service appropriations.

Does not include Higher Education Group Insurance contributions

The University of Texas System
House Bill 4 General Revenue Reductions and Supplemental General Revenue
82nd Legislature

Institution	HB4 Reduction ¹ Bill Section I	HB4 Supplemental General Revenue	Bill Section	Two Years From Effective Date of Act? (June 16, 2011)	Appropriation Description
The University of Texas at Arlington	\$ (12,979,094)	\$ 5,000,000	27		Regional Nursing Education Center
The University of Texas at Austin	\$ (34,802,552)				
The University of Texas at Dallas	\$ (9,601,643)	\$ 3,000,000	28		Middle School Brain Years
The University of Texas at El Paso	\$ (11,976,764)				
The University of Texas - Pan American	\$ (7,344,515)				
The University of Texas at Brownsville	\$ (3,581,390)				
The University of Texas of the Permian Basin	\$ (5,918,190)	\$ 1,700,000	29		College of Engineering
The University of Texas at San Antonio	\$ (12,397,011)				
The University of Texas at Tyler	\$ (4,365,466)				
Total - General Academic Institutions	\$ (102,966,625)	\$ 9,700,000			
UT Southwestern Medical Center at Dallas	\$ (17,126,319)	\$ 12,587,647	39		Institutional Operations
		\$ 8,000,000	47	Yes	Institutional Operations appropriated in fiscal year 2011
UT Medical Branch at Galveston ²	\$ (33,083,291)	\$ 19,863,510	43		Institutional Operations and Tuition Revenue Bond Debt Service
		UB Authority	24		Extends FEMA Match funds from 2010-11 for 2 additional years
UT Health Science Center at Houston	\$ (20,408,079)	\$ 21,145,091	40		Institutional Operations
		\$ 2,000,000	40		Texas Heart Institute
		\$ 1,000,000	40		Trauma Care
UT Health Science Center at San Antonio ³	\$ (20,364,412)	\$ 16,818,235	41		Institutional Operations
		\$ 8,000,000	48	Yes	Institutional Operations appropriated in fiscal year 2011
UT M.D. Anderson Cancer Center	\$ (20,446,441)	\$ 17,383,894	38		Institutional Operations
		\$ 8,000,000	49	Yes	Institutional Operations appropriated in fiscal year 2011
UT Health Science Center at Tyler	\$ (5,349,891)	\$ 8,752,408	42		Institutional Operations
Total - Health-Related Institutions	\$ (116,778,433)	\$ 123,550,785			
UT System Administration	\$ (250,000)	\$ -			
GRAND TOTAL	\$ (219,995,058)	\$ 133,250,785			

1. House Bill 4 reductions include the 5 percent reduction from 2010-11 net of any of those funds lapsed by the institution in fiscal year 2010, the 2.5 percent reduction from fiscal year 2011 only, and lapsed TRB debt service net of any portion lapsed in fiscal year 2010.

2. Amounts shown for UTMB 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 UT Health Science Center at San Antonio do not include \$2 million appropriated for the Cord Blood Bank in HB4 that was de-appropriated in SB1.

State of Texas General Academic Institutions
2012-13 General Revenue Appropriations (Excluding Tuition Revenue Bond GR)
LBB Base Bill - House Version Compared to Final Appropriations
(Does Not Include Higher Education Group Insurance Contributions)

Institution	House Introduced Version - 2012-13 Biennium			Conference Committee Version - 2012-13 Biennium				Increase: Intro to Final		
	GR Appropriations	TRB Debt Service	GR Appropriations (less TRB)	HB 1 GR Appropriations	HB 4 GR Appropriations	SB2 - 1st Called Session Appropriations	TRB Debt Service	GR Appropriations (less TRB)	\$ Increase (Decrease)	% Increase (Decrease)
The University of Texas at Arlington	157,240,048	(14,838,046)	142,402,002	178,867,794	5,000,000	-	(14,838,046)	169,029,748	26,627,746	18.70%
The University of Texas at Austin	473,227,965	(27,753,903)	445,474,062	492,544,731	-	-	(27,753,903)	464,790,828	19,316,766	4.34%
The University of Texas at Dallas	131,559,882	(6,687,728)	124,872,154	145,778,381	3,000,000	-	(6,687,728)	142,090,653	17,218,499	13.79%
The University of Texas at El Paso	132,137,416	(14,591,583)	117,545,833	137,781,712	-	-	(14,591,583)	123,190,129	5,644,296	4.80%
The University of Texas - Pan American	105,125,660	(14,436,241)	90,689,419	110,889,522	-	-	(14,436,241)	96,453,281	5,763,862	6.36%
The University of Texas at Brownsville	46,185,324	(11,250,400)	34,934,924	47,424,781	-	-	(11,250,400)	36,174,381	1,239,457	3.55%
The University of Texas of the Permian Basin	44,769,417	(16,960,263)	27,809,154	47,116,240	1,700,000	-	(16,960,263)	31,855,977	4,046,823	14.55%
The University of Texas at San Antonio	172,770,257	(22,454,498)	150,315,759	178,547,264	-	-	(22,454,498)	156,092,766	5,777,007	3.84%
The University of Texas at Tyler	51,638,952	(10,462,763)	41,176,189	51,804,728	-	-	(10,462,763)	41,341,965	165,776	0.40%
Texas A&M University	443,582,497	(5,459,796)	438,122,701	458,011,060	-	-	(5,459,796)	452,551,264	14,428,563	3.29%
Texas A&M University at Galveston	30,751,358	(9,542,974)	21,208,384	30,964,674	-	-	(7,674,543)	23,290,131	2,081,747	9.82%
Prairie View A&M University	80,875,309	(12,696,556)	68,178,753	90,923,868	-	-	(12,696,556)	78,227,312	10,048,559	14.74%
Tarleton State University	53,716,877	(9,855,185)	43,861,692	59,464,473	-	-	(9,855,185)	49,609,288	5,747,596	13.10%
Texas A&M University - Central Texas	23,960,654	(3,292,400)	20,668,254	25,352,928	-	-	(3,292,400)	22,060,528	1,392,274	6.74%
Texas A&M University - Corpus Christi	78,017,507	(13,560,704)	64,456,803	81,124,416	500,000	-	(13,560,704)	68,063,712	3,606,909	5.60%
Texas A&M University - Kingsville	49,110,652	(5,449,032)	43,661,620	54,030,202	-	-	(5,449,032)	48,581,170	4,919,550	11.27%
Texas A&M University - San Antonio	23,923,025	(5,271,926)	18,651,099	29,287,597	-	-	(5,271,926)	24,015,671	5,364,572	28.76%
Texas A&M International University	58,665,775	(19,549,248)	39,116,527	58,009,521	-	-	(16,886,539)	41,122,982	2,006,455	5.13%
West Texas A&M University	51,519,312	(8,157,298)	43,362,014	53,282,160	-	-	(7,306,463)	45,975,697	2,613,683	6.03%
Texas A&M University - Commerce	63,260,969	(6,370,716)	56,890,253	66,581,226	-	-	(3,998,385)	62,582,841	5,692,588	10.01%
Texas A&M University - Texarkana	24,580,079	(11,735,620)	12,844,459	30,370,655	-	-	(11,735,620)	18,635,035	5,790,576	45.08%
University of Houston	269,041,738	(21,386,414)	247,655,324	257,331,674	-	-	-	257,331,674	9,676,350	3.91%
University of Houston - Clear Lake	50,223,087	(6,045,951)	44,177,136	46,454,050	-	-	-	46,454,050	2,276,914	5.15%
University of Houston - Downtown	50,350,097	(12,386,577)	37,963,520	39,973,395	-	-	-	39,973,395	2,009,875	5.29%
University of Houston - Victoria	28,315,311	(7,825,598)	20,489,713	27,651,821	-	-	-	27,651,821	7,162,108	34.95%
Midwestern State University	32,268,401	(4,317,019)	27,951,382	33,382,015	-	-	(4,317,019)	29,064,996	1,113,614	3.98%
University of North Texas	184,494,012	(16,844,776)	167,649,236	191,274,119	-	-	(16,744,500)	174,529,619	6,880,383	4.10%
University of North Texas - Dallas	26,581,422	(6,471,850)	20,109,572	28,165,402	-	-	(6,471,850)	21,693,552	1,583,980	7.88%
Stephen F. Austin University	71,942,998	(8,896,194)	63,046,804	75,640,135	-	-	(8,896,194)	66,743,941	3,697,137	5.86%
Texas Southern University	93,475,562	(23,872,690)	69,602,872	104,685,201	-	-	(21,110,040)	83,575,161	13,972,289	20.07%
Texas Tech University	241,948,535	(18,472,913)	223,475,622	253,976,808	-	-	(18,472,913)	235,503,895	12,028,273	5.38%
Angelo State University	42,004,422	(7,966,063)	34,038,359	45,861,337	-	-	(7,966,063)	37,895,274	3,856,915	11.33%
Texas Woman's University	89,498,731	(8,877,493)	80,621,238	92,467,100	-	-	(8,877,493)	83,589,607	2,968,369	3.68%
Lamar University	62,700,597	(5,097,636)	57,602,961	70,849,905	-	-	(4,947,387)	65,902,518	8,299,557	14.41%
Sam Houston State University	76,779,944	(5,506,677)	71,273,267	79,609,576	-	-	(5,387,330)	74,222,246	2,948,979	4.14%
Texas State University - San Marcos	155,158,476	(21,857,317)	133,301,159	164,894,925	-	-	(21,857,318)	143,037,607	9,736,448	7.30%
Sul Ross State University	23,531,171	(5,483,101)	18,048,070	25,758,471	-	7,000,000	(5,382,484)	27,375,987	9,327,917	51.68%
Sul Ross State University - Rio Grande	8,917,538	-	8,917,538	9,364,932	-	-	-	9,364,932	447,394	5.02%
GRAND TOTAL	3,803,850,977	(431,685,149)	3,372,165,828	3,975,498,799	10,200,000	7,000,000	(373,053,165)	3,619,645,634	247,479,806	7.34%
Recap:										
University of Texas System	1,314,654,921	(139,435,425)	1,175,219,496	1,390,755,153	9,700,000	-	(139,435,425)	1,261,019,728	85,800,232	7.30%
Texas A&M University System	981,964,014	(110,941,455)	871,022,559	1,037,402,780	500,000	-	(103,187,149)	934,715,631	63,693,072	7.31%
University of Houston System	397,930,233	(47,644,540)	350,285,693	371,410,940	-	-	-	371,410,940	21,125,247	6.03%
Midwestern State University	32,268,401	(4,317,019)	27,951,382	33,382,015	-	-	(4,317,019)	29,064,996	1,113,614	3.98%
University of North Texas	211,075,434	(23,316,626)	187,758,808	219,439,521	-	-	(23,216,350)	196,223,171	8,464,363	4.51%
Stephen F. Austin University	71,942,998	(8,896,194)	63,046,804	75,640,135	-	-	(8,896,194)	66,743,941	3,697,137	5.86%
Texas Southern University	93,475,562	(23,872,690)	69,602,872	104,685,201	-	-	(21,110,040)	83,575,161	13,972,289	20.07%
Texas Tech University System	283,952,957	(26,438,976)	257,513,981	299,838,145	-	-	(26,438,976)	273,399,169	15,885,188	6.17%
Texas Woman's University	89,498,731	(8,877,493)	80,621,238	92,467,100	-	-	(8,877,493)	83,589,607	2,968,369	3.68%
Texas State University System	327,087,726	(37,944,731)	289,142,995	350,477,809	-	7,000,000	(37,574,519)	319,903,290	30,760,295	10.64%
GRAND TOTAL	3,803,850,977	(431,685,149)	3,372,165,828	3,975,498,799	10,200,000	7,000,000	(373,053,165)	3,619,645,634	247,479,806	7.34%

UT Pan American House Introduced Version 2012-13 total has been reduced downward by \$642,002 due to an error by LBB that doublecounted the Interagency Contract related to Economic Development as general revenue.

State of Texas Health-Related Institutions
2012-13 General Revenue Appropriations (Excluding Tuition Revenue Bond GR)
LBB Base Bill - House Version Compared to Final Appropriations
(Does Not Include Higher Education Group Insurance Contributions)

Institution	House Introduced Version - 2012-13 Biennium			Conference Committee Version - 2012-13 Biennium					Increase: Intro to Final	
	GR Appropriations	TRB Debt Service	GR Appropriations (less TRB)	HB 1 GR Appropriations	HB 4 GR Appropriations	SB2 - 1st Called Session		GR Appropriations (less TRB)	\$ Increase (Decrease)	% Increase (Decrease)
						Appropriations	Debt Service			
UT Southwestern Medical Center	\$ 237,899,863	\$ (24,664,410)	\$ 213,235,453	\$ 236,691,530	20,587,647	\$ -	\$ (24,664,410)	\$ 232,614,767	\$ 19,379,314	9.09%
UT Medical Branch at Galveston	419,419,480	(12,360,962)	407,058,518	452,325,641	19,863,510	-	(12,360,962)	\$ 459,828,189	52,769,671	12.96%
UT Health Science Center at Houston	258,370,092	(25,117,011)	233,253,081	270,136,211	24,145,091	-	(25,117,011)	\$ 269,164,291	35,911,210	15.40%
UT Health Science Center at San Antonio	244,103,656	(19,421,845)	224,681,811	243,796,807	26,818,235	(2,000,000)	(19,421,845)	\$ 249,193,197	24,511,386	10.91%
UT M.D. Anderson Cancer Center	282,332,784	(11,831,738)	270,501,046	281,051,178	25,383,894	-	(11,831,738)	\$ 294,603,334	24,102,288	8.91%
UT Health Science Center at Tyler	63,031,943	(5,154,475)	57,877,468	63,104,171	8,752,408	-	(5,154,475)	\$ 66,702,104	8,824,636	15.25%
TAMU System Health Science Center	182,064,178	(8,827,846)	173,236,332	181,362,528	21,040,271	-	(8,827,846)	\$ 193,574,953	20,338,621	11.74%
UNT Health Science Center at Fort Worth	108,834,557	(16,123,648)	92,710,909	107,848,534	10,273,298	-	(14,547,476)	\$ 103,574,356	10,863,447	11.72%
Texas Tech Univ Health Science Center	268,342,671	(25,829,407)	242,513,264	271,634,736	28,078,384	-	(25,829,407)	\$ 273,883,713	31,370,449	12.94%
GRAND TOTAL	2,064,399,224	(149,331,342)	1,915,067,882	2,107,951,336	184,942,738	(2,000,000)	(147,755,170)	2,143,138,904	228,071,022	11.91%
Recap:										
The University of Texas System	1,505,157,818	(98,550,441)	1,406,607,377	1,547,105,538	125,550,785	(2,000,000)	(98,550,441)	1,572,105,882	165,498,505	11.77%
TAMU System Health Science Center	182,064,178	(8,827,846)	173,236,332	181,362,528	21,040,271	-	(8,827,846)	\$ 193,574,953	20,338,621	11.74%
UNT Health Science Center at Fort Worth	108,834,557	(16,123,648)	92,710,909	107,848,534	10,273,298	-	(14,547,476)	\$ 103,574,356	10,863,447	11.72%
Texas Tech Univ Health Science Center	268,342,671	(25,829,407)	242,513,264	271,634,736	28,078,384	-	(25,829,407)	\$ 273,883,713	31,370,449	12.94%
	\$ 2,064,399,224	\$ (149,331,342)	\$ 1,915,067,882	\$ 2,107,951,336	\$ 184,942,738	\$ (2,000,000)	\$ (147,755,170)	\$ 2,143,138,904	\$ 228,071,022	11.91%

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