

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

Summaries of Legislation Impacting Higher Education
80th Legislature

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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 80th Legislature affecting higher education and is offered for the convenience of System officers and employees who may need to implement or otherwise be aware of those legislative actions. In a departure from the past practice of the two offices offering separate publications, this publication includes both an overview of the 80th Legislature prepared by OGR and summaries of individual bills prepared by OGC attorneys.

The overview of the 80th Legislature includes a summary of the budget for the next fiscal biennium and highlights selected significant legislation that became law. It also briefly describes selected significant legislation that did not become law. More detailed summaries of HB 1, the General Appropriations Act, and HB 15, the Supplemental Appropriations Act, are also included later in the publication.

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

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

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

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

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

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OVERVIEW OF THE 80TH LEGISLATURE

INTRODUCTION

Higher education played a prominent role throughout the regular session of the 80th Legislature. From “truth in budgeting” to the Top 10 Percent Law, higher education issues often took center stage.

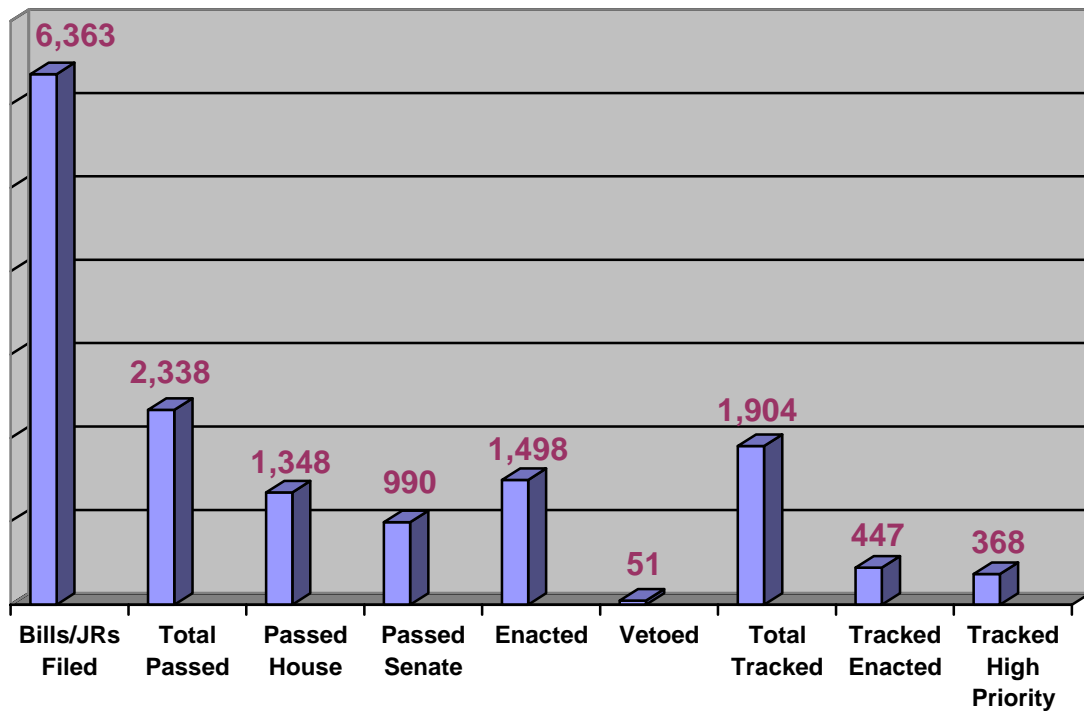
This overview summarizes the new state budget as it pertains to higher education and the UT System; discusses significant bills of interest that became law; lists similar bills that failed to become law; synthesizes proposed constitutional amendments and upcoming interim studies; and outlines changes to various bodies on which the System might be represented or have input into their composition.

Against a backdrop of record surplus revenue and needs ranging from Medicaid and the Children’s Health Insurance Program to prison capacity and parks, institutions of higher education collectively sought to avoid across-the-board budget reductions, fully fund tuition revenue bonds, and increase funding for formulas, research and student financial aid. Additionally, the UT System prioritized graduate medical education and various special/exceptional items. Most of these goals were reflected in the final legislative outcomes. Legislators sizably increased higher education and System funding, though not to the levels of fiscal year 2002, prior to the significant budget cuts suffered during the 2003 session. They also approved performance incentives, a new prepaid tuition plan, measures to address Texas’s nursing shortage, and procurement changes. The Legislature has initiated a \$3 billion cancer research effort (subject to voter approval) and two major evaluations of higher education policy – one to review fiscal policy and another to determine higher education’s role in global competitiveness.

As always, what did not pass that would have directly affected the System or its institutions was noteworthy: automatic admissions limits, tuition “re-regulation,” student lending practices reforms, repeal of undocumented aliens’ tuition exemption, textbook cost controls, changes in financial aid qualifications, stem cell research restrictions, budget transparency, and divestiture of investments in the Sudan.

Lawmakers filed more than 6,300 bills and joint resolutions (B/JRs) -- a 13 percent increase over 2005’s 5,629 – and approximately 24 percent of them became law. The Office of Governmental Relations (OGR) tracked, and the Office of General Counsel (OGC) analyzed, almost 30 percent of all filed B/JRs, and almost half of tracked B/JRs pertained to Business Affairs or Administration. In addition, the System’s Institute for Public School Initiatives (IPSI) independently tracked and analyzed 600 B/JRs.

2007 LEGISLATIVE ACTIVITY



BUDGET SUMMARY

The General Appropriations Act (GAA), in the form of HB 1 by Chisum/Guillen and Ogden, authorizes \$151.9 billion in state government spending, beginning September 1, 2007, for fiscal years 2008 and 2009. The total is \$9.4 billion more than the budget for FY 06-07, a 6.6 percent increase overall. Almost half the budget – \$73.3 billion – is general revenue (GR). In an unprecedented decision made early on, lawmakers voted to exceed the constitutional spending limit in order to fund an additional \$14.2 billion in school property tax relief approved in 2006 (see below). Despite a record surplus, the Legislature chose not to appropriate about \$7 billion in available revenue: \$2.7 billion in GR and \$4.3 billion in the Economic Stabilization or “Rainy Day” Fund. Across-the-board GR reductions of 10 percent ordered during the initial phase of the appropriations process were rescinded.

Governor Perry, who sought unsuccessfully to modify if not end higher education lump-sum appropriations, vetoed line items totaling approximately \$570 million. Included in this amount were more than \$35.8 million in higher education special items, of which \$13 million are System projects or programs, \$154 million for public community and junior colleges’ FY 09 employee group health insurance contributions and \$3.28 million for contact hour enrollment generated by some new community colleges.

Constitutional Spending Limit

SCR 20 by Ogden and Chisum suspended the constitutional spending limit that restricts increases in appropriations from one fiscal biennium to the next to the rate of growth in the Texas economy (as measured by personal income). The limit applies only to state tax revenues not dedicated by the constitution, which is mostly GR. It had become clear prior to the session that swift action would be necessary because the amount of money required to “buy down” local school property taxes would have caused appropriations for the 2008-09 biennium to exceed the limit. The resolution allowed the 80th Legislature to appropriate \$14.2 billion above the spending limit. With the limit suspended, HB 2 by Chisum, et al. and Ogden (see below) appropriates \$14.2 billion for the biennium to pay for school property tax relief.

“Busting the cap” or “resetting the cap,” as it became known, did not affect the UT System directly or indirectly.

Higher Education and the UT System

The FY 08-09 budget incorporates most of the priorities identified by the higher education community and the System, many of which were mutual. Texas will spend an additional \$1.35 billion in GR above FY 06-07 levels on higher education in FY 08-09, a 12 percent increase. That total includes \$140.5 million more on student financial aid, up 24 percent; \$100 million for performance incentive funding and scholarships; \$175 million more for the Higher Education Fund (HEF); and full funding of the Research Development Fund (RDF). Also increasing are Available University Fund distributions, which are appropriated despite being Permanent University Fund income.

The System’s overall GR appropriations total more than \$3.2 billion for the biennium, up \$318.5 million, including \$171.4 million more in operating funds, an increase of 6.23 percent. As groups, GR for the System’s general academic institutions (GAIs) increased by \$84 million, or 6.75 percent, and the health-related institutions’ (HRIs) GR rose by \$87.4 million, or 5.8 percent. These figures exclude debt service on tuition revenue bonds (TRBs, see below). Another \$304.7 millions is appropriated for the cost of employee group health insurance for the System and all institutions, an \$18.2 million increase.

Formula Funding

The Legislature increased higher education formula funding overall by \$220.4 million: \$125.9 million for the GAIs, \$56.7 million for the HRIs, and \$37.8 million for graduate medical education (GME). HB 1 increases GR formula funding appropriations by \$26.2 million for the 35 GAIs for enrollment growth. This money is allocated only to the Instruction & Operations (I&O) Formula. The budget also includes an additional \$66 million in GR formula funding enhancement, allocated 83 percent to the I&O Formula and 17 percent to the Infrastructure Formula. All GAIs except UT Austin are held fully harmless for any adverse effects of the formulas (e.g., declining enrollment). A \$33.7 million appropriation restores any decreased formula funding to FY 06-07 levels.

The System's formula funding increased by \$73.6 million. Six of its GAIs will receive \$32.2 million more in GR formula funding, and two will benefit from the hold-harmless provision in the amount of \$12.7 million. Formula funding increases of almost \$56.7 million for UT's HRIs include \$22.3 million to I&O for non-weighted student enrollment growth and \$34.4 million in formula enhancement funding, with \$25.9 million (75.3 percent) allocated to I&O, \$6.6 million (19.2 percent) to Infrastructure, and \$1.9 million (5.5 percent) to the Research Enhancement Formula.

Several formula funding requests considered during the session were not funded in the GAA, including an additional \$34.5 million for weighted enrollment growth, \$3 million for an increased graduate nursing program weight, and new separate biomedical sciences and health informatics weights.

Tuition Revenue Bonds (TRBs)

The Legislature appropriated \$685.4 million to higher education for debt service on all TRBs. Of the overall total, \$284.4 million goes to the UT System: \$176.7 million to its GAIs and System Administration and \$107.7 million to its HRIs. The amount appropriated by HB 1 includes \$313.1 million in additional GR to fully fund debt service on the \$1.86 billion in new TRBs (\$846.4 million to the UT System) authorized in 2006 during the 79th Legislature's third special session, through HB 153 by Morrison et al./Zaffirini. The state's 35 GAIs and system offices are to receive an additional \$243.4 million of this new GR and the state's HRIs, \$69.6 million. More than half the increase -- \$147.6 million -- goes to the UT System, with \$102.3 million allocated to its GAIs for new TRB projects, \$44.8 million to its six HRIs, and \$13.1 million to the System for debt service on UT Dallas's science and engineering facility.

Student Financial Aid

HB 1 appropriates \$747 million in all funds to help defray students' costs of attending college, an increase of \$140.5 million. GR funding increased for four of the state's five major programs: TEXAS Grants, up \$93 million to \$428 million; the B-on-Time Student Loan Program, up \$37 million to \$77 million, allowing maintenance of current enrollment; College Work Study, up \$5 million to \$15 million; and Texas Educational Opportunity Grants, up \$5 million to \$14 million. Tuition Equalization Grant funding is unchanged at the FY 06-07 level of \$211.7 million. The Texas Higher Education Coordinating Board (THECB) also is authorized to spend \$150,000 to study the feasibility of restructuring the state's student financial aid programs.

Performance Funding

The budget includes \$100 million in GR for the Higher Education Performance Incentive Initiative to improve teaching and educational excellence at public general academic teaching institutions. The money may also be used to fund scholarships for Texas high school students graduating in the top 10 percent of their classes. The incentive program is being administered by the THECB, which is to submit an initial proposal to the Legislative Budget Board and the Governor's Office by January 1, 2008.

Research

Overall research appropriations rose by \$140 million to almost \$191 million. The bulk of the money is distributed through two programs: the Texas Competitive Knowledge Fund (TCKF), which is to receive \$93.2 million, and the Research Development Fund (RDF), which is to receive \$80.8 million. UT Austin will receive \$39.4 million from the TCKF, and the other eight System GAIs will receive \$33.9 million from the RDF. The THECB's Advanced Research Program (ARP) is appropriated an additional \$8.3 million. The total ARP appropriation is \$16.7 million, and the UT and Texas A&M University systems may receive no more than 70 percent of ARP funds. The UT System's direct research appropriations increased by a net \$42.8 million.

Technology

The Texas Emerging Technology Fund (TETF), 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 \$117.3 million available in FY 08-09, a 41 percent decrease – \$82.7 million – from the previous biennium. The total includes \$75 million in new GR, an estimated \$25 million in unexpended FY 07 balances carried forward, and an appropriation of \$17.3 million in account balances and current and future interest earnings. Unlike previous biennia, the Legislature did not appropriate to the TETF any surpluses from the Economic Stabilization Fund.

Medical Education

The state's HRIs will see an increase of \$37.8 million for graduate medical education (GME), also known as residency training, including \$3 million transferred from THECB's GME strategy to the GME formula. The System's HRIs will receive \$37.7 million of the overall total \$62.8 million appropriation.

The THECB appropriation contains \$5.7 million for the Joint Admission Medical Program (JAMP), up by \$2.3 million, a 69 percent increase over the FY 06-07 level.

JAMP provides scholarships to assist highly qualified, economically disadvantaged students in pursuing medical degrees.

Nursing

Additional funding was authorized for the Professional Nursing Shortage Reduction Program at the THECB – an \$8.7 million GR increase – for a total of \$14.7 million for the biennium. THECB Rider 40 outlines how this 145 percent increase from the program's FY 06-07 level will be spent. A proposed rider for more than \$60 million was not adopted.

Correctional Managed Health Care

HB 1 appropriates \$747.2 million to the Texas Department of Criminal Justice (TDCJ) for health care services to state prison inmates provided through the UT Medical Branch (UTMB) at

Galveston and Texas Tech University Health Sciences Center, an increase of almost \$86 million, or 13 percent. UTMB is to receive \$598 million, plus \$10.4 million in bonding authority to renovate its Galveston hospital.

Supplemental Appropriations

HB 15 by Chisum and Ogden provides TDCJ with \$12.9 million in additional funding for correctional managed health care, \$5.1 million of which should go to UTMB. HB 15 also reimburses UTMB \$13.1 million directly for business interruption expenses incurred due to Hurricane Rita and appropriates \$7 million to the Department of State Health Services for the Harris County Psychiatric Center operated by UT Health Science Center - Houston. All three sums are GR available through FY 09. Gov. Perry vetoed line items in the bill totaling \$80 million, none of which affect higher education or the UT System.

SELECTED SIGNIFICANT LEGISLATION THAT BECAME LAW

Academic Issues

Tuition and Fees

- Texas Tomorrow Funds

HB 2173 by Byron Cook, et al. and Brimer continues the functions of the Prepaid Higher Education Tuition Board, which administers the Texas Tomorrow Funds, and permits the board to consider administrative changes to the payout provisions should the original Texas Tomorrow Fund I be determined to be actuarially sound and be reopened.

HB 3900 by Morrison, et al. and Shapiro establishes a new prepaid tuition unit undergraduate education program, also known as the Texas Tomorrow Fund II. This is a pre-paid college tuition program where persons can purchase units at a price based on academic costs set per year that can be redeemed by beneficiaries to pay college tuition in later years. The Prepaid Higher Education Tuition Board is authorized to contract with The University of Texas Board of Regents to manage the investments for the Texas Tomorrow Fund II program through The University of Texas Investment Management Company (UTIMCO).

- Refunds and Payments

SB 1231 by Zaffirini and Morrison modifies tuition and fee refund procedures for dropped courses and student withdrawals. SB 1232 (Zaffirini and Morrison) authorizes flexible tuition/fee payment plans and emergency student loan repayments.

- Exemptions/Reductions/Rebates

HB 86 by Branch, et al. and Ogden allows partial general academic tuition rebates for non-degree ROTC courses. HB 120 by Fred Brown and Shapiro authorizes state funding for reduced designated tuition rates for off-peak-hour courses. HB 125 by Delisi, et al. and Van de Putte/Uresti authorizes tuition and fee exemptions for the children of military personnel,

including Texas National Guardsmen. SB 685 by Van de Putte/Shapleigh and Noriega/Escobar exempts Texas National Guardsmen from mandatory fees. HB 741 by Tracy King, et al. and Zaffirini authorizes tuition/fee exemptions for the children of slain or disabled volunteer peace officers. HB 1187 by Morrison and Van de Putte requires the Texas Veterans Commission to create a tuition/fee voucher program for public school students sounding “Taps” at veterans’ funerals. SB 457 by Watson, et. al and Menendez clarifies the eligibility for tuition/fee exemptions of surviving minors of slain public employees.

- Student Fees

HB 868 by Haggerty and Shapleigh raises the limit on the recreational facility fee at UTEP to \$70 per student per semester (\$20 prior to fall 2009), subject to student approval. HB 1157 by Buddy West and Seliger authorizes up to a \$150 student services building fee at UTPB, with increases subject to student approval. HB 1505 by Lucio III and Lucio Jr. authorizes an intercollegiate athletics fee of up to \$7 per semester credit hour (SCH) at UT Brownsville, capped at \$5/SCH for 2008-09, with increases subject to student approval. SB 285 by Shapiro and Hill authorizes student services, transportation and athletics fees at UT Dallas.

Admissions

HB 3851 by Morrison and Shapiro requires the THECB to establish rules to standardize the methods of computing grade point averages for purposes of automatic admissions laws. In addition, in their annual reports of participation in higher education, institutions must include high school class standing and a description of plans and policies to recruit and retain students from under-represented groups. Public institutions are required to adopt written admissions policies promoting undergraduate transfers from lower-division schools and describing outreach efforts to junior colleges. HB 3826 by Morrison and Zaffirini revises college admissions requirements based on high school curricula and entrance exam scores and requires undergraduate admission to public institutions of children of slain or fatally injured public servants.

Strategic Plan

HCR 159 by Morrison and Shapleigh/Zaffirini requests that the governor, lieutenant governor, and speaker appoint a Select Commission on Higher Education and Global Competitiveness. It is to draft a compact reflecting a long-term vision and step-by-step plan for attaining certain goals. The commission is to examine certain issues related to global competitiveness and educational attainment. The full report, including findings, recommendations, and an implementation plan, is to be submitted by November 1, 2008.

Governance

SB 276 by Wentworth and Rose revises the selection procedure and clarifies the terms of student members of the boards of regents of a state university or state university system.

SB 1325 by Royce West and McCall restricts the awarding of institutional scholarships to close relatives of public college and university board members and sets a criminal penalty for violations.

Research and Technology

HB 1188 by Morrison and Shapiro/Janek increases from a fourth to a third the amount of money to be used in the Texas Emerging Technology Fund (TETF) for research superiority at public higher education institutions. Available matching award money is reduced from 25 percent to 16.67 percent. The bill enables additional investment vehicles such as equity, debt instruments, and grants to be used to provide awards from the fund. The bill also provides administrative funding and development assistance for regional centers of innovation and commercialization. The 17-member advisory committee has been broadened beyond higher education researchers to encompass “leaders,” but the THECB no longer may nominate members.

Health Issues

Code Red Initiatives

- Medicaid Reform and Health Insurance

SB 10 by Nelson, et al. and Delisi deals with the operation and financing of the state’s medical assistance (Medicaid) program and other programs to provide health care benefits and services to persons in the state. The bill undertakes comprehensive Medicaid reform including additional federal funding opportunities via an 1115 waiver; premium assistance for the uninsured; innovative pilot programs and studies on delivery of health care; an electronic health records pilot program for Medicaid recipients; “Three Share” and other insurance models; and healthy lifestyle incentives for Medicaid recipients. SB 10 authorizes three health insurance programs including the state/federally funded Texas Health Opportunity Pool (THOP) designed to reduce the number of persons without health care coverage. It discourages emergency room primary care for non-emergencies by charging users a co-payment. The bill calls for the insurance commissioner to conduct a study of the small employer health plan coverage market in view of the Healthy Texas program to make such coverage available to employees of small businesses (see also below). SB 10 also authorizes counties to establish or participate in local or regional health care programs, which would provide healthcare services or benefits to the employees of small employers. The bill extends Medicaid coverage to college students ages 21 and 22 who were foster children.

- Children’s Health Insurance Program

HB 109 by Turner, et al. and Averitt, et al. modifies eligibility for and information regarding the Children’s Health Insurance Program and allows for greater participation. It is anticipated that up to 127,000 additional Texas children can be enrolled under the revised income guidelines.

- Public Health

HB 1297 by Delisi and Nelson establishes a State Employee Worksite Wellness program. The bill creates a process to involve employees in wellness activities and establishes a statewide wellness coordinator position at the Department of State Health Services (DSHS). The bill sets up a Worksite Wellness Advisory Board as a function of the DSHS. The bill

authorizes state agencies to grant employees 90 minutes of paid leave a week for exercise. SB 530 by Nelson, et al. and Eissler increases physical activity requirements and requires physical fitness assessments for third- through 12th-grade public school students. HB 3618 by Raymond, et al. and Zaffirini requires the DSHS, in consultation with the Texas Education Agency, to adopt criteria for the development of a diabetes intervention pilot program for school districts located on the Texas-Mexico border having a population of less than 600,000. It also directs distribution of appropriations and requires grant assistance.

- Health Policy Management and Information

HB 2132 by Straus and Van de Putte creates a diabetes mellitus registry pilot program registry. SB 556 by Lucio Jr./Van de Putte and McReynolds creates an interagency obesity council. SB 415 by Lucio Jr./Zaffirini and McReynolds sets up a Type 2 Diabetes Risk Assessment Program administered by the Border Health Office at UT Pan American and creates an advisory committee. HB 1373 by Guillen and Zaffirini establishes the Chronic Kidney Disease Task Force. HB 1066 by Delisi and Nelson creates the Texas Health Services Authority Corporation to implement state-level health information technology functions.

Cancer Research

HB 14 by Keffer, et al. and Nelson, et al. reorganizes state institutions that provide financing for cancer research and creates the Cancer Prevention and Research Institute of Texas. The institute is contingent on approval in November of a constitutional amendment authorizing bond issuance for a grant program (see HJR 90 below). HB 14 also provides information about certain cancer treatments.

Nursing

HB 3443 by Donna Howard and Royce West establishes the Texas Hospital-based Nursing Education Partnership Grant Program. SB 139 by Nelson and Kolkhorst directs a study to identify methods to improve the curricula of professional and vocational nursing programs. SB 201 by Nelson and Morrison broadens the use of tuition exemptions at public institutions of higher education to include professional nursing program preceptors and their children. SB 992 by Nelson and Donna Howard continues the THECB's use of money from the Permanent Fund for Health-related Programs, established with revenues from the state's settlement with tobacco companies several years ago, to provide grants to nursing education programs for initial licensure and teaching faculty preparation). HB 2426 by Truitt, et al. and Deuell continues the Board of Nurse Examiners until 2017, following its Sunset Advisory Commission review, and renames it the Texas Board of Nursing. SB 138 by Nelson and Susan King seeks to promote the retention and graduation of students enrolled in professional nursing programs through enhancements and incentives. SB 156 by Shapiro, et al. and Madden sets up a competitive grant program to fund nurse-family partnership programs in certain communities of the state. SB 993 by Nelson and McReynolds introduces peer review and patient safety committees into the system for reporting on nurse conduct associated with patient/workplace safety and employment issues.

Admissions

SB 1601 by Royce West and F. Brown modifies the operation of and participation in the Joint Admission Medical Program (JAMP).

Business and Administration Issues

Risk Management

HB 2639 by Smithee/Heflin and Duncan (and identical SB 1138 by Duncan and Smithee) is an anti-hazing bill aimed at fraternities, sororities and other campus groups. Each registered student organization must have representatives attend a risk management program provided by their higher education institution at least annually. Health-related institutions and those offering only upper-division, graduate level or professional courses are exempt.

Finance and Accounting

SB 968 by West and Chisum allows the UT System to execute interest rate “swaps” in anticipation of debt issuances. HB 3430 by Strama, et al. and Hegar/Shapleigh broadens the availability of information about state expenditures and contracts and grants, including certain amounts received by institutions of higher education, and provides for the creation of a state internet database containing such information by the Comptroller’s Office. The bill states that an agency or institution is not required to expend resources for the purpose of computer programming to make information available. Furthermore, institutions of higher education are exempt from the reporting requirements related to major state contracts. HB 3430 also provides that revenues received by higher education student health centers may be spent only for the centers’ construction, maintenance and operation.

SB 247 by Ellis, et al. and Van Arsdale, et al. prohibits the investment by the Employees Retirement System (ERS) or the Teacher Retirement System (TRS) in certain private business entities doing business in Sudan. The law only applies to ERS and TRS and not higher education institutions or The University of Texas Investment Company.

HB 2365 by Truitt, et al. and Duncan is a response to financial accounting and reporting requirements set forth in Governmental Accounting Standards Board (GASB) Statement 45. The bill authorizes the state and its political subdivisions to account for “other post-employment benefits,” such as retiree health benefits, on a pay-as-you-go basis. It requires disclosure of seven items in the notes of annual financial statements, including the post-employment benefits provided and any other information believed to assist in explaining the nature and cost of the commitment to provide those benefits.

Purchasing and Contracts

HB 3560 by Swinford and Janek/West transfers duties not primarily concerning state facilities to the Comptroller’s Office from the Texas Building and Procurement Commission and renames it the Texas Facilities Commission. The transferred duties include the administration of state purchasing, state travel, and the Historically Underutilized Businesses (HUB) Program.

Use of Campus Facilities

HB 85 by Branch, et al. and Van de Putte restricts on-campus credit card marketing activities to times and places designated by the governing boards of post-secondary educational institutions. Schools that designate campus locations for such activities must adopt policies requiring credit card and debt education and counseling sessions during new student orientation. In consultation with or subject to approval by the institutions, credit card issuers must develop financial educational material containing certain information and make it available to students during campus marketing activities, when issuing a credit card, and on the internet. Gifts or other incentives may be offered in exchange for applying for a credit card only if they are accompanied by the educational material. Violations are subject to a maximum civil penalty of up to \$2,500 per violation.

Employee Benefits

HB 3322 by Truitt and Watson allows the plan-to-plan transfer of certain assets from the TexaSaver 457 plan administered by the ERS to a 457 plan created by an institution of higher education, such as the UT System's. In 2003, the Legislature authorized higher education institutions to create and administer deferred compensation savings plans. Previously, the only 457 plan available to System employees was the TexaSaver Program offered by the ERS. This bill facilitates a plan-to-plan transfer such that the assets of the TexaSaver program belonging to System employees will be transferred to the System's plan.

Elementary and Secondary Education

College Readiness and High School Dropout Prevention

HB 2237 by Eissler, et al. and Shapiro authorizes programs targeting high school dropout prevention; creates programs to improve mathematics, science and technology teacher preparation; establishes teacher reading academies; requires the commissioners of education and higher education to develop and recommend college preparatory courses in math, science, social studies, and English language arts; requires the education commissioner to contract with one or more education research centers to study best practices for dropout prevention in Texas and other states and report to the Legislature by December 1, 2008; establishes an intensive technology-based intervention pilot program to focus on supplementary instruction in English, math, science or social studies of at-risk students in the ninth thru 12th grades; and establishes the High School Completion and Success Initiative Council to identify strategic priorities to improve the effectiveness, coordination, and alignment of high school completion and college and workforce readiness efforts.

HB 1 authorizes \$12.9 million to implement the College Readiness Initiative, including the strategic plan and the course redesign project.

Student Proficiency Testing

SB 1031 by Shapiro, et al. and Eissler phases out the Texas Assessment of Knowledge and Skills (TAKS) and replaces it with 12 end-of-course (EOC) assessments. Beginning in the 2011-12 school year, students in grades 9-12 will take examinations in four core subject areas. The EOC

exams will count as 15 percent of a student's overall class grade. The new law maintains accountability for schools while providing multiple pathways to graduation for students by allowing them to satisfy graduation requirements in different ways other than a single pass/fail test. The act promotes college readiness by allowing satisfactory performance on advanced placement, international baccalaureate or similar college-level assessments to substitute for EOC exams. SB 1031 also requires students to complete college readiness diagnostics and college entrance exams at state expense. Finally, the bill provides for safeguards and criminal penalties to maintain the security and integrity of the assessment system.

Virtual School Network

SB 1788 by Shapiro/ Dan Patrick and Madden creates a state virtual school network under the governance of an administering authority designated by the commissioner of education. The network's electronic courses are to be available only to students younger than 21 on September 1 of the school year who have not graduated from high school and are otherwise eligible to enroll in a Texas public school. Full-time enrollment would be restricted to students who had been enrolled in the state in the preceding year or were military dependents previously enrolled in a Texas high school and no longer reside in this state due to a military deployment or transfer.

SELECTED SIGNIFICANT LEGISLATION THAT DID NOT BECOME LAW

Academic Issues

- Bills that would have limited designated tuition, including HB 1650, HB 1877, HB 2382, HB 2804, SB 85, SB 96, SB 100, SB 578 and SB 1131.
- Bills that would have affected admissions of immigrants, undocumented workers, or their children, including HB 28, HB 104, HB 141 and HB 159.
- Bills that would have affected automatic admission under the Top 10 Percent Law, including HB 78, HB 212, HB 415, HB 1186, SB 101, SB 128 and SB 1571.
- Bills affecting textbook sales and bookstores, including HB 956, SB 49 and SB 114.
- Bills affecting higher education accountability and planning, including SB 1055, SB 1146, SB 1234, SB 1772 and SB 1919.
- Bills affecting student financial aid offices and lenders, including SB 1699, SB 2047, SB 2048 and SB 2049.
- Bills affecting performance incentive funding, including HB 3828 and SB 1029.

Health Issues

- Bills affecting indigent health care, including HB 1151, SB 171 and HB 1153/SB 172.
- Bills affecting biomedical research, including HB 225, HB 2704 and SB 56.

- Bills affecting the care and treatment of patients, including HB 1094 and HB 2837.

PROPOSED CONSTITUTIONAL AMENDMENTS

Bonds

Two of the 16 propositions on the ballot in the November 6, 2007 statewide general election directly affect higher education, and both involve bond financing.

HJR 90 by Keffer, et al. and Nelson, et. al (Proposition 13 on the ballot) would create the Cancer Prevention and Research Institute of Texas. It would authorize the issuance of up to \$3 billion in general obligation (GO) bonds (payable from general revenue) for Texas-based scientific research to find the causes of and cures for all types of human cancer. The institute's governing body would make grants to provide funds to public or private persons to implement the Texas Cancer Plan and to certain institutions and research facilities in Texas; collaborate with those institutions and research facilities; and establish appropriate standards and oversight bodies to ensure proper use of the funds authorized. HB 14 is the enabling legislation for this amendment.

SJR 57 by Williams/Zaffirini and Chisum/Guillen (Proposition 2) authorizes the issuance of \$500 million in GO bonds to finance student educational loans as well as enhancement agreements with respect to the bonds issued for that purpose. Currently, the THECB is authorized to issue \$400 million in GO bonds to finance loans through the federal Hinson-Hazlewood College Student Loan Program. It provides low-interest loans to eligible students seeking undergraduate, graduate, or professional education through public and independent institutions of higher education in Texas. However, the current authorization is projected to be exhausted by the spring of 2009. SJR 57 would amend the constitution to increase the THECB's bonding authority from \$400 million to \$500 million.

Eminent Domain

HJR 30 by Jim Jackson, et al. and Janek (Proposition 7) would amend Article III to allow a governmental entity to sell real property acquired through eminent domain to the owner of the property at the time of the condemnation (or to that person's heirs, successors, or assigns) at the price the entity paid at the time of the acquisition, under three conditions: if the public use for which the property was acquired is cancelled; if no actual progress is made within a prescribed time frame; or if the property is unnecessary for the public use.

This amendment would have provided constitutional authority for HB 217 by Jim Jackson, et al., legislation that did not pass. Currently, under the constitution, a governmental entity must receive the fair market value of any property it sells, including a sale back to the former owners. The failed bill would have given the person who owned the property immediately prior to condemnation the right to repurchase the property at the same price the governmental entity paid to acquire it, regardless of its fair market value at the time of repurchase. The sale price required by HB 217 did not account for the time value of money or the rate of inflation, essentially resulting in a windfall to the former owner.

Early voting for all three amendments begins October 22.

INTERIM LEGISLATIVE STUDIES

The lieutenant governor and speaker each charge the standing committees of their respective houses to study or examine various issues during the interim between regular sessions. These interim charges usually are announced in the fall of the year in which a session occurs or early the next year. Some significant legislative studies already have been authorized, however, or are under way.

Select Commission on Higher Education and Global Competitiveness

HCR 159 by Morrison and Shapleigh/Zaffirini requests the governor, lieutenant governor, and the speaker to create this panel in order to draft a compact for higher education in Texas reflecting a long-term vision and step-by-step plan to attain three main goals by 2020: raising educational levels, achieving recognized excellence, and serving regional needs. The resolution also directs the commission to examine nine issues related to global competitiveness in educational attainment. The commission is to be composed of 15 members – five each appointed by the governor, lieutenant governor and speaker – who will in turn elect their presiding officer. The resolution states that, in appointing commission members, efforts are to be made to include representatives from the business community and academia, as well as other experts with interest in higher education and current and future workforce needs. The commission’s composition also is to reflect the demographic diversity of Texas. The resolution calls for submitting a full report, including findings, recommendations, a plan and timeline for implementing the recommendations, and enabling legislation, to the governor and the Legislature by November 1, 2008.

House Select Committee on Higher and Public Education Finance

This ad hoc panel, composed of House education leaders, was formed during the latter part of the regular session. It has jurisdiction over all matters pertaining to the coordination of public and higher education policy toward the goal of improving college and workforce readiness. Speaker Craddick gave the committee four instructions:

- 1) Examine the efficiency and effectiveness of state programs and initiatives to further student achievement.
- 2) Review and align formula- and non-formula-funded programs with each other and with the state’s educational goals.
- 3) Review and develop strategies to better leverage and deploy federal funds.
- 4) Review and develop strategies for state obligations under the Texas Guaranteed Tuition Plan.

Shortcomings in higher education and workforce preparation, combined with sobering pronouncements about America’s global competitiveness, set the tone for the committee’s initial meeting on April 26. Chair Dan Branch (Dallas) linked the correct education decisions to state policymakers’ ability to get all other issues right. He warned that not only America’s leadership

role in the world but its national security could be at risk. Higher Education Commissioner Raymund Paredes and Texas Workforce Commission Chair Diane Rath outlined numerous challenges; then-Education Commissioner Shirley Neeley was more optimistic. Paredes said Texas higher education has been too focused on student access rather than institutional quality, calling for a re-examination of higher education strategy. Because finance issues flow from goals and plans, Paredes said, Texas policymakers need to determine higher education priorities for the next 20 years; how much balance they want between graduate and undergraduate education; suitable levels of quality and competitiveness; and the number and location of top research universities.

The committee's June 28 meeting focused on addressing the moribund Texas Tomorrow Fund I, the state's original prepaid tuition program. Experts differed on the extent of its shortfall, putting the range between \$683 million and more than \$3 billion by 2029, when the last existing contracts expire. TTFI, as it's also known, has been closed to new investors since 2003 when it became insolvent. This past session the Legislature passed a new variation, the unit-based Texas Tomorrow Fund II (HB 3900 by Morrison, et al. and Shapiro, et al.), but it does not open until September 2008.

The committee is to meet again on September 6, 2007 and throughout the fall.

APPOINTMENTS BY CHANCELLOR, PRESIDENTS AND OTHERS

Several bills that passed call upon different higher education officials or entities to name or nominate, or to participate as, members of new governmental bodies or modify existing procedures affecting the composition of various councils, committees and commissions. Among those directly affecting the System are:

- SB 276 by Wentworth and Rose requiring the chancellor to send the System's recommendations for student regent to the governor by February 1 (as opposed to December 1).
- SB 1007 by Royce West/Van de Putte and Giddings mandating the appointment of a student representative to the THECB. The selection process is similar to that in current law for student regents. By September 1 of each year, the student government of each institution of higher education is required to solicit applicants for appointment. The student government selects five applicants and sends the applications, with the names removed, either to the chancellor of its institution's system or to the president of the institution, if not part of a system. The chancellor or president then selects two or more applicants and sends the applications, with the names of the institutions removed, to the governor by December 1. By February 1, the governor, with the advice and consent of the Senate, is required to appoint one of the applicants to serve as the student representative for a one-year term.

SB 1007 also changes the appointment process for THECB advisory committees by requiring the THECB to send each higher education institution a list of available positions for student representatives on board advisory committees, including the terms, duties and requirements for each position, by August 1 of each year. Each institution president is to establish a

nomination process and forward to the THECB the applications selected by the president. The THECB is required to appoint a total of not less than four student representatives to an advisory committee.

- HB 14 by Keffer, et al. and Nelson, et al. reconstituting the Texas Cancer Council into the Cancer Prevention and Research Institute of Texas, contingent upon voter approval of HJR 90 by Keffer, et al. and Nelson, et al. The institute's 18-member Scientific Research and Prevention Programs Committee is to include two non-voting ex officio members appointed by the Chancellor to represent the System's six health-related institutions; three voting physicians or licensed health care professionals active in cancer treatment (one each appointed by the governor, lieutenant governor, and speaker); and three voting representatives of licensed health care facilities treating significant numbers of cancer patients (one each appointed by the governor, lieutenant governor, and speaker).

OTHER COMMISSIONS AND STUDIES

- HB 1373 by Guillen and Zaffirini creating the Chronic Kidney Disease Task Force. The 13 members appointed by the governor are to include a family practitioner, a pathologist, a kidney transplant surgeon, and a representative from the nephrology department of a state medical school.
- SB 1566 by Dan Patrick and Jim Jackson creating the 11-member Texas Bleeding Disorders Advisory Council, which is to include a state licensed physician and nurse who treat hemophilia or other bleeding or clotting disorders and two representatives of hemophilia treatment centers in Texas, at least one of which is federally funded.
- HB 3154 by Laubenberg/ Jim Jackson and Deuell creating a regional health care systems review committee to consider implementing regional health care services for indigent patients in the Department of State Health Services' Public Health Region 3, which includes Dallas County. Among those entitled to committee membership are the chief executive officers (CEOs) of each public and non-profit hospital system in the region. This means that the CEOs of UT Southwestern Medical Center's two state-owned hospitals likely are eligible to serve on the committee.
- HB 1188 by Morrison and Shapiro/Janek modifying administrative procedures and operations of the Texas Emerging Technology Fund. The 17-member advisory committee has been broadened to allow higher education "leaders" to be nominated, not just researchers.

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Admissions, Courses, and Credits

HB 3826 by Morrison and Zaffirini

Relating to high school curriculum requirements for admission to public institutions of higher education and to the admission to public institutions of higher education of the children of certain public servants killed in the line of duty.

HB 3826 imposes an additional requirement for applicants to be eligible for admission into any general academic teaching institution. The requirement applies to all admissions: automatic, discretionary, and open enrollment. Specifically, the bill requires that applicants successfully complete either (1) the curriculum requirements established for the recommended or advanced high school program established under Section 28.025, Education Code, or its equivalent, or (2) satisfy the ACT's College Readiness Benchmarks on the ACT assessment applicable to the applicant or earned on the SAT assessment a score of at least 1,500 out of 2,400 or the equivalent.

An applicant satisfies this requirement if the applicant's high school transcript indicates that the student completed the portion of the curriculum that was available to the student but was unable to complete the curriculum solely because courses necessary to complete the curriculum were unavailable to the student at the appropriate times in the student's high school career as a result of course scheduling, lack of enrollment capacity, or another cause not within the student's control.

The bill requires that the student's official transcript or diploma must, not later than the end of the student's junior year, indicate whether the curriculum requirements were satisfied or not as outlined above.

The statute also requires institutions of higher education to admit an undergraduate applicant if the applicant:

- (1) is the child of a public servant who was killed or sustained a fatal injury in the line of duty; and
- (2) meets the minimum requirements, if any, established for applicants under this statute.

Public servants are defined as those individuals listed in Section 615.003, Government Code, and include, for example, certain peace officers, certain paid probation officers, certain parole officers, paid jailers, juvenile correctional employees of the Texas Youth Commission, and others.

The bill requires the Texas Higher Education Coordinating Board, after consulting with the Texas Education Agency, establish rules relating to the accreditation of a private high school and the curriculum requirements under this statute.

The bill's requirements would apply beginning with admissions for the 2008-2009 academic year.

Impact: University admission officials should become familiar with the requirements of HB 3826 and update catalogs, websites, brochures, and other admission materials to ensure they accurately reflect the requirements for admission to the institution.

Effective: June 15, 2006

Esther Hajdar

HB 3851 by Morrison and Shapiro

Relating to the admission of high school graduates and undergraduate transfer students to certain institutions of higher education, the computation of a student's high school grade point average for purposes of determining eligibility for admission, and policies to promote the admission of undergraduate transfer students.

HB 3851 requires the Coordinating Board to adopt rules establishing a standard method for computing a student's high school grade point average. The method must be based on a four-point scale and assign additional weight for honors courses, advanced placement courses, international baccalaureate courses, or dual credit courses completed by a student, considering the academic rigor of each course completed by the student. The method may result in a student having a grade point average higher than 4.0 as a result of the assignment of additional weights. The standard method applies only to computing the grade point average of a student applying as a first-time freshman for admission to a general academic teaching institution beginning with admission for the 2009 fall semester.

School districts are required to use any standard method developed by the commissioner of education to compute a student's high school grade point average, except that if there is a conflict between that method and the method adopted by the Coordinating Board, the student's grade point average computed in accordance with the Coordinating Board method must be used in determining the student's eligibility for university admission.

HB 3851 also amends the annual report submitted to the Coordinating Board by institutions of higher education describing the composition of the institution's entering class. It requires the report to be submitted by December 1 instead of July 31, requires the report to be published on the institution's website, and requires the report to include high school class standing. It also requires the report to include a description of any plans, policies, or programs developed or implemented by the institution to recruit and retain students from underrepresented groups such as racial or ethnic minority groups.

HB 3851 further requires each general academic teaching institution to adopt a written admission policy to promote the admission of undergraduate transfer students to the institution. The policy must provide for outreach and recruiting efforts directed at junior colleges and other lower-division institutions of higher education and may include incentives to encourage transfer applications and to retain and promote transfer students.

Impact: All academic institutions of UT System are subject to HB 3851 and must recognize the Coordinating Board's standard method for computing a student's high school GPA in determining eligibility for university admission. UT System institutions must submit their annual report to the Coordinating Board by December 1, post the report on their websites, include high school class standing, and describe plans, policies, or programs to recruit and retain students from underrepresented groups. UT System academic institutions must adopt a written admission policy to promote the admission of undergraduate transfer students to the institution. UT System should monitor the Coordinating Board's rulemaking under the bill.

Effective: June 15, 2007

Karen Lundquist

SB 282 by Gallegos/Zaffirini and Dutton

Relating to notice regarding the availability of programs under which a student may earn college credit in public schools.

SB 282 provides that each school year, a school district is required to notify the parent of each district student enrolled in grade nine or above of the availability of programs in the district under which a student may earn college credit, including advanced placement programs, dual credit programs, joint high school and college credit programs, and international baccalaureate programs.

The school district may provide the notification on the district's Internet website. The notification must include the name and contact information of any public or private entity offering such programs in the district.

SB 282 also provides that during the first school year a student is enrolled in a high school or at the high school level in an open-enrollment charter school and again during the student's senior year, a counselor must provide information to the student and the student's parent or guardian about the availability of programs in the district under which a student may earn college credit.

SB 282 applies beginning with the 2007-2008 school year.

Impact: SB 282 requires notice to the parents of secondary school students about the availability of programs to earn college credit. This could result in earlier graduation for students who take advantage of those programs. In addition, University Charter School of UT Austin is required to give the notices and provide the information as directed by the bill.

Effective: June 15, 2007

Karen Lundquist

SB 1051 by Zaffirini and Guillen

Relating to course requirements for students enrolled in joint degree programs between certain general academic teaching institutions and foreign universities.

SB 1051 relates to a general academic teaching institution that offers a joint baccalaureate degree program under contract with a foreign college or university. It allows the academic institution to exempt a student enrolled in the joint degree program from the requirement to take a government or political science course on the US and Texas constitutions and from the requirement to take courses on American history if the student was enrolled in the foreign college or university before enrolling in the joint degree program or is otherwise considered to be primarily a student of the foreign college or university, and if the student successfully completes the American Way course prescribed by SB 1051.

SB 1051 also authorizes the governing board of the general academic teaching institution, in consultation with the foreign college or university, to identify and approve courses offered by the foreign college or university that are equivalent to, and may substitute for, courses in the core curriculum of a student enrolled in the joint degree program who is considered to be primarily a student of the academic institution.

Impact: SB 1051 authorizes the Board of Regents to exempt certain students enrolled in joint degree programs between a general academic teaching institution and a foreign university from certain course requirements, and to identify and approve courses offered by the foreign university that may substitute for courses in the core curriculum of a student who is considered to be primarily a student of the general academic teaching institution.

Effective: June 16, 2007

Karen Lundquist

SB 1231 by Zaffirini and Morrison

Relating to dropping courses and student withdrawals at institutions of higher education, including the refunding of tuition and mandatory fees.

SB 1231 provides that students at institutions of higher education may not drop more than six courses at that institution, including any course a transfer student dropped at another institution of higher education, and authorizes an institution's governing board to adopt a policy permitting a student to drop less than the six-course maximum. It applies only if the student is able to drop the course without receiving a grade or incurring an academic penalty, the student's transcript will indicate that the student was enrolled in the course, and the student is not dropping the course in order to withdraw from the institution. Certain laboratory or discussion courses in which students enroll concurrently with a lecture course are not considered to be separate courses for purposes of this law.

The Coordinating Board is required to adopt rules that permit a student to drop more courses than the maximum permitted by law or by policy if the student shows good cause. Those rules must be adopted as soon as practicable, and may be adopted in the manner provided for emergency rules.

SB 1231 also requires academic and medical institutions to refund tuition and mandatory fees for courses from which the student drops within the first 12 days of a fall or spring semester, which is current law, and adds summer terms of 10 weeks or longer. It requires the refund for courses dropped within the first four days of a term of more than five weeks but less than 10 weeks, or within the period specified by the institution for a term of five weeks or less that is substantially proportional to the period specified for a longer term.

SB 1231 also sets out the percentage of the amount paid that is to be refunded to a student who withdraws, depending on the date of withdrawal. The bill does not change current law for withdrawals during a fall or spring semester but provides that refunds for withdrawals during a summer term of 10 weeks or longer are subject to the same percentage as refunds for the fall or spring semester. It also specifies the percentage of refunds to be made for withdrawals during a term of more than five weeks but less than 10 weeks, and for terms of five weeks or less.

If a student has not paid the total amount of tuition and mandatory fees by the date the student withdraws, the institution or unit may credit the amount to be refunded toward the payment of the outstanding tuition and mandatory fees. The institution or unit is required to issue all of the remaining refund to the student.

SB 1231 also authorizes the institution or unit to refund tuition and fees in amounts that are greater than the amounts required by the bill. A portion of the refund may be applied toward the payment of any outstanding tuition and fees, and the remainder may be paid directly to the student, or credited toward payment of tuition and mandatory fees for a subsequent semester or other academic term.

SB 1231 also authorizes an academic or medical institution to terminate a student's technology usage privilege and other student services and privileges when the student withdraws. (Prior law required termination of student services and privileges.)

SB 1231 also repeals the provision prohibiting academic and medical institutions from collecting fees or tuition in excess of the minimum tuition for a course from a student who is entitled to a refund of that amount if the student has not paid that amount on the date the student drops the course or withdraws from the institution.

SB 1231 applies to tuition and fees charged beginning with the fall 2007 semester.

Impact: SB 1231 applies to all institutions of UT System, with provisions governing both academic and health institutions. The bill limits the number of courses that a student may drop and provides additional procedures for refunding tuition and fees for dropped courses and student withdrawals.

Effective: June 16, 2007

Karen Lundquist

Tuition and Fees

HB 86 by Branch, et al. and Ogden

Relating to tuition rebates provided by general academic teaching institutions to students who participate in the Reserve Officers' Training Corps.

HB 86 relates to tuition rebates to eligible undergraduate students who graduate within the period to qualify for forgiveness of a Texas B-On-time loan 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. HB 86 provides that in calculating those excess hours, the institution must exclude course credit that is earned to satisfy requirements for a Reserve Officers' Training Corps (ROTC) program but that is not required to complete the degree program.

HB 86 applies only to a student who is awarded a baccalaureate degree on or after September 1, 2007.

Impact: This requirement applies to all UT System institutions and may increase the number of persons eligible for the rebate. The tuition rebate is generally \$1,000 and is required to be paid by the institution from local funds. The law also requires the legislature to account for those rebates in the General Appropriations Act by providing a corresponding increase in the general revenue fund appropriated to the institution, but this requirement is unenforceable. The 80th Legislature did not make a specific appropriation for this purpose.

Effective: June 15, 2007

Karen Lundquist

HB 120 by Fred Brown and Shapiro

Relating to state funding and designated tuition charged for courses provided during off-peak hours at certain public institutions of higher education.

HB 120 applies only to UT Austin, Texas A&M University, and Texas Tech University. It authorizes their respective governing boards to establish rates of designated tuition for courses provided during off-peak hours that are not more than 25 percent lower than the rates that would otherwise apply to the course. "Off-peak hours" begin at 6 p.m. or later during a weekday, on weekends, or at other times that the institution's instructional facilities would otherwise be underutilized as determined by the institution's governing board. This provision applies only if the legislature specifically appropriates money to

those institutions for the state fiscal biennium ending August 31, 2009, to cover the tuition revenue lost to the institutions by the application of this new provision.

HB 120 further provides that in the formulas established under Section 61.059, Education Code, for UT Austin, Texas A&M University, and Texas Tech University, the Coordinating Board is required to include in formula funding amounts sufficient to cover the institution's revenue loss resulting from any reduction in tuition rates for those courses provided during those off-peak hours. In addition, as an incentive, the Coordinating Board may include additional formula funding that represents a portion of the savings to the state resulting from the institution's efficient use of resources.

As soon as practicable after June 15, 2007, the Coordinating Board is required to adopt rules under which the covered institutions of higher education may establish lower tuition rates for courses provided during off-peak hours.

Impact: HB 120 authorizes UT Austin to establish lower designated tuition rates for courses provided during off-peak hours and requires the Coordinating Board to include funding in the formulas in amounts sufficient to cover any resulting revenue loss. However, the 80th Legislature did not specifically appropriate money to cover lost tuition revenue. UT System should monitor the Coordinating Board's rulemaking under HB 120.

Effective: June 15, 2007

Karen Lundquist

HB 125 by Delisi, et al. and Van de Putte/Uresti

Relating to tuition and fee exemptions for the children of certain military personnel.

HB 125 expands the Hazelwood Act tuition and fee exemptions by providing new exemptions for children of members of the armed forces, the Texas National Guard, or the Texas Air National Guard who became totally disabled, for purposes of employability, as a result of a service-related injury. Disability is determined according to the disability ratings of the Department of Veterans Affairs.

A member of the Texas National Guard or the Texas Air National Guard must have suffered the injury since January 1, 1946, while on active duty either in the service of Texas or the United States.

The changes apply beginning with tuition and other fees charged for the 2007 fall semester.

Impact: HB 125 provides new categories of students who are entitled to exemptions from tuition and fees. The registrar's office at each UT System institution should be aware of the bill and should make any necessary changes to catalogs, publications, and websites.

Effective: June 16, 2007

Karen Lundquist

HB 741 by Tracy King, et al. and Zaffirini

Relating to an exemption from tuition and fees at public institutions of higher education for children of certain volunteer peace officers who are killed or disabled in the line of duty.

HB 741 exempts from the payment of tuition and fees any person whose parent is a volunteer municipal, county, or state peace officer, including a game warden, and who has suffered an injury in the line of duty resulting in death or disability. The procedures for determining eligibility are the same as those currently provided for determining eligibility of children of firefighters and paid peace officers.

HB 741 applies beginning with tuition and fees imposed for the 2007 fall semester.

Impact: HB 741 provides a new category of tuition and fee exemptions for children of volunteer peace officers. The registrar's office at each UT System institution should be aware of the bill and should make any necessary changes to catalogs, publications, and websites.

Effective: May 25, 2007

Karen Lundquist

HB 868 by Haggerty and Shapleigh

Relating to the recreational facility fee at The University of Texas at El Paso.

HB 868 authorizes the Board of Regents to raise the recreational facility fee at The University of Texas at El Paso to not more than \$70 per student for a term or semester of 10 weeks or more, or not more than \$50 for any other term or semester. However, for a term or semester before the 2009 fall semester, the fee may not exceed \$20 per student for a semester or summer session.

The fee may not be increased unless the amount of the increase is approved by a majority vote of the students participating in a general student election called for that purpose.

HB 868 applies to fees charged beginning with the 2007 fall semester.

Impact: HB 868 impacts UT El Paso by authorizing the Board of Regents to increase the recreational facility fee. The fee increase must be approved at a general student election called for that purpose. As of the date of this publication, the Board of Regents has not approved the fee increase.

Effective: June 15, 2007

Karen Lundquist

HB 1157 by West and Seliger

Relating to student services building fees at The University of Texas of the Permian Basin.

HB 1157 authorizes the Board of Regents of UT System to charge a student services building fee at UT Permian Basin to construct or operate a student services building. The fee may not exceed \$150 for each regular semester, \$75 for each summer session of more than six weeks, or \$50 for each summer session of six weeks or shorter. The fee may not be increased from one academic year to the next unless the amount of the increase is approved by a majority vote of the students participating in a general student election held for that purpose.

The fee must be deposited in the student services building account of UT Permian Basin and may be used only for a student services building. The fee is in addition to any other fee the board may charge at the university and may not be considered in determining the maximum student services fee that may be charged under Section 54.503 (student service fee cap).

HB 1157 applies beginning with the 2007 fall semester.

Impact: HB 1157 impacts UT Permian Basin by authorizing the Board of Regents to impose a student services building fee. Fees must be deposited to the credit of the student services building account to be used only for the student services building. The UT Permian Basin catalog should be modified to relect any approved fees.

Effective: June 15, 2007

Karen Lundquist

HB 1187 by Morrison and Van de Putte

Relating to vouchers for tuition and required fees at certain institutions of higher education and excused absences from public school for students who sound "Taps" at a veteran's funeral.

HB 1187 requires the Texas Veterans Commission to establish a program to issue vouchers to be exchanged for an exemption from the payment of tuition and required fees at an institution of higher education to students in grades 6 - 12 or at postsecondary educational institutions who sound "Taps" on a bugle, trumpet, or cornet during military honors funerals held in Texas for deceased veterans. The amount of the voucher is \$25 for each time a student sounds "Taps." The voucher may be used at any time and is not transferable. The governing board of a public institution of higher education is required

to provide the \$25 exemption from tuition and required fees to a student in exchange for a voucher presented by the student to the institution.

The Veterans Commission is required to distribute a voucher form to each funeral director in Texas for issuance to eligible persons. The Veterans Commission is required to encourage a private or independent institution of higher education to grant a tuition and fee exemption in exchange for a voucher.

HB 1187 also authorizes a school district to excuse a student in grades 6 - 12 for the purpose of sounding "Taps" at a military honors funeral held in Texas for a deceased veteran. An excused student may not be penalized for that absence and shall be counted in attendance for the purpose of calculating the average daily attendance. The student must be allowed a reasonable time to make up missed school work, and if the school work is satisfactorily completed, the day of absence is counted as a day of compulsory attendance.

Impact: HB 1187 requires UT System institutions to grant tuition and fee exemptions in \$25 increments for students who play "Taps" at military honors funerals. The 80th Legislature made no specific appropriation to reimburse institutions for this cost.

Effective: June 15, 2007

Karen Lundquist

HB 1505 by Lucio III and Lucio Jr.

Relating to a fee to support intercollegiate athletics at The University of Texas at Brownsville.

HB 1505 authorizes the Board of Regents to impose an intercollegiate athletics fee on each student enrolled at UT Brownsville in an amount not to exceed \$7 per semester credit hour. However, during the 2008-2009 academic year, the fee may not exceed \$5 per semester credit hour. The Board of Regents may not impose the fee on a student who is enrolled solely in online courses at the university.

The fee is deposited to the credit of The UT Brownsville intercollegiate athletics fee account to be used in accordance with the terms of the partnership agreements entered into between UT Brownsville and Texas Southmost College.

The fee may not be imposed unless approved by a majority vote of students who participate in a general student election called for that purpose. In addition, the fee may not be increased to an amount that exceeds by 10 percent or more the total amount of the fee as last approved by a student vote unless the increase has been approved by a majority vote of the students who participate in a general student election held for that purpose.

The fee must be in the same amount as the intercollegiate athletics fee charged a student at Texas Southmost College by the junior college district, subject to the limitations set

forth above. A student attending either or both institutions may be charged a fee by only one of the institutions.

The fee may not be imposed before the beginning of the 2008 fall semester.

Impact: HB 1505 impacts UT Brownsville by authorizing the Board of Regents to impose an intercollegiate athletics fee. The fee may not be imposed unless approved at a general student election called for that purpose. Fees must be deposited to the credit of the UT Brownsville intercollegiate athletics fee account to be used in accordance with the partnership agreement with Texas Southmost College.

Effective: May 18, 2007

Karen Lundquist

HB 2383 by Lucio III and Lucio Jr.

Relating to the provision of certain subsidies and scholarships to particular public school students or graduates.

HB 2383 amends the law providing for awards through the Early High School Graduation Scholarship program. To be eligible for an award, HB 2383 requires graduation from a public high school in Texas and requires attendance at such a high school for the majority of time the person attended high school, a change from the prior law that the student must have attended high school exclusively in Texas. The Coordinating Board is required to adopt rules to implement this provision.

For a person who completed the recommended or advanced high school program with at least 30 hours of college credit and graduated on or after September 1, 2005, graduation must have occurred in not more than 46 consecutive months, up from 45 months under prior law. Finally, the person must be a citizen of the United States or otherwise lawfully authorized to be present in the United States; prior law required the person to be a Texas resident as defined by the Coordinating Board.

HB 2383 applies beginning with the 2007-2008 school year, and applies only to a student who graduates from a public high school on or after June 15, 2007.

Impact: HB 2383 changes the eligibility requirements for an award under the Early High School Graduation Scholarship program, and more students will likely qualify. The program is funded through the Foundation School Fund, so there is no fiscal impact on institutions. However, the registrar's office at each UT System institution should be aware of HB 2383 and should make any necessary changes to catalogs, publications, and websites.

Effective: June 15, 2007

Karen Lundquist

HB 2702 by Truitt and Shapiro

Relating to tuition and fee exemptions and health benefits coverage subsidies for certain adopted children.

HB 2702 amends the law providing an exemption from tuition and fees if a student was adopted and was the subject of an adoption assistance agreement between the adoptive parents and the Department of Protective and Regulatory Services under Subchapter D, Chapter 162, Family Code. HB 2702 provides that such a student is eligible for the exemption only if the adoption assistance agreement provided for monthly payments and medical assistance benefits, and was not limited to providing only for the reimbursement of nonrecurring expenses, including reasonable and necessary adoption fees, court costs, attorney's fees, and other expenses directly related to the adoption.

HB 2702 applies beginning with the 2007 fall semester, except that a student who was enrolled and who qualified for the exemption for any academic term of the 2006-2007 academic year is entitled to the exemption until the earlier of the date the student completes the degree program in which the student was last enrolled in the 2006-2007 academic year or another degree program of the same level, or the fourth anniversary of the date the student initially enrolled in the degree program in which the student was last enrolled in the 2006-2007 academic year.

HB 2702 also requires the Department of Protective and Regulatory Services to pay a \$150 subsidy each month for the premiums for health benefits coverage for a child with respect to whom a court has entered a final order of adoption if the child was in the conservatorship of the department at the time of adoptive placement, the child is not eligible for medical assistance after the adoption, and the child is younger than 18 years of age. If such a child does not receive any other subsidy under Section 162.304, family code, the child is not considered to be the subject of an adoption assistance agreement for purposes of determining eligibility for the tuition and fee exemption discussed above. HB 2702 is consistent with Recommendation 4 made by the Task Force on Access to Health Care in Texas in its "Code Red" report.

Impact: HB 2702 provides additional qualifications in order for a student who was the subject of an adoption assistance agreement to receive a tuition and fee exemption. The registrar's offices at UT System institutions should be aware of the bill and should make any necessary changes to catalogs, publications, and websites.

Effective: June 13, 2007, except that Section 2 takes effect September 1, 2007

Karen Lundquist

SB 201 by Nelson and Morrison

Relating to tuition exemptions at public institutions of higher education for certain professional nursing program preceptors and their children.

Existing law (Sec. 54.222, Education Code) provides a \$500 tuition exemption to a student enrolled at an institution of higher education who is a resident of Texas and who is a registered nurse serving as a clinical preceptor for students enrolled in an undergraduate professional nursing program for the academic term for which the exemption is sought. It also provides a \$500 tuition exemption for the nurse's children.

SB 201 provides that the nurse is entitled to the exemption for one academic term for each academic term during which the nurse serves as a clinical preceptor. SB 201 allows the nurse to claim the exemption in the academic term in which the nurse serves as a clinical preceptor, or in another academic term that begins within a year of the end of the academic term in which the nurse served. The bill also allows a child of the nurse to claim the exemption in the same manner described above for the child's parent, and provides that the child's eligibility for an exemption is not affected by whether the parent also received an exemption.

SB 201 applies beginning with tuition charged for the 2007 fall semester, and the tuition exemption must be granted regardless of whether the qualifying service as a clinical preceptor occurred before June 15, 2007.

SB 201 is consistent with Recommendation 7 made by the Task Force on Access to Health Care in Texas in its report, "Code Red."

Impact: SB 201 allows an additional year for nursing program preceptors and their children to claim the \$500 tuition exemption. Accordingly, SB 201 will increase the cost to institutions of the exemption. The 80th Legislature made no specific appropriation to reimburse institutions for this cost.

Effective: June 15, 2007

Karen Lundquist

SB 285 by Shapiro and Hill

Relating to the imposition of certain fees on students enrolled at The University of Texas at Dallas.

SB 285 authorizes UT Dallas to collect a transportation fee from its students in an amount not to exceed \$18 for each regular semester or \$9 for each summer term. It also authorizes the collection of a student services building fee in the amount of \$71 per student for each regular semester or summer term of 12 weeks or longer, \$47.33 per student for each summer term of eight weeks or longer but less than 12 weeks, or \$35 per student for each summer term of less than eight weeks. Finally, it authorizes an

intramural and intercollegiate athletics fee in an amount not to exceed \$45 per student for each semester or summer term of 12 weeks or longer, \$30 per student for each summer term of eight weeks or longer but less than 12 weeks, or \$22.50 per student for each summer term of less than eight weeks. These fees may not be imposed by the Board of Regents unless approved by a majority vote of the students of the university. Also, these fees may not be increased by an amount of 10 percent or more of the last amount approved by the students without another student vote approving the increase.

Impact: The bill impacts UT Dallas because it authorizes the Board of Regents to impose a transportation fee, student services building fee, and intramural and intercollegiate athletics fee so that corresponding student services can be provided to UT Dallas students. In order to impose fees in the amounts indicated, UT Dallas is required to have a general student election for the students to vote on the fees and submit student approved fees to the Board of Regents for approval. Further, the UT Dallas catalog should be modified to reflect any approved new fees.

Effective: June 15, 2007

Priscilla A. Lozano

SB 457 by Watson, et al. and Menendez

Relating to the eligibility for education benefits of surviving minor children of certain public employees killed in the line of duty.

SB 457 amends the law providing education benefits under Chapter 615, Government Code. The law applies to the surviving spouses and surviving minor children of certain law enforcement personnel, firefighters, and similar personnel listed in Chapter 615 who are killed in the line of duty, and requires institutions of higher education to exempt those survivors from tuition and fees until the person receives a bachelor's degree or 200 hours of course credit, whichever occurs first. Also, for that same period, the institution must pay, from general revenue appropriated to the institution, the cost of the student's contract for food and housing if the student elects and qualifies to reside in the institution's housing, or an equivalent amount if no space is available. The institution must also pay from general revenue the cost of the student's textbooks for that same period.

SB 457 changes the definition of surviving child from a child who was claimed as a dependent on the person's income tax return filed in the year before the year in which the person died, to a child who was younger than 18 years of age on the date of the person's death and, if the child is not a biological or adopted child, was claimed as a dependent on the federal income tax return for the year preceding the person's death. This will result in education benefits for a biologic or adopted child who is younger than 18 years of age on the date of the person's death even if the child was not claimed as a dependent on the person's income tax return.

SB 457 applies in relation to a death that occurs on or after September 1, 2001, but only applies to education benefits awarded beginning with the 2007 fall semester.

Impact: SB 457 requires UT System institutions to provide education benefits to surviving biologic or adopted children of certain public employees killed in the line of duty, regardless of whether the children were claimed as dependents. Accordingly, SB 457 will increase the cost to institutions of the exemption. The 80th Legislature made no specific appropriation to reimburse institutions for this cost.

Effective: May 21, 2007

Karen Lundquist

SB 685 by Van de Putte/Shapleigh and Noriega/Escobar

Relating to an exemption from tuition and mandatory fees for certain members of the Texas National Guard.

SB 685 relates to an exemption from tuition and mandatory fees for certain members of the Texas National Guard. Under existing law (Section 431.090, Government Code), the State Adjutant General grants tuition assistance to a number of eligible members of the Texas National Guard, considering funds available and the needs of the state military forces. Institutions of higher education are then required to exempt those persons from tuition for not more than 12 semester credit hours. SB 685 adds mandatory fees to the tuition assistance awarded by the adjutant general, and requires institutions of higher education to exempt a person from the payment of mandatory fees for any semester in which the person receives the tuition exemption.

SB 685 applies beginning with assistance awards for tuition and mandatory fees for the 2008-2009 academic year.

Impact: UT System institutions are required to grant tuition and mandatory fee exemptions to members of the Texas National Guard on certification from the adjutant general. Under this law, the tuition and mandatory fee assistance awarded by the adjutant general may not exceed the amount of money available to fund the assistance. From money appropriated for that purpose, the adjutant general is required to authorize the comptroller to reimburse an institution of higher education in an amount equal to the amount of the exemption for tuition and mandatory fees that the institution grants based on the adjutant general's certification. Therefore, SB 685 should have no fiscal impact on UT System or its institutions. The 80th Legislature appropriated \$1 million for each year of the fiscal biennium for state military tuition payment assistance. Registrar's offices at UT System institutions should be aware of the bill and should make any necessary changes to catalogs, publications, and websites.

Effective: June 16, 2007

Karen Lundquist

SB 1231 by Zaffirini and Morrison

Relating to dropping courses and student withdrawals at institutions of higher education, including the refunding of tuition and mandatory fees.

SB 1231 provides that students at institutions of higher education may not drop more than six courses at that institution, including any course a transfer student dropped at another institution of higher education, and authorizes an institution's governing board to adopt a policy permitting a student to drop less than the six-course maximum. It applies only if the student is able to drop the course without receiving a grade or incurring an academic penalty, the student's transcript will indicate that the student was enrolled in the course, and the student is not dropping the course in order to withdraw from the institution. Certain laboratory or discussion courses in which students enroll concurrently with a lecture course are not considered to be separate courses for purposes of this law.

The Coordinating Board is required to adopt rules that permit a student to drop more courses than the maximum permitted by law or by policy if the student shows good cause. Those rules must be adopted as soon as practicable, and may be adopted in the manner provided for emergency rules.

SB 1231 also requires academic and medical institutions to refund tuition and mandatory fees for courses from which the student drops within the first 12 days of a fall or spring semester, which is current law, and adds summer terms of 10 weeks or longer. It requires the refund for courses dropped within the first four days of a term of more than five weeks but less than 10 weeks, or within the period specified by the institution for a term of five weeks or less that is substantially proportional to the period specified for a longer term.

SB 1231 also sets out the percentage of the amount paid that is to be refunded to a student who withdraws, depending on the date of withdrawal. The bill does not change current law for withdrawals during a fall or spring semester but provides that refunds for withdrawals during a summer term of 10 weeks or longer are subject to the same percentage as refunds for the fall or spring semester. It also specifies the percentage of refunds to be made for withdrawals during a term of more than five weeks but less than 10 weeks, and for terms of five weeks or less.

If a student has not paid the total amount of tuition and mandatory fees by the date the student withdraws, the institution or unit may credit the amount to be refunded toward the payment of the outstanding tuition and mandatory fees. The institution or unit is required to issue all of the remaining refund to the student.

SB 1231 also authorizes the institution or unit to refund tuition and fees in amounts that are greater than the amounts required by the bill. A portion of the refund may be applied toward the payment of any outstanding tuition and fees, and the remainder may be paid directly to the student, or credited toward payment of tuition and mandatory fees for a subsequent semester or other academic term.

SB 1231 also authorizes an academic or medical institution to terminate a student's technology usage privilege and other student services and privileges when the student withdraws. (Prior law required termination of student services and privileges.)

SB 1231 also repeals the provision prohibiting academic and medical institutions from collecting fees or tuition in excess of the minimum tuition for a course from a student who is entitled to a refund of that amount if the student has not paid that amount on the date the student drops the course or withdraws from the institution.

SB 1231 applies to tuition and fees charged beginning with the fall 2007 semester.

Impact: SB 1231 applies to all institutions of UT System, with provisions governing both academic and health institutions. The bill limits the number of courses that a student may drop and provides additional procedures for refunding tuition and fees for dropped courses and student withdrawals.

Effective: June 16, 2007

Karen Lundquist

SB 1232 by Zaffirini and Morrison

Relating to the manner of payment of higher education tuition and fees and to the repayment of emergency student loans.

SB 1232 relates to the manner of payment of higher education tuition and fees and to the repayment of emergency student loans.

For the fall and spring semesters and the summer term, SB 1232 authorizes payment in full in advance, or payment in installments under one or more payment plan options adopted by the governing board of the institution that require the first payment to be made in advance and the final payment to be made before the last day of the semester. (Prior law provided the payment schedule for quarterly payments.) SB 1232 also provides that a student who owes a balance of tuition and fees as a result of a change in the student's class schedule or who owes a balance of tuition and fees of less than \$100 after making an insufficient payment of tuition and fees previously due must pay the balance by the next payment date provided by the payment plan adopted by the governing board.

A student who fails to make a full payment by the due date may be prohibited from registering until full payment is made, and a student who fails to make full payment before the end of the semester or summer term may be denied credit for work done that semester or term. This sanction may not be imposed unless the governing board warns the student of the possible sanction in any written or electronic agreement authorized by the student. SB 1232 further provides that a student who elects to pay tuition and fees by installment must enter into a written or electronic agreement reflecting the terms and conditions. (Prior law did not authorize an electronic agreement.)

SB 1232 also authorizes an electronic agreement for an emergency loan. (Prior law required a written promissory note.) It authorizes an origination fee of not more than 1.25 percent of the amount of the loan in lieu of the five percent interest rate.

SB 1232 applies to the payment of tuition and fees and to emergency student loans beginning with the 2007 fall semester.

Impact: SB 1232 authorizes the Board of Regents to establish a payment plan for tuition and fees, authorizes an electronic agreement under the payment plan or for an emergency loan instead of a written promissory note, and authorizes a 1.25 percent origination fee or five percent interest as determined by the Board of Regents. An amendment to the Regents' Rules and Regulations, Series 40402, Section 3.3, is necessary to reflect the changes in the terms of an emergency loan authorized by SB 1232. As of the date of this publication, the Regents' Rule, which requires a promissory note and does not authorize an origination fee, has not been amended.

Effective: June 15, 2007

Karen Lundquist

SB 1233 by Zaffirini and Morrison

Relating to the general deposit paid by a student to a public institution of higher education.

SB 1233 expands the coverage of the current "general property deposit," which previously covered only losses, damages, and breakage in libraries and laboratories. SB 1233 provides that the newly-named "general deposit," which may not exceed \$100, insures the institution against any losses, damages, and breakage for which the student is responsible and covers any other amounts owed by the student to the institution.

The institution must return the deposit to the student, less any amounts owed to the institution, within a reasonable period after the student withdraws or graduates from the institution, but not to exceed 180 days. The institution must have sufficient time to identify all amounts owed and to determine that the student does not intend to enroll at the institution in the semester or summer session immediately following withdrawal or graduation or, if the student withdraws or graduates in the spring semester, in the next fall semester.

SB 1233 makes conforming amendments to other provisions of the Education Code to reflect the fact that the "general property deposit" is now called the "general deposit."

Impact: SB 1233 authorizes UT System institutions to charge a general property deposit to cover losses, damages, or breakage for which the student is responsible and to cover any other amounts owed by the student. It also requires the institutions to return the deposit, less any amounts owed, within a reasonable period but not later than 180 days after withdrawal or graduation.

Effective: June 15, 2007

Karen Lundquist

SB 1640 by Williams and Chisum/Guillen

Relating to the student loan program administered by the Texas Higher Education Coordinating Board and to the exemption from fees and tuition of certain persons at institutions of higher education; authorizing the issuance of bonds.

SB 1640 authorizes the issuance of up to \$500 million in general obligation bonds to finance education loans through the Hinson-Hazlewood College Student Loan Program. This is an increase of \$100 million from the amount permitted under prior law.

Under Section 54.203, Education Code, eligible Texas veterans are currently exempt from paying tuition and fees. The statute provides, however, that if the veteran is eligible for educational benefits under federal law, the exemption does not apply if the value of the federal educational benefits is equal to or exceeds the value of the exemption. It also provides that the combined value of the federal educational benefits and the exemption cannot exceed the total cost of the exemption. SB 1640 clarifies that the comparison or calculation of values is to be made on the basis of a semester.

Impact: Financial aid offices should be aware of this clarification, and ensure that their calculations of the veteran's exemption is based on a semester.

Effective: Sections 1-5 take effect on the date SJR 57 is approved by the voters. Section 6 takes effect September 1, 2007, and Section 7 applies beginning with the 2007 fall semester.

Esther Hajdar

Financial Aid

HB 1250 by Charlie Howard/Aycock and Patrick

Relating to prohibiting discrimination based on a student's secondary school in awarding certain financial aid for higher education.

HB 1250 relaxes the eligibility requirements for Texas B-On-time loans. One of the academic requirements for eligibility under prior law was graduation from a public or accredited private high school in this state under the recommended or advanced high school program. HB 1250 removes the requirement that the private high school be accredited and allows graduation under the recommended or advanced high school program or its equivalent.

HB 1250 applies beginning with student financial aid awarded for the 2008-2009 academic year.

Impact: SB 1250 allows students who graduate from non-accredited high schools, as well as students who graduate under a program equivalent to the recommended or advanced high school program, to be eligible for Texas B-On-Time loans. Student financial aid offices should be aware of HB 1250.

Effective: September 1, 2007

Karen Lundquist

HB 2173 by Byron Cook, et al. and Brimer

Relating to the continuation and functions of the Prepaid Higher Education Tuition Board.

HB 2173 is the sunset bill for the Prepaid Higher Education Tuition Board and implements the recommendations of the Sunset Advisory Commission. The Tuition Board oversees the Texas Guaranteed Tuition Plan (formerly, the “Texas tomorrow fund”) and Tomorrow’s College Investment Plan (a 529 savings plan). Enrollment in the former plan was suspended in 2003.

Section 8 of the bill provides that if the beneficiary of a prepaid tuition contract (the guaranteed tuition plan) entered into after December 31, 2003, enrolls in an institution of higher education, the Tuition Board shall pay to the institution the tuition and required fees of the institution and then may pay to the purchaser all or part of any amount paid or accrued under the contract that exceeds the tuition and required fees if the Tuition Board determines that it is actuarially sound to do so. According to the Sunset Commission’s recommendation, “pricing contracts higher could help protect the board’s assets and enable the sale of new contracts, but a refund provision may be necessary to protect future purchasers’ investments.”

Section 8 of the bill also requires the Tuition Board by rule to establish criteria and procedures to guide the Tuition Board in determining when and under what conditions to reopen new enrollment in the plan whenever new enrollment is suspended.

Section 9 of the bill requires the Tuition Board to adopt an application form for enrollment in the prepaid higher education tuition plan. The application must include the annual household income of the purchaser, the highest educational level of the purchaser, the race or ethnicity of the beneficiary, how the purchaser first learned about the plan, and how the purchaser intends to finance the prepaid tuition contract.

Section 10 of the bill authorizes the Tuition Board to require a maturity period between the time a purchaser enters into the contract and the time the Tuition Board must act on its contractual obligation to pay any tuition or fees on behalf of the beneficiary. The Sunset Commission stated that this delay would ensure sufficient time for the Tuition Board’s investments to grow before the beneficiary claims tuition benefits. For example,

it would allow the Tuition Board to phase in new contracts slowly, initially offering plans only for newborns, and then opening enrollment further if possible.

Section 11 of the bill provides that when the beneficiary of a prepaid tuition contract entered into on or before December 31, 2003, enrolls in a public senior college or university, the university must accept as payment in full the lesser of the amount of tuition and required fees charged by the institution, or an amount equal to the weighted average amount of tuition and required fees of all public senior colleges and universities for that academic period. This essentially preserves the status quo for existing contracts.

The bill also includes across-the-board provisions that the Sunset Commission recommends for all state agencies and specifically requires the board to adopt and enforce an ethics policy.

The bill also requires the Tuition Board to comply with and implement the management action recommendations adopted by the Sunset Advisory Commission and to report to the commission by November 1, 2008, regarding the implementation. Those management actions are to restructure the request for proposals (RFP) for the savings plan manager and to regularly evaluate its ad campaign.

Finally, the bill requires the Tuition Board to conduct a study by September 1, 2008, to determine the feasibility of the board and an institution of higher education entering into an agreement under which the institution offers tuition discounts or other benefits to beneficiaries of prepaid tuition contracts who enroll in the institution.

Note that HB 3900 authorizes the Tuition Board to administer the Texas tomorrow fund II prepaid tuition unit undergraduate education program and provides the details of that program.

Impact: HB 2173 continues the existence of the agency that administers the Texas tomorrow fund and the Texas tomorrow fund II.

Effective: June 15, 2007

Karen Lundquist

HB 2383 by Lucio III and Lucio Jr.

Relating to the provision of certain subsidies and scholarships to particular public school students or graduates.

HB 2383 amends the law providing for awards through the Early High School Graduation Scholarship program. To be eligible for an award, HB 2383 requires graduation from a public high school in Texas and requires attendance at such a high school for the majority of time the person attended high school, a change from the prior law that the student must have attended high school exclusively in Texas. The Coordinating Board is required to adopt rules to implement this provision.

For a person who completed the recommended or advanced high school program with at least 30 hours of college credit and graduated on or after September 1, 2005, graduation must have occurred in not more than 46 consecutive months, up from 45 months under prior law. Finally, the person must be a citizen of the United States or otherwise lawfully authorized to be present in the United States; prior law required the person to be a Texas resident as defined by the Coordinating Board.

HB 2383 applies beginning with the 2007-2008 school year, and applies only to a student who graduates from a public high school on or after June 15, 2007.

Impact: HB 2383 changes the eligibility requirements for an award under the Early High School Graduation Scholarship program, and more students will likely qualify. The program is funded through the Foundation School Fund, so there is no fiscal impact on institutions. However, the registrar's office at each UT System institution should be aware of HB 2383 and should make any necessary changes to catalogs, publications, and websites.

Effective: June 15, 2007

Karen Lundquist

HB 2978 by Morrison, et al. and Shapiro

Relating to engineering recruitment programs established by the Texas Higher Education Coordinating Board.

HB 2978 requires the Coordinating Board to establish and administer, using funds appropriated for that purpose, a one-week summer program on the campus of each general academic teaching institution that offers an engineering degree program. The summer program must be designed for middle and high school students to expose those students to math, science, and engineering concepts that a student in an engineering degree program may encounter. The Coordinating Board by rule establishes the admission requirements that encourage the program to enroll students in the program that reflect the demographics of the state, and the governing board of each institution of higher education is required to cooperate with the Coordinating Board in administering this law.

The bill also requires the Coordinating Board to establish and administer, using funds appropriated for that purpose, scholarships for students pursuing a degree in engineering at a general academic teaching institution. To qualify, a student must have graduated with a GPA in the top 20 percent of the student's high school graduating class, must have graduated from high school with a GPA of at least 3.5 in mathematics and science courses offered under the recommended or advanced high school program, and must maintain a GPA of at least 3.0 at the general academic teaching institution. The Coordinating Board is required to adopt rules to administer this law, including rules providing for the determination of the amount of each scholarship.

The Coordinating Board is required to administer both of the above programs using available appropriations and gifts, grants, and donations made for those purposes. Rules must be adopted as soon as practicable, and may be adopted in the manner provided for emergency rules.

A rider in the General Appropriations Act appropriates \$1 million to the Coordinating Board for each year of the biennium for the engineering recruitment programs. (Article IX, Section 19.95.)

HB 2978 applies beginning with the 2007-2008 academic year.

Impact: HB 2978 requires UT System academic institutions that offer an engineering degree program to cooperate with the Coordinating Board in providing the engineering summer program. It also requires the Coordinating Board to establish scholarships for engineering degree students. Engineering departments at academic institutions and student financial aid offices should be aware of this bill. Additionally, the Coordinating Board's rulemaking should be monitored.

Effective: June 12, 2007

Karen Lundquist

HB 3900 by Morrison, et al., and Shapiro, et al.

Relating to the Texas tomorrow fund II prepaid tuition unit undergraduate education program.

HB 3900 creates the Texas tomorrow fund II (TTF-II), a prepaid tuition program for undergraduate education. The program will operate separately from the existing Texas tomorrow fund program, which has been closed to new enrollment since 2003, but is administered by the same Prepaid Higher Education Tuition Board (PHETB).

Under TTF-II, a purchaser may prepay the costs of all or a portion of a beneficiary's undergraduate tuition and required fees at a general academic teaching institution or two-year institution by purchasing one or more tuition "units." The assigned value of a tuition unit is equal to one percent of the amount necessary for the academic year in which the unit is redeemed to cover the applicable cost of undergraduate resident tuition and required fees for one academic year consisting of 30 semester credit hours.

The purchaser may purchase one type of unit or a combination of two or three types of units. For a Type I tuition unit, the purchase price is based on one percent of the cost of undergraduate resident tuition and required fees at the general academic teaching institution with the highest tuition and fee cost for that academic year. For a Type II tuition unit, the purchase price is based on one percent of the cost of the weighted average general academic teaching institution undergraduate resident tuition and required fees for the applicable academic year. For a Type III tuition unit, the purchase price is based on one percent of the weighted average two-year institution undergraduate resident tuition and required fees for the applicable academic year.

To pay for the entire cost of undergraduate resident tuition and required fees for an academic year consisting of 30 semester credit hours, redemption of 100 Type I tuition units is required at the general academic teaching institution with the highest tuition and fee costs, redemption of 100 Type II tuition units is required at a general academic teaching institution with the applicable tuition and fee cost at the weighted average, and redemption of 100 Type III tuition units is required at a two-year institution with the applicable tuition and fee cost at the weighted average. The number of tuition units that must be redeemed to pay the entire costs at another institution may be higher or lower in proportion to the amount that the cost is higher or lower than the amount determined for the institution with the highest cost or weighted average cost, as applicable. A beneficiary is responsible for paying the amount of any difference between the amount of tuition and required fees that the beneficiary pays through the redemption of one or more tuition units and the total cost of the beneficiary's tuition and required fees at the institution at which the beneficiary enrolls. A beneficiary or purchaser may not redeem a tuition unit earlier than the third anniversary of the date the unit was purchased.

Each year, the PHETB is required to establish the price at which each type of tuition unit may be purchased during the next sales period and the percentage of the cost for which each type of tuition unit may be redeemed. The percentage is based on the cost at a particular institution in relation to the amount determined for the institution with the highest cost or weighted average cost, as applicable. The purchase price for each type of unit is equal to the applicable cost of tuition and required fees for the most recent academic year, discounted by one-half percent.

When a beneficiary redeems one or more tuition units to pay costs of tuition and required fees, the PHETB applies money in the fund to pay all or the applicable portion of the costs at the institution in which the beneficiary enrolls. A beneficiary may redeem any type of tuition unit at a general academic teaching institution or two-year institution. The institution is required to accept the amount transferred to the institution when the unit or units are redeemed as payment for all or the applicable portion of the beneficiary's tuition and required fees. The amount transferred to the institution is the lesser of the following: (1) 101 percent of the amount of tuition and required fees covered by the tuition units being redeemed, or (2) the sum of the total purchase price of the tuition units being redeemed, plus the greater of (a) an amount equal to the portion of actual total return on all investment assets attributable to the total purchase price transferred above, or (b) an amount equal to the portion of the total return on all investment assets attributable to the total purchase price transferred above that would result assuming an annual return on all investment assets of the fund of five percent (subject to availability of money in the fund). As a result, if the rate of growth in the fund is greater than the rate of growth in tuition and required fees, institutions may receive as much as 101 percent of the amount of tuition and required fees. On the other hand, the law provides a floor of five percent in the rate of growth of the fund, but an institution receives that amount only if money is available. Thus, institutions bear the financial risk of poor fund performance.

Under HB 3900, the revenue from the prepaid tuition contracts is held in a trust fund outside the treasury and invested. The PHETB and the Board of Regents of The University of Texas System may contract for the Board of Regents to manage and invest

the assets of the fund. If the PHETB does not contract for investment of fund assets by the Board of Regents, the PHETB must employ private professional investment managers to serve as plan manager and invest the assets.

HB 3900 also requires the PHETB by rule to develop and implement a “Texas Save and Match” program under which money paid by the purchaser may be matched with (1) contributions made to that program and used to purchase additional tuition units on behalf of beneficiaries selected as provided by board rule, and (2) appropriated money to purchase additional tuition units on behalf of beneficiaries whose annual household income is below the state median family income, whose enrollment would promote “Closing the Gaps,” and who meet other criteria established by the board.

Impact: All UT System academic institutions are required to accept TTF-II prepaid tuition units in payment of tuition and required fees. If a purchaser bought 100 tuition units on behalf of a beneficiary, the beneficiary would be entitled to redeem those units in full payment of tuition and required fees for an academic year at an institution covered by that particular type of tuition unit. This has fiscal implications for UT System academic institutions, which bear the financial risk if the cost of tuition and required fees exceeds the value of the tuition units being redeemed.

The Board of Regents may contract to assume responsibility for the investment and management of the assets of the TTF-II. This would permit the investment and management of the funds through UTIMCO.

Effective: June 15, 2007. Prepaid tuition contracts for TTF-II may go on sale not earlier than September 1, 2008. Redemption of tuition units purchased may begin not earlier than the fall of 2011.

Karen Lundquist

SB 947 by Duncan and Chisum

Relating to delivery of certain unclaimed money to a rural scholarship fund.

Existing law allows a local telephone exchange company to deliver abandoned money to a scholarship fund to enable needy students from rural areas to attend college, technical school, or another postsecondary educational institution. SB 947 increases from \$400,000 to \$800,000 the total amount of money that may be transferred by all local telephone exchange companies during a state fiscal year.

Impact: Needy students from rural areas who attend UT System institutions may be eligible for money from the scholarship fund. Student financial aid offices should be aware of SB 947.

Effective: September 1, 2007

Karen Lundquist

SB 1232 by Zaffirini and Morrison

Relating to the manner of payment of higher education tuition and fees and to the repayment of emergency student loans.

SB 1232 relates to the manner of payment of higher education tuition and fees and to the repayment of emergency student loans.

For the fall and spring semesters and the summer term, SB 1232 authorizes payment in full in advance, or payment in installments under one or more payment plan options adopted by the governing board of the institution that require the first payment to be made in advance and the final payment to be made before the last day of the semester. (Prior law provided the payment schedule for quarterly payments.) SB 1232 also provides that a student who owes a balance of tuition and fees as a result of a change in the student's class schedule or who owes a balance of tuition and fees of less than \$100 after making an insufficient payment of tuition and fees previously due must pay the balance by the next payment date provided by the payment plan adopted by the governing board.

A student who fails to make a full payment by the due date may be prohibited from registering until full payment is made, and a student who fails to make full payment before the end of the semester or summer term may be denied credit for work done that semester or term. This sanction may not be imposed unless the governing board warns the student of the possible sanction in any written or electronic agreement authorized by the student. SB 1232 further provides that a student who elects to pay tuition and fees by installment must enter into a written or electronic agreement reflecting the terms and conditions. (Prior law did not authorize an electronic agreement.)

SB 1232 also authorizes an electronic agreement for an emergency loan. (Prior law required a written promissory note.) It authorizes an origination fee of not more than 1.25 percent of the amount of the loan in lieu of the five percent interest rate.

SB 1232 applies to the payment of tuition and fees and to emergency student loans beginning with the 2007 fall semester.

Impact: SB 1232 authorizes the Board of Regents to establish a payment plan for tuition and fees, authorizes an electronic agreement under the payment plan or for an emergency loan instead of a written promissory note, and authorizes a 1.25 percent origination fee or five percent interest as determined by the Board of Regents. An amendment to the Regents' Rules and Regulations, Series 40402, Section 3.3, is necessary to reflect the changes in the terms of an emergency loan authorized by SB 1232. As of the date of this publication, the Regents' Rule, which requires a promissory note and does not authorize an origination fee, has not been amended.

Effective: June 15, 2007

Karen Lundquist

SB 1325 by West and McCall

Relating to the eligibility of relatives of public college and university board members to receive certain scholarships; providing a criminal penalty.

HB 1325 relates to the eligibility of relatives of public college and university board members to receive certain scholarships. It provides that a person is not eligible to receive a scholarship originating from and administered by an institution of higher education or university system if the person is related to a current member of the governing board of the institution or system. However, the person may be eligible if any of the following four circumstances apply: the scholarship is granted by a private organization or third party not affiliated with the institution or system; the scholarship is awarded exclusively on the basis of prior academic merit; the scholarship is an athletic scholarship; or the relationship is not within the third degree by consanguinity or the second degree by affinity.

A person applying for a scholarship originating from and administered by an institution of higher education or university system must file a written statement with the application indicating whether the person is related within the degrees specified above to a current member of the governing board of the institution or system. Filing a false statement is an offense that is a Class B misdemeanor.

The Coordinating Board is required to prescribe the statement and to adopt rules to administer this law by January 1, 2008.

SB 1325 applies only to a scholarship for which an application is filed on or after January 1, 2008.

Impact: SB 1325 restricts the eligibility of a close relative of a member of the Board of Regents to receive a scholarship from UT System. UT System should monitor the Coordinating Board's rulemaking under SB 1325. Student financial aid offices at all UT System institutions should be aware of SB 1325 and must collect the statement from loan applicants as required by the bill beginning January 1, 2008.

Effective: September 1, 2007

Karen Lundquist

SB 1640 by Williams and Chisum/Guillen

Relating to the student loan program administered by the Texas Higher Education Coordinating Board and to the exemption from fees and tuition of certain persons at institutions of higher education; authorizing the issuance of bonds.

SB 1640 authorizes the issuance of up to \$500 million in general obligation bonds to finance education loans through the Hinson-Hazlewood College Student Loan Program. This is an increase of \$100 million from the amount permitted under prior law.

Under Section 54.203, Education Code, eligible Texas veterans are currently exempt from paying tuition and fees. The statute provides, however, that if the veteran is eligible for educational benefits under federal law, the exemption does not apply if the value of the federal educational benefits is equal to or exceeds the value of the exemption. It also provides that the combined value of the federal educational benefits and the exemption cannot exceed the total cost of the exemption. SB 1640 clarifies that the comparison or calculation of values is to be made on the basis of a semester.

Impact: Financial aid offices should be aware of this clarification, and ensure that their calculations of the veteran's exemption is based on a semester.

Effective: Sections 1-5 take effect on the date SJR 57 is approved by the voters. Section 6 takes effect September 1, 2007, and Section 7 applies beginning with the 2007 fall semester.

Esther Hajdar

SJR 57 by Williams/Zaffirini and Chisum/Guillen

Proposing a constitutional amendment providing for the issuance of general obligation bonds to finance educational loans to students and for authority to enter into bond enhancement agreements with respect to general obligation bonds issued for that purpose.

SJR 57 proposes an amendment to the Texas Constitution to authorize the Coordinating Board to issue up to \$500 million in general obligation bonds to finance educational loans. The Coordinating Board would also be authorized to enter into bond enhancement agreements.

SB 1640 is the enabling legislation for SJR 57.

Impact: Students at UT System institutions may benefit from additional funding for the Coordinating Board student loan program.

Effective: Upon adoption by the voters at the November 6, 2007, election

Jim Phillips

Instructional Materials

HB 3382 by Naishtat/Leibowitz and Uresti

Relating to providing certain electronic copies of instructional material for blind and visually impaired students and students with dyslexia who are enrolled at public institutions of higher education.

To assist the institution in producing special instructional material (such as Braille, large print, audio format, digital text, or any other medium to help visually impaired, blind, or dyslexic students), HB 3382 requires a publisher or manufacturer of instructional material assigned by an institution of higher education for use by students in connection with a course to provide to the institution, upon request, an electronic copy of the instructional material. The publisher or manufacturer must provide the electronic copy not later than the 15th business day after the date of receipt of the request.

In the request, the university official with the primary responsibility for providing services to students with disabilities must certify that either the institution or the student has purchased a printed copy of the instructional material. This obligation only applies to instructional material that is required or essential for a student's success in a course.

A publisher or manufacturer may require that the student for whom the institution is making the request sign an agreement to use the requested electronic copy and related special instructional material only for the student's own educational purposes and to not copy or otherwise distribute them for use by others.

HB 3382 outlines what information must be included in the electronic copy and the format of the electronic copy of the instructional materials.

HB 3382 authorizes the Coordinating Board to adopt rules that provide for the assessment of administrative penalties against a publisher or manufacturer that does not comply with the bill. The Coordinating Board must also adopt rules to administer this law and must consult with representatives from an advocacy organization, from instructional material publishing companies or publishing associations, and from institutions of higher education.

Finally, a publisher or manufacturer is excused from compliance with the requirements of this law if the Coordinating Board determines that compliance by the manufacturer or publisher would: (1) violate a law or regulation relating to copyrights; or (2) the printed instructional material is out of print or in a format that makes it impracticable to convert the material into an electronic format. The Coordinating Board must adopt procedures and criteria to apply this provision.

The Coordinating Board must adopt rules no later than November 1, 2007.

Impact: University officials with primary responsibility of providing services for students with disabilities should become familiar with the requirements of this statute and ensure that the university obtains electronic copies from publishers or manufacturers to

assist the university in meeting its legal obligations to students with disabilities. The Coordinating Board's rulemaking should be monitored.

Effective: June 15, 2007

Esther Hajdar

Research, Technology, and Intellectual Property

HB 1188 by Morrison and Shapiro/Janek

Relating to the Texas emerging technology fund.

HB 1188 amends Chapter 490, Government Code, which governs the Emerging Technology Fund (ETF). Many of the revisions are clean-up (i.e., use of the newly defined term "award" instead of "grant" throughout and adding "Advisory" to the name of the Texas Emerging Technology Committee) but there are some substantive revisions.

Committee members now serve two-year staggered terms and Committee nominations will no longer be made by the Coordinating Board (but may still be nominated by the president of a public or private institution of higher education) and those to be nominated are broadened from higher education "researchers" to higher education "leaders." The governor, lieutenant governor, and speaker may allocate up to .4 percent of the appropriation for the ETF for staff and administrative expenses, not to exceed \$600,000 annually.

Several revisions change the allocation of the ETF. Research award matching would be reduced from 25 percent to 16.67 percent. Awards for research superiority at public institutions of higher education would be increased from 25 percent to 33.33 percent. Incentives for collaboration between certain entities creating regional centers of innovation remain unchanged at 50 percent.

The use of incentives would be broadened from collaboration with public or private institutions of higher education to also include "other entities considered appropriate by the committee." An amount not to exceed 2 percent of the amount allocated for incentives may be directly invested in a regional center of innovation and commercialization to support commercialization activities.

The governor is authorized to make awards in the form of interest-bearing loans, take an equity position (stock or other security) in consideration of an award, and sell or otherwise trade or exchange the security for the benefit of the fund. The interest or proceeds received as a result of a transaction authorized herein must be deposited into the corpus of the fund and may be used in the same manner as the corpus of the fund, e.g., for future funding.

The contract between the governor and the recipient of an award may together set the terms relating to an award.

For an emerging technology industry participant to be eligible for funding, the industry participant's activity must create high-quality new jobs in the near-future or the long-run, or the activity has to have a potential to result in a medical or scientific breakthrough or a breakthrough in the area of clean energy.

Other sections in Chapter 490, such as Section 490.153 (Priority Funding), were expanded to give priority to certain proposals that may result not only in "a medical or scientific breakthrough" but to proposals that may result in "a medical or scientific breakthrough or a breakthrough in the area of clean energy". Throughout this bill, the phrase "a medical or scientific breakthrough" was expanded to read "a medical or scientific breakthrough or a breakthrough in the area of clean energy."

The changes to committee membership would apply to a member of the Texas Emerging Technology Advisory Committee with terms beginning on or after September 1, 2007. Also, at the first meeting of the Texas Emerging Technology Advisory Committee after September 1, 2007, the committee members will draw lots to determine which 8 members, out of the 17 member committee, will serve one-year terms beginning on the date on which the next term begins on or after September 1, 2007.

Impact: The Texas Emerging Technology Fund is a potential source of significant funding for all institutions of higher education in Texas because the fund supports research innovation and commercialization, including increased higher education applied technology research capabilities.

The ETF has used fund money to create regional centers of innovation and commercialization, to match research grant money, and to acquire research superiority -- all of which have significantly impacted private and public institutions of higher education, including UT System.

The changes to the allocation formulas should be analyzed by those knowledgeable in fiscal matters as they relate to our institutions' research activities (e.g., decreasing the matching awards and increasing the amount allocated for acquiring research superiority). The broadening of awards for collaboration with "other entities" instead of limiting collaboration to public or private higher ed institutions could decrease the level of potential funding of those awards.

HB 1188 is consistent with Recommendation 9 made by the Task Force on Access to Health Care in Texas in its "Code Red" report.

Effective: September 1, 2007

BethLynn Mawell

HB 1493 by Bonnen and Janek

Relating to the establishment and operation of a severe storm research and planning center.

HB 1493 authorizes the establishment and operation of a severe storm research and planning center. The center will facilitate research and development plans, programs, and technology associated with the impact of and response to hurricanes and other severe storms in the Gulf Coast region and adjacent areas. The Legislative Budget Board, in its May 15 fiscal note, indicated that Rice University will be the likely location for the center.

HB 1493 also requires representatives of UT Austin and UT Brownsville to participate on an advisory committee organized to advise the relevant regional planning commission or agency “whose membership includes the most populous county that borders on the Gulf of Mexico or on a bay or inlet of the Gulf of Mexico” regarding the development of priorities, guidelines and procedures for the creation of the center. That regional planning commission or agency is responsible for appointing members of the advisory committee. The advisory committee also must include a representative from “the medical profession in a major urban area located in the Gulf Coast Region,” so it is possible a third representative from one of UT System’s health institutions in Houston or Galveston could be appointed to the committee.

Impact: UT System institutions that are identified as participants (or potential participants) on the advisory committee should be aware of HB 1493 to ensure an appropriate representative is available.

Effective: June 15, 2007

Steve Rosen

HB 2328 by Woolley, et al. and Whitmire

Relating to the offenses of cruelty to livestock and nonlivestock animals.

HB 2328 amends the Texas Penal Code to close some loopholes the legislature felt existed which allowed violent and abusive acts toward animals to go unpunished. Examples cited included burning and mutilating of live kittens, killing a puppy with a lawnmower, and staking dogs and leaving them to die without food, water or shelter. The amendments to Section 42.09 will now allow those kind of acts to be prosecuted.

The amendments preserve the longstanding protection against prosecution for persons who engage in acts of bona fide scientific experimentation.

Impact: Because scientific research is exempted from the definition of “cruelty to animals,” HB 2328 should have no impact on UT System institutions.

Effective: September 1, 2007

HB 2608 by Hughes and Eltife

Relating to funding for applied research for a clean coal project or certain other projects for the generation of electricity from coal.

HB 2608 requires the Texas Higher Education Coordinating Board (THECB) to use money available from appropriations (including gifts, grants, and donations) to support at one or more eligible institutions applied research related to (1) the development, construction, and operation in this state of a clean coal project, or (2) electricity generation using lignite coal deposits in this state or integrated gasification combined cycle technology.

“Eligible institution” is defined as any public technical institute, public junior college, public senior college or university, medical or dental unit, public state college, or other agency of higher education as well as private institutions eligible to grant degrees in Texas. This includes all institutions of the UT System.

“Applied research” is defined as research directed at gaining the knowledge or understanding necessary to meet a specific and recognized need, including the discovery of new scientific knowledge that has specific objectives relating to products or processes.

“Clean coal project” is defined as the installation of one or more components of the coal-based integrated sequestration and hydrogen research project to be built in partnership with the United States Department of Energy, commonly referred to as the FutureGen project. The term includes the construction or modification of a facility for electric generation, industrial production, or the production of steam as a byproduct of coal gasification to the extent that the facility installs one or more components of the FutureGen project.

Impact: HB 2608 may impact UT System by providing additional funding sources through the THECB for applied research related to the FutureGen project and other electricity generation from coal.

Effective: June 15, 2007

Dana L. Hollingsworth

SB 616 by Duncan and Puente

Relating to the protection and use of intellectual property by the executive administrator of the Texas Water Development Board.

SB 616 permits the executive administrator of the Texas Water Development Board (TWDB) to develop and commercialize intellectual property (including patents,

copyrights, and trademarks) created within the agency. The TWDB may now exploit what it perceives to be its own intellectual property through royalty-bearing license agreements with non-TWDB entities, including UT System.

Impact: The impact of SB 616 on UT System is unclear because the extent to which TWDB develops or could develop its own intellectual property is not precisely known. In theory, however, doing business with TWDB in the future may become more cumbersome and expensive.

For example, according to the TWDB website, it is the state agency responsible for maintaining a centralized data bank of information on the state's natural resources called the "Texas Natural Resources Information System." TWDB also manages the "Strategic Mapping Program," a Texas-based, public and private sector cost-sharing program to develop consistent, large-scale computerized base maps describing basic geographic features of Texas. Because of the passage of this legislation, TWDB may now begin to charge third parties for access to this information. This could affect not only UT System Administration, but also faculty who may rely upon these databases for their own research.

Similarly, TWDB provides agricultural water conservation funding and water-related research and planning grants. TWDB may now require grantees to assign to TWDB the rights to all work product resulting from these grants. This means that faculty or others who receive such grants may not be able to freely use their own research results and may need permission from TWDB to use such grant-sponsored data in a particular way (which could also have a cost associated with it). In the past, as other state agencies (such as the Department of State Health Services and the Texas Department of Transportation) have sought to exert greater control over the use of what they perceive as "their" data, faculty have at times encountered greater difficulty in using the results of research sponsored by those agencies.

Effective: September 1, 2007

Steve Rosen

Elementary and Secondary Education

HB 188 by Hochberg, et al. and Van de Putte

Relating to the adoption of textbooks and the use of credits for textbooks or other instructional materials in a school district or open-enrollment charter school.

HB 188 provides that a school district or open-enrollment charter school that purchases a textbook at a cost below the cost limit set by the State Board of Education is entitled to receive a credit equal to the difference multiplied by the number of that book purchased. The school district or open-enrollment charter school is entitled to use fifty percent of the credit toward the requisition of additional textbooks, electronic textbooks, or technological equipment. HB 188 also adds provisions that allow schools to use textbook

credits to order supplemental materials and provides schools with the option of using supplemental materials instead of a conforming list textbook if the combination of supplemental materials contains the entire essential knowledge and skills required for all students and is within the cost limitation or can be paid for with textbook credits.

Impact: HB 188 impacts UT institution charter schools because it entitles the schools to a textbook credit for each textbook purchased below the cost allowed by the State Board of Education. Additionally, the bill provides greater flexibility with respect to the use of non-conforming textbooks and supplementary materials. UT institution charter school administrators should be aware of this bill.

Effective: June 16, 2007

Priscilla A. Lozano

HB 208 by Flores and Lucio Jr.

Relating to the eligibility of students enrolled in joint credit or concurrent enrollment programs for extracurricular activities and University Interscholastic League competitions.

HB 208 provides that a student who is otherwise eligible to participate in an extracurricular activity or a University Interscholastic League competition is not ineligible because the student is enrolled in a course offered for joint high school and college credit, or in a course offered under a concurrent enrollment program, regardless of the location at which the course is provided.

HB 208 applies beginning with the 2007-2008 school year.

Impact: The University Interscholastic League at UT Austin should be aware of HB 208.

Effective: May 24, 2007

Karen Lundquist

HB 1400 by Dutton and Shapiro

Relating to the issuance by a corporation established by the Texas Public Finance Authority of revenue bonds for open-enrollment charter school facilities.

HB 1400 amends existing law to state that the corporation established by the Texas Public Finance Authority to issue revenue bonds for open-enrollment charter school educational facilities issues those bonds on behalf of the state as opposed to a non-state entity. It also amends the corporation's authorized uses for the state fund dedicated to the credit enhancement of bonds by providing that the fund may be used to provide loans or

other credit support for the obligations of any open-enrollment charter school issued under the law.

Impact: HB 1400 impacts UT System institution charter schools because it relates to revenue bonds for facilities for such schools. UT System institution charter school administrators should be aware of the bill.

Effective: June 15, 2007

Priscilla A. Lozano

HB 1748 by Morrison and Shapiro

Relating to the administration of Texas governor's schools.

HB 1748 transfers the administration of Texas governor's schools (summer school residential programs for high - achieving high school students) from the commissioner of education to the Coordinating Board.

Impact: UT System institutions that administer Texas governor's schools will operate under Coordinating Board administration rather than the commissioner of education.

Effective: June 15, 2007

Priscilla A. Lozano

HB 2112 by Patrick, et al. and Hegar

Relating to the prosecution of an offense prohibiting the exhibition, use, or threatened exhibition or use of a firearm in or on school property or a school bus.

Prior law provided that it was a criminal offense to exhibit or use or threaten to exhibit or use a firearm in a manner that interfered with the normal use of a building or portion of a campus or of a school bus being used to transport school children. HB 2112 requires as elements of the criminal offense that the use, exhibition, or threat is in a manner intended to cause alarm or personal injury to another or to damage school property. HB 2112 also expands the places in which such conduct is prohibited to include in or on any school property, including a parking lot, parking garage, or other parking area that is owned by a private or public school.

Impact: UT System law enforcement who may be involved in law enforcement efforts on UT institution charter school campuses or buses used to transport children should be aware of HB 2112.

Effective: September 1, 2007

Priscilla A. Lozano

HB 2237 by Eissler, et al. and Shapiro

Relating to grants and programs for dropout prevention, high school success, and college and workforce readiness in public schools.

HB 2237 requires the commissioner of education to contract with at least one center for education research (as established in Section 1.005, Education Code) to study the best practices for dropout prevention. It also creates the High School Completion and Success Initiative Council to develop and manage the implementation of a strategic plan to improve high school completion rates and college and workforce readiness. It requires that schools administer a reading instrument to seventh grade students who did not demonstrate reading proficiency in the sixth grade and provide additional reading instruction and intervention to improve identified students' reading skills.

HB 2237 requires open-enrollment charter schools with a high dropout rate to submit a plan to the commissioner of education describing the manner in which the school intends to use the compensatory education allotment for developing and implementing research-based strategies for dropout prevention.

HB 2237 requires the State Board of Education to incorporate college readiness standards into the essential knowledge and skills of the foundation curriculum for courses in which students in grades 9 through 12 generally enroll. It requires the commissioner of education and the commissioner of higher education to develop and recommend essential knowledge and skills for courses in math, science, social studies, and English for students at the 12th grade level who do not meet college readiness standards. Schools would be required to adopt a grading policy requiring specific performance on an end-of-course assessment instrument in one of these courses. Schools with 9th through 12th grades are encouraged to establish a personal graduation plan for students.

HB 2237 establishes several grant programs for specific initiatives to improve school instruction and completion, including grants for professional development activities for public school teachers and administrators, grants for developing the knowledge and instructional skills of math teachers in middle school through high school, grants for student clubs for students at risk of dropping out, grants for collaborative dropout reduction pilot programs, grants for pilot programs to provide intensive technology-based supplementary instruction in English, math, science, or social studies to students in grades 9 through 12 at risk of dropping out, and grants for intensive summer programs for students at risk of dropping out of school or college. HB 2237 also authorizes the commissioner of education to provide grants to high schools to implement comprehensive high school completion and success initiatives.

HB2237 requires the Coordinating Board to establish academies at institutions of higher education to improve the instructional skills of public education teachers of math, science, and technology. The institutions would apply for the academy through a competitive process.

Impact: UT institution charter school administrators, UT System Institute for Public School Initiatives, UT System Office of Academic Affairs, UT institution colleges of education, and other UT institution colleges with public school education initiatives should be aware of this bill.

Charter schools with seventh grade students should be aware of the new reading instrument required for seventh grade students who did not demonstrate reading proficiency in the sixth grade. Charter schools with high school courses should be aware that the essential knowledge and skills of certain 12th grade courses will be required to incorporate college readiness. Development of student personal graduation plans are encouraged. UT institution charter schools with middle school, junior high, or high school students are required to designate one week during the school year as “Education: Go Get It” week in which specific information regarding higher education and a speaker promoting the importance of higher education must be provided.

HB 2237 may also provide additional grant opportunity to UT institution charter schools, particularly those with high schools. To the extent that an educational research center has been established at a UT System institution, this center would be eligible to be selected to conduct dropout prevention research. UT System institutions would be eligible to apply to establish a Math, Science, and Technology Teacher Preparation Academy as well as apply for several of the other grants.

Effective: June 15, 2007, except Sections 5 and 16 take effect September 1, 2007

Priscilla A. Lozano

HB 2341 by Truitt and Duncan

Relating to certain investment products made available to certain public school employees.

HB 2341 permits open enrollment charter schools to refuse an employee’s desire to use a vendor specified in a salary reduction agreement if that vendor does not comply with the school’s uniformly applied administrative requirements that are necessary for compliance with the Internal Revenue Code Section 403(b) or related Treasury Regulations.

Impact: UT System institution charter schools are subject to the changes in law made by HB 2341.

Effective: September 1, 2007

Kyle R. ZumBerge

HB 2411 by Strama and Ogden

Relating to school district depositories.

HB 2411 revises the provisions of Chapter 45 of the Education Code concerning how a Texas school district is authorized to select a depository into which the district deposits its funds. HB 2411 (1) permits a school district to select its depository through the use of a request for proposal (“RFP”) instead of through the use of competitive bidding and (2) establishes legal requirements that must be met by a school district that chooses to use an RFP to procure a depository.

Impact: A charter school, such as the University Charter School of UT Austin, is subject to the requirements of Chapter 12 of the Education Code, including Section 12.107, which requires charter schools to deposit their funds into a bank with which the charter holder has entered into a depository contract. If a university charter school maintains a depository, the changes implemented by HB 2411 affect how such depository contracts are procured.

Effective: June 15, 2007

Scott Patterson

HB 2978 by Morrison, et al. and Shapiro

Relating to engineering recruitment programs established by the Texas Higher Education Coordinating Board.

HB 2978 requires the Coordinating Board to establish and administer, using funds appropriated for that purpose, a one-week summer program on the campus of each general academic teaching institution that offers an engineering degree program. The summer program must be designed for middle and high school students to expose those students to math, science, and engineering concepts that a student in an engineering degree program may encounter. The Coordinating Board by rule establishes the admission requirements that encourage the program to enroll students in the program that reflect the demographics of the state, and the governing board of each institution of higher education is required to cooperate with the Coordinating Board in administering this law.

The bill also requires the Coordinating Board to establish and administer, using funds appropriated for that purpose, scholarships for students pursuing a degree in engineering at a general academic teaching institution. To qualify, a student must have graduated with a GPA in the top 20 percent of the student’s high school graduating class, must have graduated from high school with a GPA of at least 3.5 in mathematics and science courses offered under the recommended or advanced high school program, and must maintain a GPA of at least 3.0 at the general academic teaching institution. The Coordinating Board is required to adopt rules to administer this law, including rules providing for the determination of the amount of each scholarship.

The Coordinating Board is required to administer both of the above programs using available appropriations and gifts, grants, and donations made for those purposes. Rules must be adopted as soon as practicable, and may be adopted in the manner provided for emergency rules.

A rider in the General Appropriations Act appropriates \$1 million to the Coordinating Board for each year of the biennium for the engineering recruitment programs. (Article IX, Section 19.95.)

HB 2978 applies beginning with the 2007-2008 academic year.

Impact: HB 2978 requires UT System academic institutions that offer an engineering degree program to cooperate with the Coordinating Board in providing the engineering summer program. It also requires the Coordinating Board to establish scholarships for engineering degree students. Engineering departments at academic institutions and student financial aid offices should be aware of this bill. Additionally, the Coordinating Board's rulemaking should be monitored.

Effective: June 12, 2007

Karen Lundquist

HB 3485 by King, et al. and Shapiro

Relating to career and technology education provided by school districts and certain postsecondary institutions.

The law requires that each school district implement a program under which a student can earn college credit in high school. HB 3485 provides that the program must allow college credit to be earned through several types of courses, including advanced placement courses, locally articulated courses, and statewide articulated advanced technical credit courses or a combination of specified courses.

HB 3485 also adds a provision requiring the Texas Education Agency to establish a panel to review and recommend revisions to the career and technical education curriculum and for the program in which high schools and articulated postsecondary institutions allow high school students to take advanced technical credit courses.

Impact: HB 3485 impacts UT System institutions to the extent that it encourages and facilitates high school students earning college credit. UT System institution Vice Presidents for Academic Affairs should be aware of the bill.

Effective: June 15, 2007

Priscilla A. Lozano

SB 7 by Hinojosa, et al. and Eissler/Vo

Relating to instruction in cardiopulmonary resuscitation, the availability and use of automated external defibrillators at certain school campuses and athletic events, and the creation of a cardiovascular screening program.

This bill requires school districts to make available to its employees and volunteers approved instruction concerning the use of automated external defibrillators (AEDs). Certain school district employees, such as school nurses, coaches, marching band directors, and student trainers, must be trained in the use of AEDs to meet Red Cross or similar standards.

School districts are also required to instruct high school students regarding AEDs. All school districts are required to make an AED of the highest approved voltage available during University Interscholastic League (UIL) athletic competitions held on campus and to make a determination along with the UIL as to whether an AED is needed at practices or off-campus competitions. School districts are to have persons trained in AED use at these events.

School districts are to develop procedures for employees or students responding to cardiac arrest. Persons who make reasonable use of AEDs at such events, even if untrained, are not subject to civil actions for damages.

Impact: The UIL is to cooperate with school districts' efforts concerning AED availability and needs assessment. UT System institutions that hold UIL sanctioned events or practices may be affected in regards to the possible placement of AEDs.

Effective: June 15, 2007

Leo L. Barnes

SB 8 by Janek/Seliger and Flynn

Relating to random testing of certain high school students for steroid use and training of certain public school employees regarding steroid use.

SB 8 requires the University Interscholastic League to adopt rules prohibiting a student from participating in an athletic competition sponsored or sanctioned by the league unless, if the student is enrolled in high school, the student submits to random testing for the presence of illegal steroids in the student's body. The league is required to adopt rules as specified by SB 8 for the annual administration of the steroid testing program. SB 8 provides for confidentiality of test results, and requires the Texas Education Agency to pay the costs of the steroid testing program from funds already appropriated. The league is required to study potential mechanisms for future funding of the steroid testing program and to submit a report to the legislature not later than December 1, 2008.

SB 8 also requires certain school district employees who serve as athletic coaches to complete an educational program developed by the league or by the district or a private entity.

SB 8 applies beginning with the 2007-2008 school year.

Impact: The University Interscholastic League at The University of Texas at Austin must adopt rules for the steroid testing program and must study future funding mechanisms.

Effective: June 15, 2007

Karen Lundquist

SB 9 by Shapiro/Hinojosa and Branch/Madden

Relating to the disclosure or dissemination of criminal history record information, child abuse investigation reports, and school district audit working papers for certain purposes, including the certification and employment of educators and other public school employees who engage in certain misconduct.

SB 9 requires that national criminal history record information checks be conducted on all open-enrollment charter school employees or individuals who provide services as teachers, librarians, administrators, educational aides counselors, or substitute teachers. The open-enrollment charter school is required to obtain the information needed for the check for this group of applicants and current employees and submit it to the Texas Education Agency (TEA) and is not allowed to employ an individual unless the person has been approved by TEA. The bill also requires open-enrollment charter schools to conduct statewide criminal background checks on all other employees of the school until January 1, 2008, at which point the schools will be required to submit information on these individuals to TEA so that a national criminal history record information check can be conducted.

Employees of school contractors who will have continuing duties at locations where school students are regularly present must also have statewide criminal history record information checks and, after January 1, 2008, national criminal history record information checks. Student teachers and certain volunteers are also required to have criminal background checks through the Department of Public Safety.

A school is prohibited from employing an individual who has been convicted of certain criminal offenses against a person under 18, including “offenses against the person” or offenses in which a defendant is required to register as a sex offender. Schools would be required to certify compliance with the criminal history record check provisions to TEA.

The board of trustees of a school district must adopt a policy regarding the action to be taken by the campus administration when a visitor is identified as a sex offender. SB 9 also requires the Department of Public Safety to establish an electronic clearinghouse to

provide criminal history record information to those individuals and entities that are authorized under law to receive the information. A subscription to the criminal history clearinghouse would be required so that updated criminal history information would be forwarded to the open-enrollment charter school.

Impact: UT System institution charter school administrators should be aware of SB 9. The charter schools should review criminal background check policies to ensure compliance with SB 9. Schools must also develop a policy regarding action that will be taken by the administration when a school visitor is identified as a sex offender. UT System Policy 124 regarding criminal background checks should also be reviewed by UT System Administration and amended in accordance with this bill.

The schools should prepare to submit information required by TEA for the criminal background checks of teachers, librarians, administrators, educational aides counselors, or substitute teachers. The schools should perform the required criminal background check on all other employees of the school, student teachers, and volunteers. The schools should also obtain certification from contractors indicating that contractor employees who will have duties where students are present have had criminal background checks.

Contract language should be reviewed to include provisions regarding criminal background checks of contractor employees. Additionally, a director of a charter school shall notify the State Board for Educator Certification in writing if he/she has knowledge that an applicant or holder of a certificate has a reported criminal history record.

Effective: June 15, 2007

Priscilla A. Lozano

SB 530 by Nelson, et al. and Eissler

Relating to physical activity requirements and physical fitness assessment for certain public school students.

SB 530 requires school districts to annually assess the physical fitness of students enrolled in grades 3 through 12. The commissioner of education is required to adopt the assessment instrument to be used by school districts.

SB 530 applies beginning with the 2007-2008 school year.

Impact: SB 530 impacts UT System institution charter schools.

Effective: June 15, 2007

Karen Lundquist

SB 1031 by Shapiro, et al. and Eissler

Relating to public school accountability and the administration of certain assessment instruments in public schools; providing a criminal penalty.

Currently state education law requires that public education students in grades three through ten be assessed in reading, writing, math, social studies, and science (the current assessment instrument is the TAKS) and that an exit-level assessment instrument be administered to eleventh graders to assess knowledge and skills in those subjects. SB 1031 provides that the TAKS will only be administered to elementary students in grades three through eight and eliminates the exit-level examination. The Texas Education Agency (TEA) is required to adopt end-of-of course assessment instruments for Algebra I and II, geometry, biology, chemistry, physics, English I through III, world geography, world history, and US history. A student's performance on the end-of-course test for each of these subjects is to account for 15 percent of the student's final grade. In order to earn a high school diploma, a student must earn a cumulative score that is at least equal to the product of the number of end-of-course assessment instruments given to the student and 70. The commissioner of education is required to determine alternate assessment instruments that may be used if the student has not taken end-of-course exams. A student who performs at a designated level on optional questions on the end-of-course exam that are designed to assess college readiness is exempt from the Texas higher education assessment requirement.

SB 1031 requires that security procedures be developed regarding the administration of assessment instruments, including end-of course instruments. The procedures may include school district reporting and TEA audits of schools. SB 1031 makes it a criminal offense for a person to breach the security of a test, including providing answers to students.

SB 1031 also requires each school district to administer to 8th grade students a college preparation assessment instrument, to administer to 10th grade students the PSAT, and to administer to 11th or 12th grade students an assessment instrument used by colleges as part of their admissions processes. These tests shall be administered at school district cost.

Impact: UT System institution charter school administrators should be aware of SB 1031 because charter schools are subject to assessment instrument and high school graduation requirements and it modifies these requirements by replacing the exit exam with end-of-course exams. Those charter schools with grades 9-12 are required to adopt a policy that requires a student's performance on an end-of-course assessment instrument in the specified courses to account for 15 percent of the student's final grade for the course. Additionally, schools are required to provide students who do not achieve the required score on an end-of-course exam with accelerated instruction. Schools will not be allowed to graduate students who do not achieve the required cumulative score on end-of-course exams. Those schools with 8th, 10th, and 11th or 12th grades are required to administer to these students certain college assessment instruments. Also, charter school

personnel should be aware of the testing security criminal offenses that are provided for in the bill.

Effective: September 1, 2007

Priscilla A. Lozano

SB 1050 by Zaffirini and Patrick

Relating to the administration of the work-study student mentorship program by the Texas Higher Education Coordinating Board.

SB 1050 requires the Coordinating Board to implement and administer a work-study student mentorship program in which eligible college students may be employed by institutions of higher education, school districts, or non-profit organizations to mentor a student at a participating institution of higher education or high school, or counsel high school students at GO Centers for promoting access to higher education. Participating institutions would be required to submit reports to the Coordinating Board regarding participating students and the academic progress of those students.

Impact: SB 1050 impacts UT System institutions that may benefit from participating in a work-study student mentorship program either by employing and providing work-study mentors, by having students mentored, or both. It also impacts UT System institution charter schools with high school students because charter schools would be eligible to participate in a mentorship agreement to pair high school students with college student mentors under Coordinating Board rules developed to implement the program. All UT System institution financial aid offices, appropriate academic advising offices, and charter schools should be aware of this bill. Additionally, those institutions interested in participating in this mentorship program should file with the Coordinating Board a joint memorandum of understanding detailing the roles and responsibilities of the participating entities.

Effective: June 15, 2007

Priscilla A. Lozano

SB 1788 by Shapiro/Patrick and Madden

Relating to the creation and operation of a state virtual school network to provide education to students through electronic means.

SB 1788 provides that the commissioner of education shall establish a state virtual school network and designate the administering authority that would allow public school students to enroll in electronic courses and programs in which a student and teacher are in different physical locations. School districts, open-enrollment charter schools, and institutions of higher education are eligible to apply to be a provider school and offer

courses through the network under an agreement with the administering authority. An open-enrollment charter school is eligible to provide courses over the network if it is rated recognized or higher and may provide courses to a student within the school district in which the charter school is located or to another student in the state through an agreement with the student's enrolling school. SB 1788 addresses the funding of virtual courses for students enrolled in the school as well as for students taking the course who are enrolled in another school.

Impact: UT institution charter school administrators should be aware of this bill. Those charter schools rated recognized or higher are eligible to develop and submit for approval courses to be offered over the state virtual school network. UT institution charter schools will also be required to inform students and parents about courses that are offered through the state virtual school network and their option to enroll in an electronic course. UT System institutions are also eligible providers, and thus those institutions that may be interested in providing courses through the virtual school network should be aware of SB 1788. A provider school is entitled to funding for courses provided.

Effective: September 1, 2007

Priscilla A. Lozano

Commissions and Studies

HCR 159 by Morrison and Shapleigh/Zaffirini

Requesting that the governor, lieutenant governor, and speaker appoint a select commission on higher education and global competitiveness.

This concurrent resolution requests the governor, lieutenant governor, and speaker of the house of representatives to create a select commission on higher education and global competitiveness to draft a Texas Compact that reflects a long-term vision and step-by-step plan to attain certain goals by 2020. The commission is composed of 15 members who reflect the demographic diversity of Texas, with the governor, lieutenant governor, and speaker each appointing five members from the business community, academia, and other areas with interest in higher education and workforce needs.

The goals to be attained by 2020 are to educate the population of Texas to levels comparable to the highest performing competitor states and nations; to achieve global recognition for Texas public colleges and universities for excellence in their core missions and for innovations that strengthen the state's economy and improve the quality of life for its citizens; and to serve different regions of Texas in ways that respond to each region's unique higher education needs.

HCR 159 further resolves that the commission examine the following issues related to global competitiveness in educational attainment: current trends in educational attainment and the potential impact of those trends; objectives and accountability measures related to the state's educational attainment goals, including performance benchmarks comparing

Texas with competitor states and nations; enhancing regional support for higher education and strengthening the link between higher education and regional economic development goals; improving the number of adults attaining postsecondary credentials and strengthening the role and performance of community colleges; structuring higher education funding to reward student and institutional outcomes that are aligned with state and regional priorities; increasing the quantity, quality, and commercialization of university-based research; assessing long-term higher education capacity needs and creative approaches to meeting those needs; creating a policy research mechanism to track, analyze, and make recommendations to state policy makers based on the state's progress in achieving attainment and economic competitiveness goals; and the effect of tuition deregulation and higher tuition rates on participation in higher education, and whether tuition deregulation and higher tuition rates have adversely affected participation in higher education by minority or rural students.

It further resolves that the commission submit a full report, including findings, recommendations, a plan and timeline for implementing the recommendations, and enabling legislation, to the governor and legislature by November 1, 2008.

Impact: This concurrent resolution requests the appointment of a select commission on higher education and global competitiveness. An officer or employee of UT System may be appointed to serve on the commission, and UT System and its institutions may be asked to provide information to the commission for purposes of its plan and report to the legislature. Commission recommendations, and particularly those recommendations that are enacted into law, may impact UT System and its institutions in the future. The System Office of Governmental Relations will, and appropriate institutional personnel should, closely monitor the commission's activities.

Effective: Signed by the governor June 15, 2007

Karen Lundquist

SB 141 by Nelson and Morrison

Relating to a feasibility study regarding joint health science courses at a public or private institution of higher education.

SB 141 authorizes the Coordinating Board to conduct a study to evaluate the feasibility of a public or private institution of higher education providing courses in which students enrolled in different health science or health profession education programs may enroll to study basic health science curricula together. If the study is conducted, it must be in consultation with the administrative head or designee of each state agency that is a member of the Health Professions Council and with appropriate representatives of private or independent institutions of higher education.

If the Coordinating Board conducts the study, it is required to complete the study by September 30, 2008, and report its recommendations to the governing board of each public or private institution of higher education that offers health science or health

profession education programs, the governor, and the legislature concerning whether it is feasible to provide those joint health science courses, which courses should be offered, which institutions of higher education or types of institutions should offer the courses, and any other relevant issues.

Impact: Any Coordinating Board recommendations that are enacted may impact the health science courses that are offered at UT System institutions. UT System should monitor the Coordinating Board's study if it chooses to conduct one.

Effective: June 16, 2007

Karen Lundquist

SB 649 by Shapleigh and Morrison

Relating to a study by the Texas Higher Education Coordinating Board concerning the effectiveness of joint partnerships between institutions of higher education.

SB 649 authorizes the Coordinating Board to conduct a study to determine whether institutions of higher education, including component institutions of different university systems, may effectively enter into joint partnership agreements to develop joint degree programs and joint research programs, to make joint appointments of faculty or other personnel, and to maintain joint facilities. If the Coordinating Board conducts the study, it is required to report to the legislature by January 1, 2009, concerning its recommendations for implementing effective joint partnerships between institutions of higher education. The Coordinating Board may take action to conduct the study only to the extent existing resources are available for that purpose.

Impact: Any Coordinating Board recommendations that are enacted may impact UT System institution programs. UT System should monitor the Coordinating Board's study if it chooses to conduct one.

Effective: September 1, 2007

Karen Lundquist

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Research, Technology, and Intellectual Property

HB 14 by Keffer, et al. and Nelson, et al.

Relating to reorganizing certain state institutions that provide financing for cancer research, including creating the Cancer Prevention and Research Institute of Texas, and information about certain cancer treatments; granting authority to issue bonds.

HB 14 creates the Cancer Prevention and Research Institute of Texas (Institute) and grants authority to issue bonds to finance cancer research. The Institute is established to promote innovation in cancer research with a focus on prevention and cures, to develop research capabilities within institutions of higher education and other public or private entities, and to develop and implement the Texas Cancer Plan. The Institute will make grants for the funding of research, research facilities, and research to develop therapies, protocols, medical pharmaceuticals, or procedures for treating cancer. The Institute will be comprised of two primary committees: an Oversight Committee which is the governing body, and an 18-member Scientific Research and Prevention Programs Committee (including 2 nonvoting members appointed by the Chancellor of UT System) which will review grant applications and make grant recommendations to the Oversight Committee. Grantees must enter into contracts with the Institute, including an intellectual property agreement that allows the state to collect royalties, income, and other benefits.

A dedicated cancer prevention and research fund is established, consisting of patent, royalty, and licensing fees received through contracts as well as state appropriations. With the approval of a constitutional amendment, up to \$300 million in general obligation bonds may be issued per state fiscal year beginning January 1, 2008, the proceeds of which are to be deposited in separate accounts to be used for making grants and purchasing laboratory facilities.

The Texas Cancer Council is abolished, and employees of the Texas Cancer Council automatically become employees of the Cancer Prevention and Research Institute of Texas.

HB 14 also expresses legislative intent that lung cancer patients have access to a written summary about alternative treatments to be developed by the lung cancer advisory council established by the bill.

HB 14 is consistent with Recommendation 9 made by the Task Force on Access to Health Care in Texas in its "Code Red" report.

Impact: The Cancer Prevention and Research Institute represents a significant opportunity for UT System institutions, both academic and health, to receive funding for innovative cancer initiatives. Depending on the intellectual property agreements required by the Institute for any UT awards, there may be an impact on UT intellectual property revenue or current policies and procedures relating to intellectual property rights. In addition to appointments made by the Chancellor to the scientific committee, UT System

employees may be considered for appointment to that committee or the oversight committee.

Effective: HB 14 is effective upon passage of the constitutional amendment to be submitted to Texas voters at the November 6, 2007, general election; if the amendment is not approved, the bill does not take effect.

Melodie Krane

HB 1113 by Turner and Uresti

Relating to reporting research on children within the juvenile probation system.

HB 1113 requires the Texas Juvenile Probation Commission to keep records and submit reports to the governor, lieutenant governor, speaker of the house, and members of the legislature relating to children within the juvenile probation system who participate in research programs or studies.

Impact: The Texas Juvenile Probation Commission will keep records and reports concerning children in the juvenile probation system who participate in research programs or studies conducted by UT System institutions.

Effective: June 15, 2007

Caren Burbach

HB 1188 by Morrison and Shapiro/Janek

Relating to the Texas emerging technology fund.

HB 1188 amends Chapter 490, Government Code, which governs the Emerging Technology Fund (ETF). Many of the revisions are clean-up (i.e., use of the newly defined term “award” instead of “grant” throughout and adding “Advisory” to the name of the Texas Emerging Technology Committee) but there are some substantive revisions.

Committee members now serve two-year staggered terms and Committee nominations will no longer be made by the Coordinating Board (but may still be nominated by the president of a public or private institution of higher education) and those to be nominated are broadened from higher education “researchers” to higher education “leaders.” The governor, lieutenant governor, and speaker may allocate up to .4 percent of the appropriation for the ETF for staff and administrative expenses, not to exceed \$600,000 annually.

Several revisions change the allocation of the ETF. Research award matching would be reduced from 25 percent to 16.67 percent. Awards for research superiority at public institutions of higher education would be increased from 25 percent to 33.33 percent.

Incentives for collaboration between certain entities creating regional centers of innovation remain unchanged at 50 percent.

The use of incentives would be broadened from collaboration with public or private institutions of higher education to also include “other entities considered appropriate by the committee.” An amount not to exceed 2 percent of the amount allocated for incentives may be directly invested in a regional center of innovation and commercialization to support commercialization activities.

The governor is authorized to make awards in the form of interest-bearing loans, take an equity position (stock or other security) in consideration of an award, and sell or otherwise trade or exchange the security for the benefit of the fund. The interest or proceeds received as a result of a transaction authorized herein must be deposited into the corpus of the fund and may be used in the same manner as the corpus of the fund, e.g., for future funding.

The contract between the governor and the recipient of an award may together set the terms relating to an award.

For an emerging technology industry participant to be eligible for funding, the industry participant’s activity must create high-quality new jobs in the near-future or the long-run, or the activity has to have a potential to result in a medical or scientific breakthrough or a breakthrough in the area of clean energy.

Other sections in Chapter 490, such as Section 490.153 (Priority Funding), were expanded to give priority to certain proposals that may result not only in “a medical or scientific breakthrough” but to proposals that may result in “a medical or scientific breakthrough or a breakthrough in the area of clean energy”. Throughout this bill, the phrase “a medical or scientific breakthrough” was expanded to read “a medical or scientific breakthrough or a breakthrough in the area of clean energy.”

The changes to committee membership would apply to a member of the Texas Emerging Technology Advisory Committee with terms beginning on or after September 1, 2007. Also, at the first meeting of the Texas Emerging Technology Advisory Committee after September 1, 2007, the committee members will draw lots to determine which 8 members, out of the 17 member committee, will serve one-year terms beginning on the date on which the next term begins on or after September 1, 2007.

Impact: The Texas Emerging Technology Fund is a potential source of significant funding for all institutions of higher education in Texas because the fund supports research innovation and commercialization, including increased higher education applied technology research capabilities.

The ETF has used fund money to create regional centers of innovation and commercialization, to match research grant money, and to acquire research superiority -- all of which have significantly impacted private and public institutions of higher education, including UT System.

The changes to the allocation formulas should be analyzed by those knowledgeable in fiscal matters as they relate to our institutions' research activities (e.g., decreasing the matching awards and increasing the amount allocated for acquiring research superiority). The broadening of awards for collaboration with "other entities" instead of limiting collaboration to public or private higher ed institutions could decrease the level of potential funding of those awards.

HB 1188 is consistent with Recommendation 9 made by the Task Force on Access to Health Care in Texas in its "Code Red" report.

Effective: September 1, 2007

BethLynn Mawell

HB 1493 by Bonnen and Janek

Relating to the establishment and operation of a severe storm research and planning center.

HB 1493 authorizes the establishment and operation of a severe storm research and planning center. The center will facilitate research and development plans, programs, and technology associated with the impact of and response to hurricanes and other severe storms in the Gulf Coast region and adjacent areas. The Legislative Budget Board, in its May 15 fiscal note, indicated that Rice University will be the likely location for the center.

HB 1493 also requires representatives of UT Austin and UT Brownsville to participate on an advisory committee organized to advise the relevant regional planning commission or agency "whose membership includes the most populous county that borders on the Gulf of Mexico or on a bay or inlet of the Gulf of Mexico" regarding the development of priorities, guidelines and procedures for the creation of the center. That regional planning commission or agency is responsible for appointing members of the advisory committee. The advisory committee also must include a representative from "the medical profession in a major urban area located in the Gulf Coast Region," so it is possible a third representative from one of UT System's health institutions in Houston or Galveston could be appointed to the committee.

Impact: UT System institutions that are identified as participants (or potential participants) on the advisory committee should be aware of HB 1493 to ensure an appropriate representative is available.

Effective: June 15, 2007

Steve Rosen

HB 2328 by Woolley, et al. and Whitmire

Relating to the offenses of cruelty to livestock and nonlivestock animals.

HB 2328 amends the Texas Penal Code to close some loopholes the legislature felt existed which allowed violent and abusive acts toward animals to go unpunished. Examples cited included burning and mutilating of live kittens, killing a puppy with a lawnmower, and staking dogs and leaving them to die without food, water or shelter. The amendments to Section 42.09 will now allow those kind of acts to be prosecuted.

The amendments preserve the longstanding protection against prosecution for persons who engage in acts of bona fide scientific experimentation.

Impact: Because scientific research is exempted from the definition of “cruelty to animals,” HB 2328 should have no impact on UT System institutions.

Effective: September 1, 2007

BethLynn Maxwell

HJR 90 by Keffer, et al. and Nelson, et al.

Proposing a constitutional amendment providing for the establishment of the Cancer Prevention and Research Institute of Texas and authorizing the issuance of general obligation bonds for the purpose of scientific research of all forms of human cancer.

This resolution proposes a constitutional amendment in conjunction with HB 14 which establishes the Cancer Prevention and Research Institute of Texas (Institute). In addition to setting out the purposes of the Institute, the constitutional amendment grants the legislature the authority to authorize the issuance of general obligation bonds on behalf of the Institute not to exceed \$3 billion, the proceeds of which will be deposited into separate funds or accounts in the treasury to be used by the Institute for designated purposes without the necessity of an appropriation. The resolution also authorizes entering into related credit agreements. Under the resolution, grant recipients are required to have an amount of funds equal to one-half the amount of the grant dedicated to the research that is the subject of the grant request.

Impact: The resolution will provide for significant funding for cancer-related research and development, including those at academic and health institutions of higher education.

Effective: The constitutional amendment is to be submitted to Texas voters at the November 6, 2007, general election and is effective upon passage.

Melodie Krane

SB 450 by Uresti, et al. and Turner

Relating to enrollment and participation in certain research programs of certain children in foster care.

SB 450 provides that a person may not authorize the enrollment of a foster child or consent to the participation of a foster child in a drug research program without a court order unless the person is the foster child's parent and has been authorized by the court to make medical decisions for the foster child. SB 450 sets out the procedures and requirements to allow enrollment and participation of foster children in a drug research program.

A foster parent or any other person may not receive a financial incentive or any other benefit for recommending or consenting to the enrollment and participation of a foster child in a drug research program.

Impact: For UT System institutions that conduct drug research programs as defined by SB 450, foster children may not be enrolled or participate in such programs except as permitted by law.

Effective: September 1, 2007

Caren Burbach

SB 616 by Duncan and Puente

Relating to the protection and use of intellectual property by the executive administrator of the Texas Water Development Board.

SB 616 permits the executive administrator of the Texas Water Development Board (TWDB) to develop and commercialize intellectual property (including patents, copyrights, and trademarks) created within the agency. The TWDB may now exploit what it perceives to be its own intellectual property through royalty-bearing license agreements with non-TWDB entities, including UT System.

Impact: The impact of SB 616 on UT System is unclear because the extent to which TWDB develops or could develop its own intellectual property is not precisely known. In theory, however, doing business with TWDB in the future may become more cumbersome and expensive.

For example, according to the TWDB website, it is the state agency responsible for maintaining a centralized data bank of information on the state's natural resources called the "Texas Natural Resources Information System." TWDB also manages the "Strategic Mapping Program," a Texas-based, public and private sector cost-sharing program to develop consistent, large-scale computerized base maps describing basic geographic features of Texas. Because of the passage of this legislation, TWDB may now begin to charge third parties for access to this information. This could affect not only UT System

Administration, but also faculty who may rely upon these databases for their own research.

Similarly, TWDB provides agricultural water conservation funding and water-related research and planning grants. TWDB may now require grantees to assign to TWDB the rights to all work product resulting from these grants. This means that faculty or others who receive such grants may not be able to freely use their own research results and may need permission from TWDB to use such grant-sponsored data in a particular way (which could also have a cost associated with it). In the past, as other state agencies (such as the Department of State Health Services and the Texas Department of Transportation) have sought to exert greater control over the use of what they perceive as “their” data, faculty have at times encountered greater difficulty in using the results of research sponsored by those agencies.

Effective: September 1, 2007

Steve Rosen

Nursing

HB 2426 by Truitt, et al. and Deuell

Relating to relating to the regulation of the practice of nursing and the renaming of the Board of Nurse Examiners as the Texas Board of Nursing.

HB 2426 continues the Board of Nurse Examiners, which, pursuant to the Texas Sunset Act, was to be abolished on September 1, 2007, and renames it as the Texas Board of Nursing.

The bill removes unnecessary complexity and duplication in the board’s process for approving nursing education programs, and accommodates changes in the delivery of nursing education. The bill also requires the board to create innovative models for nursing education that promote increased enrollment in Texas nursing programs as part of a plan to alleviate the nursing shortage in Texas.

The bill directs the board to identify the types of crimes that relate directly to the practice of nursing and then to prioritize licensing and enforcement activities in those areas.

The bill also addresses the lack of purpose and structure of the board’s advisory committees that may undermine the advisory purpose for which these committees were established. The bill helps facilitate the interstate movement of advanced practice registered nurses by adopting a multistate compact to make it easier for these nurses to practice temporarily in Texas. The bill improves the board’s ability to deal with impaired nurses who commit practice violations who currently are not required to be reported to the board. The bill improves the board’s ability to ensure the continued competence of nurses by clarifying its authority to establish guidelines for targeted continuing education requirements that may not benefit all nurses.

HB 2426 also permits the president of a medical and dental unit, such as a UT System health institution, to determine that nurses employed by the unit for practice in patient care or in clinical activities are full-time employees for purposes of accruing leave, longevity pay, and participation in the UT System uniform group insurance program (UGIP) even though the nurses work less than 40 hours a week. Such nurses are not entitled to the full state contribution to the cost of the UGIP coverage or benefits, but the institution may contribute the portion of the employer premium that the state normally contributes for full-time employees. Similar provisions are included in SB 993.

Finally, HB 2426 establishes the Texas Hospital-Based Nursing Education Partnership Grant Program. See the analysis of HB 3443 immediately following this analysis for a summary of that program and its impact on UT System.

Impact: The greatest impact to UT System would be expansion of the nursing students within UT System as hospital based nursing programs not associated with a university are phased out by 2015.

All of the nurse practitioners within UT System would be impacted by the renewal of the Board and the changes to the enabling statute.

The administrators in charge of each UT System nursing program should be aware of this statute, as should every UT System nurse practitioner.

UT System health institutions may treat clinical or patient care nurses as full-time for purposes of leave, longevity pay, and UGIP benefits even if the nurses work less than 40 hours a week. A health institution that elects to treat such nurses as full-time employees for UGIP benefits purposes will be responsible for any additional employer costs for the benefits.

Effective: September 1, 2007

Lannis Temple

HB 3443 by Donna Howard and West, et al.

Relating to the Texas hospital-based nursing education partnership grant program.

HB 3443 creates the Texas Hospital-Based Nursing Education Partnership Grant Program. The goal of the program is to increase the number of nurses in Texas. The program is administered by the Coordinating Board to make grants to hospital-based nursing education partnerships, which consist of one or more hospitals in this state that are not owned, maintained, or operated by the federal or state government or an agency of the federal or state government and one or more nursing education programs (defined to include undergraduate and graduate professional nursing programs at UT System's institutions). The grants must be spent on costs related to developing or operating a partnership that: 1) prepares a student to earn an associate or bachelor of science degree in nursing and to achieve initial licensure as a registered nurse; 2) prepares a student to

earn a master of science degree in nursing with a concentration in education; or 3) provides an articulation program for advancement from an associate degree to a bachelor of science degree in nursing or to a master of science degree in nursing with a concentration in education.

HB 3443 is consistent with Recommendation 7 made by the Task Force on Access to Health Care in Texas in its “Code Red” report.

Impact: Hospitals that are owned or operated by UT System are unaffected by HB 3443. No UT System institution would directly receive grant funds. UT System institutions that have professional nursing programs are involved indirectly in that program funding granted to a partnership is contingent on that nursing program enrolling additional students. HB 3443 encourages collaboration between hospitals and institutions of higher education to meet the program’s goals, and thus UT System institutions with nursing programs may become involved in shaping a proposal or program. Each partnership that has a program must submit an annual report, and thus UT System’s participating institutions may be more directly involved in that.

Effective: June 15, 2007

Hannah D. Huckaby

SB 138 by Nelson and Susan King

Relating to promoting the retention and graduation of students enrolled in professional nursing programs.

SB 138 directs the Texas Higher Education Coordinating Board to develop and implement methods to promote the retention and graduation of students enrolled in a professional nursing program (programs preparing nursing students for initial licensure), including recommendations on financial aid.

SB 138 also directs the Coordinating Board to establish a program to recognize a professional nursing program that achieves a graduation rate of 85 percent or more.

SB 138 is consistent with Recommendation 7 made by the Task Force on Access to Health Care in Texas in its report, “Code Red.”

Impact: Both the academic and health institution nursing programs of UT System institutions will be affected by the programs and recommendations of the Coordinating Board and should closely monitor developments.

Effective: September 1, 2007, with Coordinating Board rules to be adopted not later than December 1, 2007.

Steve Collins

SB 139 by Nelson and Kolkhorst

Relating to a study on improving the curricula of professional and vocational nursing education programs.

SB 139 directs the Texas Higher Education Coordinating Board, in consultation with the Board of Nurse Examiners, to conduct a study to identify methods to improve the curricula of professional and vocational nursing programs. The study must focus on methods to improve instruction on providing safe and high-quality nursing care to patients.

The Coordinating Board is to complete the study and report the results not later than December 31, 2008. The report is to be delivered to each institution with a nursing program, as well as to the governor and the legislature.

SB 139 is consistent with Recommendation 7 made by the Task Force on Access to Health Care in Texas in its report, "Code Red."

Impact: Both the academic and health institution nursing programs of UT System institutions will be affected by the curricula recommendations of the Coordinating Board and should closely monitor developments.

Effective: June 15, 2007, with Coordinating Board to report not later than December 31, 2008.

Steve Collins

SB 156 by Shapiro, et al. and Madden

Relating to a competitive grant program to fund nurse-family partnership programs in certain communities in this state.

SB 156 directs the Health and Human Service Commission (HHSC) to establish a nurse-family partnership (NFP) competitive grant program and to fund NFP programs in multiple communities in the state. Through the NFP programs, registered nurses will regularly visit the homes of low-income, first-time mothers to provide services to improve pregnancy outcomes; improve child health and development; improve family economic self-sufficiency and stability; and reduce the incidence of child abuse and neglect. The nurses will receive training from the Office of the Attorney General (OAG) on establishing paternity and will convey information and assistance regarding paternity and child support issues to the families. The NFP program nurses will make home visits beginning not later than a mother's 28th week of gestation and ending when the child reaches age two. The bill requires the program to deliver services to approximately 2,000 families.

SB 156 requires that the grant-funded programs be based on the program model developed by the Nurse-Family Partnership National Service Office. Additionally, the

bill requires HHSC to hire or contract with a state nurse consultant to assist in development of the request for proposals and to help grant recipients with implementation and operation of the NFP programs.

A public or private entity could apply for a grant to begin and operate a program or to expand an existing program. Award considerations include the demonstrated need for a partnership program in the community in which the applicant proposes to operate; the applicant's ability to participate in ongoing monitoring and performance evaluations, including the applicant's ability to collect and provide information requested by the commission; the applicant's ability to develop broad-based community support; and the applicant's history of developing and sustaining innovative, high-quality programs.

SB 156 requires HHSC to apply for any available federal funds to assist in financing the program and authorizes HHSC to solicit and accept gifts and grants. The 80th Legislature appropriated \$2.7 million in general revenue funds and \$5.2 million in Temporary Assistance for Needy Families (TANF) Federal Funds to provide Nurse-Family Partnership program services during the 2008-09 biennium.

SB 156 requires HHSC to establish the grant program by September 1, 2008, and report to the legislature by December 1, 2008.

SB 156 is consistent with Recommendation 7 made by the Task Force on Access to Health Care in Texas in its report, "Code Red."

Impact: UT System institutions are eligible to apply for grants for nurse-family partnership programs.

Effective: September 1, 2007. The grant program is to be operational not later than September 1, 2008.

Steve Collins

SB 201 by Nelson and Morrison

Relating to tuition exemptions at public institutions of higher education for certain professional nursing program preceptors and their children.

Existing law (Sec. 54.222, Education Code) provides a \$500 tuition exemption to a student enrolled at an institution of higher education who is a resident of Texas and who is a registered nurse serving as a clinical preceptor for students enrolled in an undergraduate professional nursing program for the academic term for which the exemption is sought. It also provides a \$500 tuition exemption for the nurse's children.

SB 201 provides that the nurse is entitled to the exemption for one academic term for each academic term during which the nurse serves as a clinical preceptor. SB 201 allows the nurse to claim the exemption in the academic term in which the nurse serves as a clinical preceptor, or in another academic term that begins within a year of the end of the

academic term in which the nurse served. The bill also allows a child of the nurse to claim the exemption in the same manner described above for the child's parent, and provides that the child's eligibility for an exemption is not affected by whether the parent also received an exemption.

SB 201 applies beginning with tuition charged for the 2007 fall semester, and the tuition exemption must be granted regardless of whether the qualifying service as a clinical preceptor occurred before June 15, 2007.

SB 201 is consistent with Recommendation 7 made by the Task Force on Access to Health Care in Texas in its report, "Code Red."

Impact: SB 201 allows an additional year for nursing program preceptors and their children to claim the \$500 tuition exemption. Accordingly, SB 201 will increase the cost to institutions of the exemption. The 80th Legislature made no specific appropriation to reimburse institutions for this cost.

Effective: June 15, 2007

Karen Lundquist

SB 289 by Nelson and Morrison

Relating to the use of professional nursing shortage reduction program grants to encourage clinical nursing instruction by part-time faculty at public or private institutions of higher education.

Under existing law, grants from the professional nursing shortage reduction program to a professional nursing program or other entity involved with a professional nursing program may be used to support efforts to make the most effective use of limited professional nursing program faculty, instructional or clinical space, and other resources, including use of preceptors to provide clinical instruction.

SB 289 provides for the use of part-time faculty in addition to preceptors as tools to address the need for qualified faculty in professional nursing programs.

The 80th Legislature appropriated \$7.35 million for each fiscal year of the next biennium, trusteed to the Texas Higher Education Coordinating Board, for the professional nursing shortage reduction program., including the creation of additional nurse faculty positions, the provision of temporary salary supplements for nursing faculty, and engagement of qualified preceptors as faculty.

SB 289 is consistent with Recommendation 7 made by the Task Force on Access to Health Care in Texas in its report, "Code Red."

Impact: The nursing programs at UT System academic and health institutions are eligible for grants under the nursing shortage reduction program, and SB 289 expands the permitted expenditures of grant money.

Effective: June 15, 2007

Steve Collins

SB 992 by Nelson and Donna Howard

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

SB 992 extends for four years, through August 31, 2011, the authority of the Texas Higher Education Coordinating Board to award grants from the Permanent Fund for Higher Education Nursing, Allied Health, and Other Health-related Programs (one of the “tobacco funds,” capitalized at \$45 million) for the purpose of programs preparing students for initial licensure as registered nurses or programs preparing qualified faculty members with a master’s or doctoral degree for the program. Without this extension of time, after August 31, 2007, the grants would have been available only for upper-level training.

The investment returns on the fund, which are appropriated for these grants, amount to \$2.025 million for each fiscal year of the biennium.

SB 992 is consistent with Recommendation 8 made by the Task Force on Access to Health Care in Texas in its report, “Code Red.”

Impact: SB 992 continues the dedication of this portion of the tobacco funds to support nursing school programs, including some of the programs at UT System institutions. However, under existing law, the institutions that benefit from funds from the Permanent Health Fund for Higher Education, including UT System health institutions, or that benefit from a separate permanent endowment fund from the tobacco funds, including UT El Paso, are ineligible for grants from this fund.

Effective: June 16, 2007

Steve Collins

SB 993 by Nelson and McReynolds

Relating to nursing peer review and the regulation of the practice of nursing.

SB 993 is an omnibus bill amending multiple provisions of the Nursing Practice Act and other laws related to nursing.

SB 993 changes the law governing the conduct of a nurse that is subject to reporting, as well as the entities to whom conduct is reported. SB 993 redefines the conduct of a nurse that another nurse must report (“conduct subject to reporting”) to include conduct that (1) is a violation of law that contributed to the death or serious injury of a patient; (2) causes a person to suspect that the nurse’s practice is impaired by chemical dependency or drug or alcohol abuse; (3) constitutes abuse, exploitation, fraud, or a violation of professional boundaries; or (4) indicates that the nurse lacks knowledge, skill, judgment, or conscientiousness to such an extent that the nurse’s continued practice of nursing could reasonably be expected to pose a risk of harm to a patient or another person.

Under SB 993, conduct that previously was required to be reported to the Board of Nurse Examiners (BNE) may now be reported instead to a nursing peer review committee. The conduct of students may continue to be reported to the nursing educational program instead of the BNE. If a nursing peer review committee determines that a nurse has engaged in “conduct subject to reporting,” the committee must file a written report and recommendations with the BNE unless the committee determines the incident was minor (conduct that “does not indicate that the nurse’s continued practice poses a risk of harm”) or that the employer has reported the nurse as required by law. A employer who has reported a nurse’s conduct to the BNE must provide a copy of that report to the nursing peer review committee. A nursing peer review committee that determines that there is reason to believe that the nurse’s deficiency in care was beyond the nurse’s control must report the conduct to the patient safety committee or the chief nursing officer.

SB 993 also makes several changes to a separate law governing nursing peer review committees, including establishing a requirement that every employer of 10 or more nurses establish peer review committees. If such an employer employs five or more registered nurses, the employer must have a peer review committee for vocational nurses and a peer review committee for professional nurses. An employer may contract with another entity for nursing peer review. SB 993 provides legal protections for a nurse who refuses to engage in conduct that violates the nurse’s duty to a patient and who requests review by a peer review committee. SB 993 permits the sharing of information between a nursing peer review committee and a patient safety committee and requires a peer review committee to report to a patient safety committee any deficiency in care that the committee determines was the result of a factor beyond the nurse’s control.

In a separate provision unrelated to the reporting of nurse conduct and peer review committees, SB 993 permits the president of a medical and dental unit, such as a UT System health institution, to determine that nurses employed by the unit for practice in patient care or in clinical activities are full-time employees for purposes accruing leave, longevity pay, and participation in the UT System uniform group insurance program (UGIP) even though the nurses work less than 40 hours a week. Such nurses are not entitled to the full state contribution to the cost of the UGIP coverage or benefits, but the institution may contribute the portion of the employer premium that the state normally contributes for full-time employees.

Impact: Nurses employed by UT System institutions and those institutions as employers and as institutions conducting nurse educational programs, are governed by

the changes in law made by SB 993, including those provisions that require the establishment of nursing peer review committees. In addition, UT System health institutions may treat clinical or patient care nurses as full-time for purposes of leave, longevity pay, and UGIP benefits even if the nurses work less than 40 hours a week. A health institution that elects to treat such nurses as full-time employees for UGIP benefits purposes will be responsible for any additional employer costs for the benefits.

Effective: September 1, 2007

Steve Collins

Health Professions (other than Nursing)

HB 1194 by England/ Madden and Harris

Relating to indemnification of phlebotomists performing services under contract with the Texas Department of Criminal Justice.

State law requires an offender incarcerated in a facility operated by the Texas Department of Criminal Justice (TDCJ) to provide a specimen, collected by medical staff, to be included in the DNA database administered by the Department of Public Safety. TDCJ contracts with phlebotomists to collect such samples from offenders who will not comply with the requirement to the point that force is necessary to obtain the sample. However, the law does not indemnify phlebotomists from civil damages if an offender files suit, and some phlebotomists have raised concerns about such litigation.

HB 1194 indemnifies phlebotomists who perform such services for TDCJ.

Impact: HB 1194 does not impact UT System directly, and it does not impact UT System phlebotomists in practical terms because such employees' liability is now statutorily limited and they are already entitled to indemnification under Section 104.001, Civil Practice and Remedies Code.

Effective: June 15, 2007

Lannis Temple

HB 1594 by Zerwas and Carona

Relating to expedited credentialing for certain physicians providing services under a managed care plan.

When a physician joins an established medical group that has a contract with a managed care plan, there is a delay in credentialing. The delay causes patients to be at financial risk since the physician is required to bill any patients treated as "out-of-network" until

the physician is considered to meet the plan's credentials and becomes part of the plan's network.

As it relates to health maintenance organization (HMO) plans, the Texas Department of Insurance requires that the HMO make a determination as to whether a physician meets the plan's credentials within one year from the time the application is submitted. Currently, there are no rules relating to preferred provider organization networks.

HB 1594 requires that it be determined whether a licensed physician in good standing with the Texas Medical Board who joins an established medical group that has a contract with a managed care plan meets or does not meet the necessary credentials of the managed care plan upon submission of all necessary documentation and information. This bill also authorizes a managed care plan to recover the difference between in-network benefits and out-of-network benefits if a physician fails to meet the managed care plan's credentials.

Impact: HB 1594 impacts those UT System health institutions that have contracts with managed care plans. Those institutions should be aware of this bill, especially because the managed care plan can recover monies paid to our institutions if the new physician fails to meet the plan's credentials.

Health institutions should implement a review policy to insure that every licensed physician who is added to a managed care contract before the managed care plan officially approves that physician's credentials is qualified to join that contract. Otherwise, the department may lose monies if the physician is later denied approval.

Effective: September 1, 2007

Lannis Temple

HB 1973 by Delisi and Nelson

Relating to certain duties of the Texas Medical Board in licensing and expert testimony.

Recently, there has been an increase in the number of physician license applications at the Texas Medical Board, causing a backlog of license processing at the board.

HB 1973 is designed to reduce delays in the application process for a physician's license by requiring both the board and the executive director to change licensing policies or procedures to increase the number of licenses issued and reduce delays.

Impact: HB 1973 benefits UT System and its potential physician employees because delays in obtaining a license, especially with foreign applicants, are not uncommon. The human resource departments and the department heads at each UT System health institution should be aware of this statute.

Effective: June 15, 2007

Lannis Temple

HB 3876 by Menendez/Fred Brown and Nichols

Relating to the regulation of the practice of dentistry; providing penalties.

Currently, the State Board of Dental Examiners regulates licensed dentists, but has little to no jurisdiction over dental clinics or dental organizations that employ dentists to perform dental services. As a result, dentists who are no longer employed by a dental organization have encountered problems obtaining their patient records from their former employers. The inability to obtain patient records from dental organizations prevents the board from properly investigating complaints filed by members of the public and prevents formerly employed dentists from properly answering questions regarding the care rendered to dental patients.

HB 3876 requires a dental organization to designate a dental license holder as a dental custodian of records who will be responsible for providing records to the State Board of Dental Examiners and to any dentist who has patient records that are maintained by the dental organization. This bill also provides civil and criminal penalties for the failure to designate a dental custodian and for the failure to provide dental records as required.

Impact: HB 3876 impacts UT System dental clinics by requiring them to properly designate a dental custodian of records, and would subject them to civil and criminal penalties if the bill's requirements are not satisfied.

UT System dental clinics should be aware of this bill and should implement a policy (if one does not already exist) on designating a dental custodian of records.

Effective: September 1, 2007

Lannis Temple

SB 29 by Nelson and Truitt

Relating to the creation of a minimum data set for the collection of information on health professionals by the statewide health coordinating council.

SB 140 directs the Department of Information Resources (DIR), in consultation with the Statewide Health Coordinating Council (SHCC), to add mandatory fields to electronic applications by health professionals for an initial or renewal license, certificate, or registration. The mandatory fields include name, last four digits of a social security number, and educational background. In addition, DIR is to add fields (not identified as "mandatory") for nine other categories of personal and practice information. Members of the Health Professions Council (composed of the Texas regulatory agencies for the

various health professions) are directed to encourage health professionals to submit the required and requested information. The SHCC is to use the enhanced information to conduct related workforce studies, including a determination of the geographical distribution of the reporting professionals.

Impact: UT System health care professionals will be required and requested to provide additional information in making application for an initial or renewal license, certificate, or registration.

Effective: March 1, 2008

Steve Collins

SB 36 by Nelson/Van de Putte and Eiland

Relating to the examination of certain applicants for a license to practice medicine.

SB 36 intends to correct an issue created in the Texas Medical Board sunset bill from the 79th legislative session. SB 36 adds a “grandfather clause” allowing applicants who held a physician-in-training (PIT) permit or had a PIT permit pending on September 1, 2005, and who had passed all but one part of the licensure exam in three attempts, to take the remaining part of the exam one additional time. SB 36 also provides that an applicant is considered to have satisfied these requirements if the applicant: (1) has passed all but one part of the exam within three attempts and passed the remaining part within six attempts; (2) is specialty board certified; and (3) has completed in Texas an additional two years of postgraduate medical training approved by the board.

Under SB 36, the limitations on exam attempts does not apply to applicants who are licensed and in good standing in another state, who have been licensed for at least five years, and whose license has no restrictions, disciplinary orders, or probation.

Impact: Some physician applicants for a medical license, including UT System current or potential employees, who have passed all but one part of the licensure exam may have an additional one to three attempts at passing the remaining section, depending on their status.

Effective: June 15, 2007

Melodie Krane

SB 140 by Nelson and Kolkhorst

Relating to a study of the feasibility of providing immunizations to certain students enrolled in health professional degree programs.

SB 140 directs the Department of State Health Services and the Texas Higher Education Coordinating Board to conduct a joint study of the feasibility of providing immunizations without charge or at a discount to economically disadvantaged students enrolled in health professional degree programs at institutions of higher education in this state. A report of findings and recommendations is due to the legislature not later than January 15, 2009.

Impact: UT System institutions with health professional degree programs may be asked to provide information for the study, which may ultimately recommend that the institutions provide, pay for, or absorb the cost of immunizations for these students. Institutions should monitor developments and take advantage of opportunities to comment.

Effective: June 15, 2007. The report on the study is due not later than January 15, 2009.

Steve Collins

Health Care Services, Education, and Programs

HB 518 by Naishtat and Brimer

Relating to the detention and examination of certain persons for whom an application for emergency detention or a motion for an order of protective custody has been filed.

HB 518 relates to the detention of persons believed to be mentally ill and a risk to themselves or others. It increases the amount of time a person may be detained in custody for preliminary examination from 24 to 48 hours, including time spent actually receiving medical care. It decreases the number of hours that may pass before a person is examined by a physician from 24 to 12. It also requires a motion for an order of protective custody to be accompanied by a certificate of a physician who examined the person not earlier than the third, as opposed to the fifth, day before the motion is filed.

The Department of State Health Services is required to conduct a study on the effects the change in law has on admissions to state mental health facilities.

Impact: The Harris County Psychiatric Center is specifically impacted, as well as other UT System institutions and personnel that provide care for persons in emergency detention. These institutions should be aware of HB 518 and should change their policies and procedures as necessary to comply with HB 518.

Effective: September 1, 2007

Lannis Temple

HB 709 by Puente, et al. and Zaffirini

Relating to information regarding umbilical cord blood options.

The purpose of HB 709 is to educate mothers-to-be on the collection, processing, and storage of umbilical cord blood, which then may be used to potentially treat fatal blood-related diseases.

The bill amends Chapter 162 of the Health and Safety Code, dealing with blood banks and donation of blood, by adding two sections concerning stem cells in umbilical cord blood.

The first section requires the executive commissioner of the Health and Human Services Commission (HHSC) to collect information and to prepare a brochure on the current and potential uses, risks, options, benefits, and costs associated with stem cells contained in the umbilical cord after delivery of an infant. This brochure must be prepared by January 1, 2008, and will be distributed to concerned physicians and other persons and will be on HHSC's website.

The second section places certain requirements on physicians and other persons permitted by law to attend to a woman during gestation or at delivery of an infant. Those requirements include providing a pregnant woman with the HHSC brochure unless the religious beliefs of the physician or other concerned person conflict with providing the brochure, and permitting the pregnant woman to store or donate her umbilical cord blood.

Impact: HB 709 impacts UT System by requiring its physicians (and other professionals) who attend a pregnant woman during gestation or at delivery to comply with the statutory requirements. These physicians and professionals should be aware of this bill, and UT System ob/gyn departments should be informed of this bill and make preparations to distribute the brochure.

HB 709 does not require any UT System institution to store umbilical cord blood, but UT System would have to decide whether to accept and store umbilical cord blood.

Effective: May 17, 2007

Lannis Temple

HB 1098 by Bonnen, et al. and Hegar

Relating to immunization against human papillomavirus.

Under Executive Order RP65 (February 2, 2007), Governor Perry mandated that all female children be vaccinated against human papillomavirus (HPV) before admission to the sixth grade, with provisions for a parent to opt out.

HB 1098 provides that immunization against HPV is not required for admission to any elementary or secondary school, and it preempts any contrary executive orders. The Health and Human Services Commission (HHSC) is required to provide educational materials about HPV and make it available to parents or legal guardians at the appropriate time in the immunization schedule by the appropriate school. This law expires January 11, 2011.

Impact: UT System charter schools must make the educational materials on HPV provided by HHSC available to parents and legal guardians at the appropriate time in the immunization schedule.

Effective: May 8, 2007

Lannis Temple

HB 1379 by Deshotel, et al. and Nelson

Relating to human papilloma virus education programs.

HB 1379 requires the Department of State Health Services (DSHS) to produce and distribute informational materials regarding vaccines against the human papillomavirus (HPV). It also requires DSHS to collaborate with the Texas Cancer Council or its successor (the Cancer Prevention and Research Institute of Texas if HJR 90 is approved by the voters) to develop education programs for parents regarding HPV and promoting awareness of a minor's need for preventive services for cervical cancer and its precursors. DSHS must maintain an Internet website that targets the public and health care professionals and provides accurate, comprehensive information on all aspects of cervical cancer prevention.

HB 1379 also requires the inclusion of additional specified information regarding HPV in course materials and instruction related to sexually transmitted diseases in the model public health education program for school-aged children developed by DSHS.

Impact: HB 1379 does not directly impact UT System or its institutions, but UT System health care professionals may be asked to help develop the HPV education materials.

Effective: September 1, 2007

Lannis Temple

HB 1412 by McReynolds/Darby and Deuell

Relating to the regional emergency medical dispatch resource centers program.

HB 1412 expands a pilot program of the Area Health Education Center of The University of Texas Medical Branch at Galveston (UTMB) into a permanent statewide program to use emergency medical dispatchers located in regional centers to provide life-saving and other emergency medical instructions while awaiting the arrival of emergency medical personnel. Under HB 1412, money from the 9-1-1 services fee fund and other state funds may be appropriated to UTMB on behalf of the center to fund this program.

Impact: The center at UTMB takes on added duties and funding. With an effective statewide program, HB 1412 may ultimately improve patient outcomes in emergency rooms, particularly where emergency assistance is far away in time or distance.

Effective: September 1, 2007

Melodie Krane

HB 2132 by Straus and Van de Putte

Relating to the creation of a diabetes mellitus registry pilot program.

HB 2132 establishes an electronic diabetes mellitus registry pilot program that tracks the prevalence of diabetes, the level of control individual patients are exerting over their diabetes, the trends of new diagnoses of diabetes, and health care costs.

In the pilot program, the Department of State Health Services (DSHS) will select a densely-populated public health district and will collect all glycosylated hemoglobin test results from clinical laboratories located in the public health district. HB 2132 contains confidentiality provisions and requires DSHS to submit a report to the legislature regarding the pilot program. The program expires September 1, 2010.

HB 2132 is consistent with Recommendation 8 of the “Code Red” report issued by the Task Force on Access to Health Care in Texas.

Impact: UT System health institutions and laboratories located in the public health district selected for the pilot program will be affected.

Effective: June 15, 2007

Lannis Temple

HB 2827 by Taylor, et al. and Jackson

Relating to rules regarding anaphylaxis treatment provided by emergency medical services personnel.

HB 2827 allows all emergency medical services personnel to carry and administer epinephrine auto-injector devices according to rules adopted by the Department of State Health Services (DSHS), which require training, and in accordance with a delegated practice agreement that provides for medical supervision.

HB 2827 also allows a licensed physician acting as medical director for an emergency medical services system to restrict the use and administration of epinephrine auto-injector devices to certain emergency medical services personnel through the delegated practice agreement or the adoption of policies.

DSHS rules must require an emergency medical services vehicle to be equipped with epinephrine auto-injector devices, and must require emergency medical services personnel to complete continuing education in the administration of anaphylaxis treatment.

Impact: UT System emergency room physicians and medical personnel should be aware of the provisions of HB 2827.

Effective: June 15, 2007

Lannis Temple

SB 415 by Lucio Jr./Zaffirini and McReynolds

Relating to a risk assessment program for Type 2 diabetes and the creation of the Type 2 Diabetes Risk Assessment Program Advisory Committee.

SB 415 is consistent with Recommendation 8 made by the Task Force on Access to Health Care in Texas in its “Code Red” report.

The incidence of Type 2 diabetes is growing near epidemic levels in children, with children as young as elementary and middle school ages developing risk factors for this disease. According to the Centers for Disease Control and Prevention, risk is even higher among ethnic minority groups; of Hispanic children born in 2000, about 50 percent are expected to become diabetic.

The University of Texas-Pan American administered the *ancanthosis nigricans* (AN) screening program in certain elementary schools. SB 415 expands both the geography and scope of that program and requires more extensive screening through the same office, the Border Health Office of the University of Texas-Pan American (previously the Texas-Mexico Border Health Coordination Office of the University of Texas-Pan American).

HB 415, like the previous statute, requires the Office to coordinate with the schools along the Texas-Mexico border. It also allows the Office to expand the program to other areas in Texas with its existing funding or by obtaining other funding through gifts, grants, and donations.

SB 415 establishes an appointed Type 2 diabetes risk assessment program advisory committee to advise the border health office on several parameters of the study and program.

Impact: The University of Texas Pan American will be responsible for setting up and administering the program. The 80th Legislature did not specifically appropriate money for its implementation, and thus the Office will have to use existing funding or obtain funding through gifts, grants, and donations.

Effective: September 1, 2007

Lannis Temple

SB 811 by Janek and Dukes

Relating to requiring the Department of State Health Services to allow health care providers to use certain vaccines in the vaccines for children program and to the procurement of those vaccines.

SB 811 amends the Texas Vaccines for Children Program (TVFC) to allow health care providers participating in the program more flexibility in choosing the vaccines they administer.

Under prior law, the participating health care providers were required to use the vaccines the program chose and delivered. Under SB 811, a health care provider may choose any vaccine approved by the FDA and available under contract with the Centers for Disease Control and Prevention (CDC). (The TVFC program is a federal/state funded vaccine supply program that guarantees vaccines will be made available to providers at no cost in order to immunize children who meet specific federal and state criteria. The goal of the program is to raise childhood vaccination rates in the United States without creating a financial burden for providers or families.)

SB 811 allows physicians to exercise their professional judgment in selecting the appropriate influenza vaccine for patients, permitting greater flexibility in the face of flu vaccine shortages or supply issues. In addition, by allowing physicians to use both the trivalent influenza virus and live attenuated influenza vaccines, the number of physicians participating in the program will probably increase.

Impact: SB 811 impacts UT System physicians and health care providers who administer childhood vaccines. They should be aware of the changes made by SB 811.

Effective: June 15, 2007

Lannis Temple

SB 1601 by West and Fred Brown

Relating to the operation of the Joint Admission Medical Program (JAMP) and to admission to the program.

SB 1601 removes provisions requiring the inclusion of “nontraditional” medical students (economically disadvantaged students over the age of 25) into the joint admission medical program (JAMP).

SB 1601 amends the allocation of program openings among public and private institutions of higher education. Two program openings are allocated to each public institution and one program opening is allocated to each private or independent institution. All remaining program openings are then allocated among the institutions as the JAMP council determines appropriate. If there are insufficient program openings to accommodate this allocation, the JAMP council is given discretion to allocate the openings to achieve the purpose of the program. However, it cannot allocate more than 15 percent of the openings to students from private or independent institutions.

SB 1601 also:

- permits students who initially attended a junior college to be eligible for the program;
- grants the JAMP council discretion in setting the application deadline; and
- permits an undergraduate institution to appoint a nonfaculty member as a liaison to the JAMP.

Finally, SB 1601 authorizes the JAMP council to accept a gift, grant, devise, or bequest of money, securities, service, or property to carry out the purpose of the program. It specifically permits the acceptance of funds raised or services provided by a volunteer or volunteer group to promote the work of the program. The council’s administrative staff is also authorized to participate in the establishment and operation of an affiliated nonprofit organization whose purpose is to raise funds for or provide services beneficial to the JAMP.

Impact: The JAMP council and its staff should amend its eligibility guidelines and determine an appropriate application deadline. Additionally, it should inform undergraduate institutions of their ability to appoint a nonfaculty member as a JAMP liaison.

Effective: June 15, 2007

Esther Hajdar

SB 1731 by Duncan and Isett, et al.

Relating to consumer access to health care information and consumer protection for services provided by or through health benefit plans, hospitals, ambulatory surgical centers, birthing centers, and other health care facilities, and funding for health care information services; providing penalties.

SB 1731 requires physicians to make information on the cost of proposed health care and provider's billing practices available to consumers. Specifically, physicians must:

- (1) create and post written policies explaining their billing procedures to patients in their offices or clinics where patients are likely to see them. The policies must address any discounts available to uninsured or indigent patients, interest charged on unpaid balances, and procedures for resolving billing complaints;
- (2) provide, upon request, to a patient who is uninsured or seeking treatment outside of the insurer's network, an estimate of the cost of proposed services that will not be covered by the patient's health care plan;
- (3) provide, upon request, itemized billing statements for services provided to a patient and a written explanation, in plain language, of charges for services previously rendered; and
- (4) refund overpayments made by a patient within 30 days of discovery of the overpayment, unless the payment is subject to the state insurance laws on prompt payment of claims involving managed care or preferred provider plans for which the physician is a network provider.

The Texas Medical Board (TMB) must adopt rules addressing these requirements by May 1, 2008.

SB 1731 imposes similar requirements on hospitals licensed under Chapter 241 of the Health and Safety Code (Code), birthing centers licensed under Chapter 244 of the Code, and ambulatory surgical centers licensed under Chapter 243 of the Code. It also requires "facilities-based physicians" who work within these facilities but are not part of the facility's health benefit plan network to explain in their billing statements: (1) that the reason the patient is being billed is because the physician's services are not covered in the patient's health plan; (2) how the patient can set up a payment plan; and (3) how the patient can file complaints about billing with the TMB.

The Department of State Health Services (DSHS) and the TMB must develop and post online consumer guides on health care standards and billing and reimbursement practices.

The Texas Department of Insurance (TDI) is required to collect and publish aggregate data from insurers on claim reimbursement rates to be used to disseminate health care cost information that will enable consumers to compare and evaluate health costs within a given geographic region. UT System's uniform group insurance program (UGIP) basic health plan is subject to this requirement. TDI can, by rule, exempt health plans from the

requirement if such data would not be relevant to accomplishing this purpose. TDI must adopt rules about this requirement by May 1, 2008.

SB 1731 requires certain health plans (not including UT System's UGIP) to notify enrollees about the possibility that non-network providers may bill the enrollee directly for the cost of any services not covered by the enrollee's health insurance. Facilities and hospital-based physicians who do not participate as network providers in a facility's network must also provide notice to each enrollee that they treat if they engage in such billing.

SB 1731 also requires TDI to appoint a committee to study facility-based network adequacy of health plans, including employer sponsored plans.

Finally, SB 1731 requires that notices issued by employers and health benefit plans about the availability of continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA coverage) must include information about the Texas Risk Pool. Health plans that administer COBRA coverage continuation plans must also inform COBRA plan participants, at least 45 days before the participant's COBRA coverage is due to expire, that the participant may qualify for Texas Risk Pool coverage.

Impact: Physicians employed by UT System institutions will be subject to the portions of SB 1731 that address physician billing. Physicians who violate these provisions will be subject to sanction by the TMB. Institutions that employ physicians should monitor the TMB's rulemaking relating to these provisions.

Hospitals operated by UT System institutions ordinarily do not require licensure under Chapter 241 of the Code and are not likely to operate birthing centers licensed under Chapter 244 of the Code or ambulatory surgical centers licensed under Chapter 243. However, they may enter into affiliation agreements with such facilities. Therefore, although UT System institutions are not likely to be directly impacted by the requirements imposed by the bill on these facilities or to employ "facility-based physicians," they should monitor the TMB rulemaking process relating to these provisions to ensure that their own facilities or physicians do not fall within the scope of the rules.

The Office of Health Affairs (OHA), UT System health institutions, and academic institutions that operate educational programs for health care practitioners may wish to monitor and/or use the consumer health care guides to be developed by DSHS and the TMB pursuant to SB 1731. The OHA and institutions that participate in health plan networks may wish to become involved in the TDI study regarding network adequacy.

UT System's UGIP will be required to provide reimbursement data for claims paid under its basic medical plan unless TDI exempts it from compliance by rule. The Office of Employee Benefits may wish to explore requesting such an exemption from TDI.

Finally, UT System institutions and third party administrators that provide COBRA coverage on behalf of UT System will be required to provide the information to UT System health plan or COBRA participants who lose eligibility to participate in the plan

or plan-related COBRA coverage about the possible availability of health coverage under the Texas Risk Pool. It should be noted that the requirements for Texas Risk Pool coverage were changed by another bill enacted during this legislative session, HB 2548.

Effective: September 1, 2007

Barbara M. Holthaus

SB 1832 by Duncan and Gattis

Relating to the billing of anatomic pathology services; providing penalties.

SB 1832 concerns the billing of anatomic pathology services. Prior law did not require the disclosure to the patient of the net charges for anatomical pathology lab services. In some instances, the referring physician added a markup to the anatomical pathology lab fee. Markup practices occur when the referring physician increases the cost of the bill for the anatomic pathology service in order to accrue a hidden profit for the service when billing a patient or third-party payor. These markup practices are deemed unethical under the explicit policies of the American Medical Association (AMA) and contrary to specific AMA coding guidelines.

SB 1832 allows only the laboratory or physician who provided the pathology services (or who supervised the performance) to bill for the services, meaning that if a laboratory or physician sends the pathology tissue to another laboratory for analysis, that referring laboratory or physician may not add any charges to any bill.

The patient, insurer, third-party payor, or hospital is not required to pay any bill for pathology services not rendered or supervised by the billing laboratory or physician, and any laboratory or physician who violates the statutory prohibition against billing is subject to disciplinary action.

SB 1832 requires a person, physician, or entity that does not directly supervise or perform anatomic pathology services to disclose in the bill to the patient, the insurer, or other third-party payor, or in an itemized statement to the patient, the name and address of the physician or laboratory that provided the anatomic pathology services, and the net amount paid or to be paid for each anatomic pathology service provided to the patient by the physician or laboratory.

Impact: SB 1832 impacts all UT System physicians who send pathology services to outside laboratories and may impact UT System billing departments. All UT System physicians who use outside pathology services and all relevant billing departments should be aware of this statute, and the billing departments should insure all bills subject to this law conform with the disclosure requirements.

Effective: September 1, 2007

Lannis Temple

Medical Records

HB 888 by Giddings, et al. and Watson

Relating to the cost of obtaining copies of an injured employee's medical records for use by an ombudsman under the office of injured employee counsel's ombudsman program; providing for an administrative violation.

HB 888 requires that upon written request of the Office of Injured Employee Counsel's ombudsman, a health care provider shall provide an injured employee's health records at no cost. A health care provider may not require payment for copies before providing them to the ombudsman. However, a workers' compensation insurance carrier is liable, without any deduction from other benefits, to a health care provider for the cost of producing the records. Copying charges are set by the Workers' Compensation Insurance commissioner.

The Workers' Compensation Insurance Division's public counsel office may make rules regarding the time frame for producing copies along with other related matters.

Failure to comply with HB 888 is an administrative violation for a workers' compensation carrier or a health care provider.

Impact: UT System hospitals and clinics, as well as UT System practitioners, are health care providers for purposes of this statute and may be requested by an ombudsman to provide covered medical records. In addition, UT System's Workers' Compensation Insurance program should be aware of HB 888.

Effective: June 15, 2007

Leo L. Barnes

HB 1060 by Parker, et al. and Harris

Relating to the use of electronically readable information from a driver's license or personal identification certificate by hospitals.

HB 1060 allows hospitals to access, use, compile, or maintain a database of information from an individual's driver's license or personal identification card to provide health care services to the individual holding the license or certificate. However, if the individual objects, a hospital must use an alternative method for collecting the information.

HB 1060 prohibits a hospital from selling or transferring information gathered from a driver's license or personal identification card, except that a hospital may transfer information in accordance with HIPAA. A business associate, or any subcontractor of the business associate who receives the transferred information, may use the information only to service or maintain the hospital's database of the information.

Impact: UT System health institutions should be aware of HB 1060 and may wish to adopt procedures for accessing information from driver's licenses or personal identification cards. UT System legal officers, administrators, and risk managers should analyze policies and procedures for compliance with privacy and other laws.

Effective: September 1, 2007

Lannis Temple

HB 1066 by Delisi and Nelson

Relating to health information technology and the creation of the Texas Health Services Authority.

HB 1066 establishes the Texas Health Services Authority Corporation (Authority). The Authority is charged with implementing a statewide electronic health information infrastructure (EHII) to allow private and public health care providers to access health information stored in electronic databases. The Authority is charged with establishing statewide health information exchange capabilities for electronic lab results, diagnostic studies, medication history delivery, and health care eligibility and coverage information; identifying nationally recognized privacy, security, operational, and technical standards applicable to the EHII; seeking funding to implement the EHII and developing incentives to encourage private sector participation in the EHII; and supporting regional EHII initiatives. Providers that participate in the EHII will be required to voluntarily comply with the standards adopted by the Authority.

The Authority will be managed by a board of directors appointed by the governor and composed of representatives of physicians, rural health care providers, pharmacies, hospitals, health care plans, clinical laboratories, consumers, regional EHIIs, and others whose expertise would benefit the Authority. The definition of "physician" includes medical schools and medical and dental units of public institutions of higher education. The board of directors may appoint an executive director, who may in turn employ other staff to carry out the functions of the Authority.

HB 1066 is consistent with Recommendation Five made by the Task Force on Access to Health Care in Texas in its "Code Red" report.

Impact: The Authority's initiatives are likely to have significant impact on the delivery of health care in Texas as well as the standards to be used in providing this care. The Office of Health Affairs and UT System health institutions are likely to be involved in developing and participating in the health information technology initiatives created by the Authority. It is also quite likely that UT System will be identified by the Authority as a source for generating funding for the EHII.

Effective: June 15, 2007

Barbara M. Holthaus

HB 1739 by Hartnett

Relating to electronic submission of certain information on a death certificate.

HB 1739 requires a person responsible for interment or for removal of a body from a registration district for disposition to file the death certificate electronically as specified by the state registrar. HB 1739 also requires the person who completes the medical certification of death to submit the information electronically.

HB 1739 further provides that a doctor who does not, as of September 1, 2007, renew his or her license online is not required to comply before September 1, 2008.

Impact: UT System physicians completing the medical certification for a death will need to do so electronically as required by HB 1739.

All UT System health institution that deal with death certificates should be aware of HB 1739 and should adopt procedures to satisfy its requirements.

Effective: September 1, 2007

Lannis Temple

SB 204 by Nelson, et al. and Delisi

Relating to certain electronic medical records system.

SB 204 requires any person who sells medical records software to a person or entity that handles the medical records of a provider who administers immunizations to ensure that the software has the ability to interface electronically with the immunization registry created under the Health and Safety Code, and to generate reports that contain the fields necessary to populate the immunization registry. The Health and Human Services Commission (HHSC) must adopt rules to specify the fields necessary to populate the immunization registry, including a field that indicates the patient's consent to be listed in the registry has been obtained. The data standards that must be used for electronic submission of immunization information must be specified by rule and must be compatible with the standards for immunization information transmission adopted by the Healthcare Information Technology Standards panel sponsored by the American National Standards Institute and included in certification criteria by the Certification Commission for Healthcare Information Technology. Sanction is by injunction brought by the attorney general, who may receive reasonable costs if the attorney general prevails.

SB 204 is consistent with Recommendation 5 made by the Task Force on Access to Health Care in Texas in its "Code Red" report.

Impact: UT System health institutions will be required to ensure that their electronic medical records system has the capability to comply with the requirements for submission of information to the immunization registry. Also, personnel will need to be

trained to provide data to the registry and to obtain a patient's consent to be listed in the registry.

Effective: June 15, 2007

Brenda Strama

Reports and Data

HB 246 by Alonzo and Zaffirini

Relating to reports on cases of acquired immune deficiency syndrome and human immunodeficiency virus infection.

HB 246 requires a health authority to report specified information weekly to the Department of State Health Services (DSHS) concerning all cases reported to the authority during the previous week of AIDS and HIV infection. DSHS must compile information submitted by the health authorities and make it available within six months of the last day of each quarter, must annually analyze trends, and must make an annual report. DSHS must also report to the legislature by January 1, 2009, concerning emerging technologies.

Impact: Personnel at UT System health institutions should be aware of the new reporting requirements imposed by HB 246.

Effective: September 1, 2007

Lannis Temple

HB 1082 by Straus, et al. and Van de Putte

Relating to a pilot program to require reporting of methicillin-resistant *Staphylococcus aureus*.

HB 1082 creates a pilot program to research and implement procedures for reporting cases of methicillin-resistant *Staphylococcus aureus* (MRSA). The Department of State Health Services must select a health authority to administer the program, and all clinical laboratories within the area served by the health authority must report all cases of MRSA to the pilot program administrator.

After a report to the legislature, the pilot program is abolished September 1, 2009.

Impact: UT System health institutions and providers in the study area should be aware of the reporting requirement.

Effective: June 15, 2007

Lannis Temple

HB 2132 by Straus and Van de Putte

Relating to the creation of a diabetes mellitus registry pilot program.

HB 2132 establishes an electronic diabetes mellitus registry pilot program that tracks the prevalence of diabetes, the level of control individual patients are exerting over their diabetes, the trends of new diagnoses of diabetes, and health care costs.

In the pilot program, the Department of State Health Services (DSHS) will select a densely-populated public health district and will collect all glycosylated hemoglobin test results from clinical laboratories located in the public health district. HB 2132 contains confidentiality provisions and requires DSHS to submit a report to the legislature regarding the pilot program. The program expires September 1, 2010.

HB 2132 is consistent with Recommendation 8 made by the Task Force on Access to Health Care in Texas in its report, "Code Red."

Impact: UT System health institutions and laboratories located in the public health district selected for the pilot program will be affected.

Effective: June 15, 2007

Lannis Temple

SB 143 by West, et al. and Veasey

Relating to fetal and infant mortality review and health warnings related to fetal and infant mortality; imposing a penalty.

SB 143 amends the Health and Safety Code and authorizes local health officials or the Department of State Health Services to form review teams to analyze fetal and infant mortality, but does not require them to do so. At the request of the review teams, health care providers or custodians of information will be required to provide information to the review team.

The bill does not apply to therapeutic abortions. In addition, SB 143 requires businesses to display signs that warn of the dangers to a fetus caused by the mother smoking.

Impact: Every UT System department that deals with fetal and infant deaths should be informed of this statute and should adopt appropriate policies and procedures.

UT System institutions and employees will be required to report confidential information to the review teams. Legal officers at each affected institution will need to review policies and procedures to ensure maintenance of confidentiality. The cost of providing such information to the review teams is not addressed by the bill but could be significant if the information includes medical records.

SB 143 establishes the review teams as a local governmental unit. The teams will recommend ways in which fetal mortality may be reduced. If accepted, the recommendations could have an effect on healthcare and healthcare education provided by UT System institutions and employees.

Effective: September 1, 2007

Lannis Temple

SB 288 by Nelson/Uresti and Delisi

Relating to the reporting of health care-associated infections at certain health care facilities and the creation of an advisory panel.

SB 288 requires the Department of State Health Services (DSHS) to establish the Texas Health Care-Associated Infection Reporting System, under which health care facilities (specifically including a hospital that provides surgical or obstetrical services and that is maintained or operated by this state) are required to report the incidence of certain infections to DSHS, including surgical site infections associated with specified procedures, central line-associated primary bloodstream infections, and pediatric respiratory syncytial virus. The executive commissioner of DSHS may modify the list of reportable infections at the recommendation of an advisory panel.

Under SB 288, DSHS is required to compile and make available to the public at least annually a summary, by health care facility, of reported infections. The summary must be risk adjusted and include a comparison of the risk-adjusted infection rates for each reporting health care facility. The summary must be posted on the Internet on the DSHS website, and the commissioner must provide for and attach to the report the concise written comments of the applicable health care facility regarding the information in the report.

SB 288 provides that all information reported by health care facilities is confidential and not subject to public disclosure under the public information law or to discovery in litigation, and that the transfer of information does not constitute a waiver of any applicable privilege or other legal protection. In addition, the published infection rates may not be used in a civil action to establish a standard of care applicable to a health care facility.

SB 288 requires DSHS to provide education and training for health care facility staff regarding implementation and management of a facility reporting mechanism, the characteristics of the reporting system, and the confidentiality and legal protections provided for by the statute.

SB 288 also directs the commissioner of health and human services to establish the Advisory Panel on Health Care-Associated Infections within the infectious disease surveillance and epidemiology branch of the department to guide the implementation, development, maintenance, and evaluation of the reporting system. The 16 members of

the panel must include infection control professionals, physicians, professionals in quality assessment and performance improvement, and others, including two members of the general public.

Impact: UT System hospitals that provide surgical or obstetrical services, including any ambulatory surgical center, are required to participate in the infection reporting system, and infection-rate information will be published as to those facilities. In addition, qualified UT System employees, such as physicians and other professionals, are eligible for appointment to the advisory panel. UT System health institutions should closely monitor developments on these matters at DSHS.

Effective: June 15, 2007. The infection reporting system is to be operational not later than June 1, 2008.

Steve Collins

Correctional Care

HB 429 by Madden and Deuell

Relating to a study of the expenses of health care for certain elderly inmates.

HB 429 requires a study by the Texas Department of Criminal Justice (TDCJ) to determine whether there would be health care cost savings by granting parole to certain elderly inmates. The TDCJ is required to submit a report to the legislature not later than December 1, 2008.

Impact: Although HB 429 requires the study to be completed by TDCJ, UTMB might be asked to assist with the study since it provides a significant amount of health care to inmates. Further, the results of the study could ultimately have a significant economic impact on UTMB if many inmates are paroled and the payments to UTMB are reduced.

Effective: September 1, 2007

Brenda Strama

HB 431 by Madden/McClendon and Whitmire

Relating to the release of a defendant convicted of a state jail felony on medically recommended intensive supervision.

HB 431 amends the Code of Criminal Procedure to permit the judge sentencing a defendant convicted of a state jail felony to release the defendant to a medical care facility or medical treatment program if the Texas Correctional Office on Offenders with Medical or Mental Impairments identifies the defendant as elderly, disabled, mentally ill, terminally ill, mentally retarded, or requiring long term care, and there are appropriate

safeguards for appropriate supervision. It also amends the Health and Safety Code to require periodic identification of state jail felony defendants suitable for release under the amendments to the Code of Criminal Procedure.

Impact: To the extent that UT System health institutions treat prisoners, HB 431 may have an impact on their responsibilities. It is not clear whether the releases described above will increase or decrease the institutions' responsibilities for and reimbursement from the treatment of prisoners. This is consistent with HB 429 filed by the same state representative with the apparent objective of decreasing the state's costs for providing health care to prisoners.

Effective: September 1, 2007

Brenda Strama

HB 2389 by Madden and Deuell

Relating to the right of a minor in the custody of the Texas Department of Criminal Justice to consent to medical, dental, psychological, and surgical treatment.

HB 2389 amends the Government Code and the Family Code to permit minors confined to a facility operated by or under contract with the Texas Department of Criminal Justice (TDCJ) to consent to medical, dental, surgical, and psychological treatment by a licensed health care practitioner or someone under the supervision of a licensed health care practitioner. Such consent must be in accordance with procedures established by TDCJ. This provision does not extend to an unemancipated minor the right to consent to an abortion, without the written consent of a parent or other person authorized by statute or a court order.

Impact: HB 2389 should facilitate access to health care services that are provided to minors incarcerated in a TDCJ facility. This includes facilities for which a UT System institution provides correctional managed care or other contracted health services. It will be important to have appropriate procedures in place for determining the age of the patient.

Effective: June 15, 2007

Melodie Krane

HB 2611 by Madden and Whitmire

Relating to the eligibility of certain inmates of the Texas Department of Criminal Justice for medically recommended intensive supervision.

Currently, some inmates who are elderly, physically disabled, mentally ill, terminally ill, or mentally retarded, or who require long-term care, may be released on medically

recommended intensive supervision. HB 2611 amends the Government Code to permit the consideration of sex offenders for medically recommended intensive supervision if the inmate has a medical condition of terminal illness or long-term care.

In order to be considered for such supervision, inmates must be diagnosed by a physician and identified by the Texas Correctional Office on Offenders with Medical or Mental Impairments, in cooperation with the Correctional Managed Health Care Committee, as meeting other criteria. Sex offenders must be in a persistent vegetative state or have organic brain syndrome, with at least significant mobility impairment, to be eligible for such release. Continuing current law, the parole panel must also determine that the inmate is not a threat to public safety based on the condition of the inmate.

Impact: The primary effect of this bill is to reduce the inmate population. UT System physicians providing correctional managed care or other contracted health services may be in a position to make the required medical diagnosis.

Effective: September 1, 2007

Melodie Krane

SB 453 by Ellis and Yvonne Davis/Coleman

Relating to the testing of certain inmates for HIV or AIDS.

SB 453 requires inmates entering a Texas Department of Criminal Justice (TDCJ) correctional facility to be given an HIV test during the diagnostic process if TDCJ does not have a record of the prisoner being HIV positive. SB 453 requires TDCJ to maintain the confidentiality of HIV testing at all times, including following discharge. SB 453 applies to all inmates for whom the diagnostic process begins on or after May 26, 2007.

Impact: Health care providers, including UT System providers under correctional managed care, will be performing more HIV tests at increased cost of providing services.

Effective: May 26, 2007

Melodie Krane

SB 839 by Duncan and Madden

Relating to the exchange of information among agencies related to the Texas Correctional Office on Offenders with Medical or Mental Impairments and the agencies responsible for continuity of care for offenders in the criminal justice system who are physically disabled, terminally ill, or significantly ill; providing a criminal penalty.

SB 839 is intended to facilitate the continuity of care for prisoners in the criminal justice system. SB 839 clarifies who can share such information about prisoners who are

physically disabled, terminally ill, or significantly ill by transferring rulemaking authority previously granted to state agencies no longer in existence to their successor agencies, and requires the information to be treated in a confidential manner. SB 839 applies to a number of agencies, including the Texas Department of Criminal Justice and the Correctional Managed Health Care Committee, as well as any person with an agency relationship with any of the listed agencies or who contracts with the listed agencies.

SB 839 makes the release of confidential information under this section, without the consent of the person to whom the information relates, a Class B misdemeanor.

Impact: SB 839 could subject health care providers, including UT System providers of correctional managed care, to criminal sanctions if the information is not treated as confidential.

Effective: September 1, 2007

Melodie Krane

SB 909 by Whitmire and Madden, et al.

Relating to the continuation and functions of the Texas Board of Criminal Justice, the Texas Department of Criminal Justice, and the Correctional Managed Health Care Committee and to the functions of the Board of Pardons and Paroles.

SB 909 is the sunset legislation for the Texas Board of Criminal Justice (TBCJ), the Texas Department of Criminal Justice (TDCJ), and the Correctional Managed Health Care Committee (CMHCC). The bill also relates to the functions of the Board of Pardons and Paroles (BPP) and other criminal justice-related functions. SB 909 provides for better information to policy makers and the public regarding the criminal justice system and correctional health care; improved provisions for better parole decision making; increased consideration of early termination of parole and probation; and greater oversight and transparency of correctional health care.

Among the correctional health care requirements of SB 909, TDCJ must establish a screening program and education concerning fetal alcohol exposure during pregnancy for female offenders ages 18-44, sentenced for less than 2 years, and at risk; this program is also mandated at state jail felony facilities. TDCJ must also make certain correctional health care information available to inmates, including the process for filing of inmate grievances related to health care services.

Numerous provisions of SB 909 clarify the function of the CMHCC, particularly relating to the quality of health care. The CMHCC's powers and duties are expanded to specifically include developing statewide policies for delivery of correctional health care; maintaining contracts for services; communicating with the legislature and TDCJ about the financial needs of the correctional health care system; allocating funding; monitoring expenditures of UTMB and Texas Tech, the two primary providers of correctional health care; identifying and addressing long-term needs of the correctional health care system;

and reporting to TDCJ at regularly scheduled quarterly meetings. The CMHCC is specifically mandated to monitor the quality of health care delivered without limitation. The TDCJ may require corrective action to be taken. The CMHCC must also make information available to the public, including contracts between TDCJ, CMHCC, and health care providers and information about the regulation and disciplinary action of health care professionals.

Impact: Health care services provided to inmates will be more closely monitored and reviewed for quality of care with more information available to the public and inmates. The cost to UTMB of providing inmate health care may increase as a result of increased oversight.

Effective: June 15, 2007

Melodie Krane

Medicaid and Indigent Health Care

HB 109 by Turner, et al. and Averitt, et al.

Relating to eligibility for and information regarding the child health plan program.

HB 109 removes some of the restrictions imposed during previous legislative sessions on eligibility of children from low income families to participate in the Children's Health Insurance Plan (CHIP) administered by the Health and Human Services Commission. It also provides for increased community outreach and educational initiatives designed to reach families with children potentially eligible for CHIP.

HB 109 is consistent with Recommendation One made by the Task Force on Access to Health Care in Texas in its "Code Red" report.

Impact: HB 109 does not impact UT System directly. However, UT System institutions that provide health care should experience an increase in the amount of reimbursement available for health care provided to children from low-income families. In addition, the bill should decrease the number of children who are not eligible for health care coverage in Texas.

Effective: June 15, 2007

Barbara M. Holthaus

HB 321 by Dukes and Deuell/Shapleigh

Relating to the establishment of a pilot program by the Health and Human Services Commission to accept importation of electronic eligibility information from a regional indigent care provider.

HB 321 improves the system coordination of health care for the indigent, and is consistent with Recommendation 5 made by the Task Force on Access to Health Care in Texas in its “Code Red” report.

HB 321 implements an electronic eligibility information pilot project. Currently, local and regional indigent care networks assess new client eligibility for local, state, and/or federal programs. All eligible patients are then required to resubmit their information to the Health and Human Services Commission. An electronic database eliminates the resubmit information step, improving the process efficiency and saving money for involved parties.

After implementation and evaluation of this pilot program, HHSC will file a feasibility report with the relevant standing committees of the senate and the house of representatives.

Impact: Currently, UT System’s emergency rooms treat many indigent persons for non-emergency care with little to no coverage for the services provided. Under this pilot program (and if it succeeds, with a permanent program of this type in the future), there may be fewer indigent persons going to emergency rooms for non-emergency care because those indigent patients would be receiving more health care services due to enrollment in more state and federal programs administered by the HHSC.

Administrators in UT System health care facilities should be aware of HB 321.

Effective: June 15, 2007

Lannis Temple

HB 889 by Delisi and Nichols

Relating to certain actions that constitute unlawful acts against the Medicaid program.

HB 889 amends the Human Resources Code to add a 13th unlawful act relating to the Medicaid program. The existing 12 unlawful acts address acts related to false statements or claims to receive or pay benefits to which the recipient or payors are not entitled under the Medicaid program. HB 889 adds a provision that incorporates as unlawful acts all of the violations listed in section 32.039(b) of the Human Resources Code, which contains the Medicaid anti-fraud and abuse provisions, including all of the prohibitions relating to the soliciting or receiving of any remuneration for referring a patient for medical services under the Medicaid program. In addition to the anti-solicitation provisions, the anti-fraud and abuse prohibitions include certain prohibited acts by managed care organizations that contract with the Health and Human Services Commission to provide services to

Medicaid patients. This amendment is made to be consistent with the federal False Claims Act.

Impact: UT System health institutions provide services to Medicaid patients and must comply with these prohibitions, or be subject to the penalties for violations of Sections 36.002 and 32.039 of the Human Resources Code.

Effective: September 1, 2007

Brenda Strama

HB 1633 by Geren/Susan King and Deuell/Shapleigh

Relating to the determination of eligibility for Medicaid for certain persons in the armed forces and their family members.

HB 1633 provides for expedited Medicaid eligibility determinations for persons on active duty in the armed forces of the United States, the reserves, the National Guard, or state military forces, and for their spouses and dependents, to the extent allowed by federal law.

Impact: UT System health institutions and health professionals may be reimbursed by Medicaid for services to military personnel covered by HB 1633; the services may not have been reimbursed, or not have been reimbursed in a timely manner, but for HB 1633.

Effective: September 1, 2007

Brenda Strama

HB 2042 by Dukes/Veasey and Nelson, et al.

Relating to an electronic database of physicians, hospitals, and other health care providers participating in the state Medicaid program.

HB 2042 requires the executive commissioner of the Health and Human Services Commission (HHSC) to establish and administer an electronic, searchable, Internet-based database of all participating providers in the Medicaid program. The term “health care provider” is broadly defined; a participating provider is any physician or health care provider who provides services to Medicaid patients. The database would include information about the provider’s practice that would inform a Medicaid recipient about the provider and his, her, or its availability to take Medicaid patients. The database must allow a person to search the database for managed care organizations and participating providers by name and allow a participating provider to electronically access and change or update the information. Fees may not be charged for access to the database.

Impact: Medicaid recipients with access to computers may more easily find UT System health care providers and physicians who participate in the Medicaid program. UT System health care providers will need to provide data to HHSC as required for the database.

Effective: June 15, 2007

Brenda Strama

HB 2256 by McReynolds and Deuell

Relating to the requirements for uniform fair hearing rules for Medicaid services, including services that require prior authorization.

HB 2256 provides additional due process for Medicaid recipients who seek a Medicaid service and have been denied the service, including a service that requires prior authorization. Many of the provisions are duplicative of the hearing processes for Medicaid recipients in the federal rules, 42 CFR 431.213 and 431.214. HB 2256 provides that the recipient's services may not be terminated, suspended, or reduced before a decision is rendered after the hearing, except under limited circumstances. Those circumstances include a hearing determination that the sole issue is one of federal or state law or policy, and the recipient is promptly informed in writing about the termination or reduction of services.

Impact: Because Medicaid recipients are a large part of the patient population of UT System health institutions, all bills affecting Medicaid reimbursement are relevant to the institutions. However, HB 2256 primarily affects the recipient as opposed to the provider. HB 2256 should be brought to the attention of social workers and other personnel who assist Medicaid recipients with payment matters.

Effective: September 1, 2007

Brenda Strama

HB 2542 by Kolkhorst, et al. and Estes

Relating to the continuation and functions of the Office of Rural Community Affairs.

HB 2542 continues the Office of Rural Community Affairs which, pursuant to the Texas Sunset Act, was to be abolished on September 1, 2007. The office is the state's lead agency for administering the federally funded rural Community Development Block Grant program, and for administering health programs to assist rural communities.

H.B. 2542 enacts the recommendations of the Sunset Advisory Commission by creating a new 11-member board, and refocusing the powers and duties to emphasize assisting rural communities in economic development, rural health, and natural resources, especially

with regards to awarding community development block grant programs from federal funds.

Impact: Continuing the Office of Rural Community Affairs potentially benefits UT System, which treats in its emergency rooms indigent residents of rural counties who do not have access to health care in their communities.

Under HB 2542, the Office is specifically directed to make rural health a priority in awarding community development block grant programs from federal funds. This emphasis on rural health may make additional funding possible in the future, and may result in UT System treating fewer uninsured residents from rural communities who use UT System emergency rooms and other facilities.

UT health system administrators with budget functions should be aware of this bill.

Effective: June 15, 2007

Lannis Temple

HB 2702 by Truitt and Shapiro

Relating to tuition and fee exemptions and health benefits coverage subsidies for certain adopted children.

HB 2702 amends the law providing an exemption from tuition and fees if a student was adopted and was the subject of an adoption assistance agreement between the adoptive parents and the Department of Protective and Regulatory Services under Subchapter D, Chapter 162, Family Code. HB 2702 provides that such a student is eligible for the exemption only if the adoption assistance agreement provided for monthly payments and medical assistance benefits, and was not limited to providing only for the reimbursement of nonrecurring expenses, including reasonable and necessary adoption fees, court costs, attorney's fees, and other expenses directly related to the adoption.

HB 2702 applies beginning with the 2007 fall semester, except that a student who was enrolled and who qualified for the exemption for any academic term of the 2006-2007 academic year is entitled to the exemption until the earlier of the date the student completes the degree program in which the student was last enrolled in the 2006-2007 academic year or another degree program of the same level, or the fourth anniversary of the date the student initially enrolled in the degree program in which the student was last enrolled in the 2006-2007 academic year.

HB 2702 also requires the Department of Protective and Regulatory Services to pay a \$150 subsidy each month for the premiums for health benefits coverage for a child with respect to whom a court has entered a final order of adoption if the child was in the conservatorship of the department at the time of adoptive placement, the child is not eligible for medical assistance after the adoption, and the child is younger than 18 years of age. If such a child does not receive any other subsidy under Section 162.304, family

code, the child is not considered to be the subject of an adoption assistance agreement for purposes of determining eligibility for the tuition and fee exemption discussed above. HB 2702 is consistent with Recommendation 4 made by the Task Force on Access to Health Care in Texas in its “Code Red” report.

Impact: HB 2702 provides additional qualifications in order for a student who was the subject of an adoption assistance agreement to receive a tuition and fee exemption. The registrar’s offices at UT System institutions should be aware of the bill and should make any necessary changes to catalogs, publications, and websites.

Effective: June 13, 2007

Karen Lundquist

HB 3154 by Laubenberg/Jackson and Deuell

Relating to the creation of a review committee to study the provision of indigent health care through county and regional health care services.

HB 3154 creates a regional health care system review committee to study the implications of implementing regional health care services in Public Health Region 3 (comprised of Collin, Cooke, Dallas, Denton, Tarrant and 14 other counties). Through hearings and study, the committee is to examine whether a regional system of providing indigent health care should be offered, whether a mechanism for the participation of additional counties in a regional health care system should be considered, and perform a review of funding of indigent health care in the region. The committee must meet by September 30, 2007, with a report to be issued by September 1, 2008. Membership on the committee includes state officials and county officials, including the chief executive officer of each public, for-profit, and nonprofit hospital system in the region.

HB 3154 is consistent with Recommendation 2 made by the Task Force on Access to Health Care in Texas in its “Code Red” report.

Impact: To the extent that the committee develops an efficient regional indigent health care system in Region 3, there would be a reduction in the necessity of providing indigent health care services in hospital emergency rooms.

Effective: September 1, 2007

Melodie Krane

SB 10 by Nelson, et al. and Delisi

Relating to the operation and financing of the medical assistance program and other programs to provide health care benefits and services to persons in this state; providing penalties.

SB 10 is a major Medicaid reform bill that is responsive to the federal Deficit Reduction Act provisions that give states additional flexibility in the operation of their Medicaid program. It also attempts to address some of the issues and recommendations identified by the Task Force on Access to Health Care in Texas in its “Code Red” report relating to the large number of uninsured residents in Texas. SB 10 provides a number of reforms and incentives, including wellness programs to improve health and reduce costs; customized premium payment plans directed to the needs of the individual eligible Medicaid recipient; tailored benefits packages for Medicaid recipients with specialized needs; expansion of the health insurance premium payment reimbursement program for Medicaid recipients; and multiple studies for improving fraud detection and enhancing the infrastructure of the Medicaid program, such as electronic health records. Many of its provisions require a waiver from the federal government and, accordingly, are dependent on receipt of such waivers. SB 10 creates a number of pilot studies, including: a study to promote healthy lifestyles; a feasibility study on providing a health passport to Medicaid recipients under age 19 and CHIP members; a demonstration project evaluating the impact of providing enhanced reimbursement to a nursing facility that provides continuous, onsite oversight of residents by geriatric specialist physicians; a study concerning the Healthy Texas Program, under which small employer health plan coverage would be offered through the program to persons who would be eligible for that coverage; and a joint study between the Health and Human Services Commission (HHSC) and the HHSC Office of Inspector General on the use of technology to strengthen the detection and deterrence of Medicaid fraud.

SB 10:

(1) creates the Texas Health Opportunity Pool to allow the state to more efficiently and effectively use federal money to defray costs associated with providing uncompensated health care in this state by depositing federal money plus any required state money into a pooled trust fund outside the state general revenue fund. The pooled funds could include disproportionate share hospital payments and hospital upper payment limit supplemental payment monies provided by the state and federal government as well as other federal money that might be made available for the purposes of the fund. Use of such monies would require a federal waiver to the state Medicaid plan. The pooled funds would give the state more flexibility to allocate money to offset the uncompensated health care costs incurred by hospitals and reduce the number of uninsured persons in the state. To be eligible for money from the pool, a hospital or county must use a portion of the money to implement strategies that will reduce the need for uncompensated inpatient and outpatient care, for example, reducing the use of emergency rooms by providing other access to primary care services. Money from the pool may be used to provide premium assistance of contributions to health savings accounts, or infrastructure improvements, such as electronic medical records. HHSC must explore the feasibility of

using identified health care related state and local funds to obtain federal matching funds instead of using money received through intergovernmental transfers;

(2) requires HHSC to adopt rules using a standard definition of “uncompensated hospital care” and a methodology for computing the cost of uncompensated hospital care. It creates a work group on uncompensated hospital care to study and advise the executive commissioner on standardizing the calculation and reporting of uncompensated care and improving the tracking of charges, costs, and adjustments relating to identifying uncompensated hospital care. This work group must be established by October 1, 2007;

(3) includes provisions to identify individuals who are eligible for Medicaid but also eligible to enroll in a group health benefit plan, but who may not be able to afford the premium, for the purpose of determining whether it is cost-effective to enroll the individual in the group health benefit plan; if cost effective, the individual may be required to enroll in the plan offered by the individual’s employer. The Medicaid program would pay the costs of the premium. If the individual prefers to enroll in a plan that HHSC has determined not to be cost effective, the individual may do so but would be responsible for costs exceeding those that would have been incurred under the Medicaid program;

(4) provides a penalty in the form of cost sharing for certain high-cost medical services, such as use of the emergency room for primary care services. For example, the recipient may be required to pay a copayment or premium payment for the high-cost medical services;

(5) provides other means for low income individuals to obtain health insurance through alternative programs, including regional health groups or Medicaid “opt-out” programs under which an eligible Medicaid recipient may elect to participate in his or her employer’s health benefit plan, and Medicaid will pay all or part of the premium;

(6) creates a committee on health and long-term care insurance incentives to develop recommendations to reduce the reliance on the Medicaid program to provide long-term care. The committee is comprised of key lawmakers of major legislative committees; three public members; and the comptroller, commissioner of insurance, and executive commissioner of HHSC (ex officio). The committee will study and make recommendations regarding the funding for incentives to provide long-term care insurance;

(7) requires HHSC to conduct a study regarding the feasibility of developing and implementing an integrated Medicaid managed care model for recipients who reside in areas where Medicaid managed care is not currently available;

(8) authorizes HHSC to seek a federal waiver to develop tailored benefit packages for Medicaid recipients;

(9) with regard to managed care: HHSC must actively encourage Medicaid managed care organizations to offer value-added services; conduct a study on implementation of an integrated Medicaid managed care model in areas in which STAR+PLUS or a capitated

model is unavailable; establish outcome-based performance measures and incentives to include in each value-based contract with an HMO; assess the feasibility and cost-effectiveness of requiring the HMOs to provide pay-for-performance opportunities to their provider network; and, if feasible and cost-effective, develop and implement a pilot program in at least one managed care region;

(10) authorizes HHSC to adopt rules implementing a health information technology system for the Medicaid program that would enable, among other things, electronic eligibility, enrollment, verification, and prior authorization communications and the exchange of recipient health information through e-prescribing and electronic health records; implement a pilot program to provide health information technology to primary care physicians who serve Medicaid recipients; and study the feasibility and cost-effectiveness of providing an electronic health passport for children who are enrolled in Medicaid or CHIP;

(11) authorizes the Texas Health Care Policy Council, in coordination with the University of Texas at San Antonio, the University of Texas Health Science Center at San Antonio and the Texas Medical Board, to conduct a study regarding increasing the number of medical residency programs and medical residents in Texas, and the number of physicians practicing medical specialties; and

(12) authorizes direct access to eye care services under certain circumstances.

In general SB 10 is the major Medicaid reform legislation of the session that implements many of the recommendations made by the Task Force on Access to Health Care in Texas in its “Code Red” report, such as the expansion of health care insurance coverage to more uninsured Texans (Recommendation 1). It also provides some studies and incentives to increase cost savings (Recommendation 2). It did not enact Recommendation 3 (a quality assurance fee on providers that will be used to obtain federal matching funds), but it does create the Texas Opportunity Pool, which could be used to obtain the goals of Recommendation 3, maximizing the state’s ability to obtain federal matching funds for the Medicaid program. It adopts many of the recommendations in Recommendation 4, including a three share subsidy program, the Health Texas program for small employers, numerous innovative pilot programs, and studies on delivery of health care, premium assistance for the uninsured, and an 1115 waiver for new and innovative programs. SB 10 also includes provisions implementing some of Code Red Recommendations 5, 6, 7, 8, and 10. HB 1751 is an additional source of revenue to fund some of the SB 10 initiatives.

Impact: Health care providers and professionals will be analyzing and implementing SB 10 for years to come. It will create many changes in the Medicaid program that will have a significant impact on every health care provider and professional who treats Medicaid patients. There will be many opportunities for hospital emergency rooms to be reorganized so that they do not serve as primary care clinics for Medicaid recipients. There are multiple opportunities to obtain additional reimbursement for uncompensated care. The multiple studies that are authorized provide opportunities for UT System health institutions to participate and have a significant impact on public policy and the care of

Medicaid recipients. The University of Texas at San Antonio and the University of Texas Health Science Center at San Antonio will be involved in the study of medical residency programs and the needs related to the training of medical residents. There are significant reporting responsibilities related to uncompensated care and there are significant penalties for failing to report appropriately.

Effective: September 1, 2007, except Section 30 takes effect June 14, 2007

Brenda Strama

SB 24 by Nelson and Susan King

Relating to certain health care services provided through telemedicine or telehealth under the state Medicaid program.

SB 24 provides Medicaid reimbursement for the services provided by a physician who is assessing the patient from a distant site if a health professional acting under the delegation and supervision of that physician is present with the patient at the time of the visit, and the patient's condition for which the service is being rendered is not likely to undergo material deterioration within 30 days following the date of the visit. The Health and Human Services Commission (HHSC) will adopt rules either to allocate reimbursement between the physician providing telemedicine consultation and the health professional present with the patient, or establish a facility fee that a physician consulting from a distant site and receiving reimbursement must pay a health professional present with the patient. HHSC must confer with the Centers for Medicare and Medicaid Services about the legality of payment arrangements. HHSC's rules must reflect a policy to build capacity in medically underserved areas of this state. SB 24 also states that a report on the pilot program regarding the cost effectiveness of telemedicine established by the 79th Legislature is delayed until September 1, 2008. If waiver from a federal agency is required, HHSC shall request the waiver and delay implementation accordingly.

Impact: SB 24 may provide additional reimbursement for the UT System health institutions involved in telehealth or telemedicine. These institutions may wish to be involved with the rulemaking regarding how the reimbursement will be allocated. This act implements a part of Recommendation Four made by the Task Force on Access to Health Care in Texas in its report, "Code Red."

Effective: June 15, 2007

Brenda Strama

SB 362 by Janek and Gattis

Relating to civil remedies and qui tam provisions under the Medicaid fraud prevention act.

SB 362 amends the Medicaid Fraud Prevention provisions in the Human Resources Code to raise the civil penalty that may be assessed for certain violations; establish the standard of proof for proving a violation as a preponderance of the evidence; and set forth the mechanism for a private person to bring a qui tam action. These revisions are in response to and consistent with the federal Deficit Reduction Act of 2005, which requires the states to take specified measures to prevent Medicaid fraud. After the passage of SB 362, the Office of Inspector General of the United States Department of Health and Human Services certified Texas as compliant with the provisions of the Deficit Reduction Act, thus permitting the state to receive a larger percentage of the recovery from fraud initiatives.

Impact: The prevention of fraud in the Medicaid program promotes UT System's public policy of increasing the funds available for the treatment of the indigent. The Deficit Reduction Act requires training of employees in what is fraud and how to report it. This will heighten the awareness of employees of the potential of filing a False Claims Act qui tam action if they suspect noncompliance with a requirement of the Medicaid or Medicare program.

Effective: May 4, 2007

Brenda Strama

SB 760 by Nelson and Delisi

Relating to participation and reimbursement of telemedicine medical services providers under the Medicaid program.

SB 760 amends a definition in the Government Code that lists types of health care providers, such as physicians and teaching hospitals, and changes the specific designations to the generic "health care providers." This provision of the Government Code requires the Health and Human Services Commission (HHSC) to encourage health care providers and health care facilities to participate as telemedicine medical service providers in the health care delivery system. SB 760 also requires HHSC to adopt rules referring to the site where telemedicine services are performed as follows: the site where the patient is located is the "patient site;" the site where the physician providing the telemedicine services is located is the "distant site." The Government Code is amended to refer to telemedicine sites consistent with the required definitions in the Occupations Code.

Impact: The definitions may be relevant to contract terminology for those UT System health institutions providing or receiving telemedicine services.

Effective: September 1, 2007

Brenda Strama

SB 1694 by Nelson and Jackson

Relating to fraud investigations and criminal offenses involving the Medicaid program; providing criminal penalties.

The federal Deficit Reduction Act of 2005 provides an incentive for each state to tighten its Medicaid fraud and abuse provisions to obtain an additional 10 percent of federal funds. SB 1694 creates an additional tool to detect fraud in the Medicaid program by permitting various agencies to share information that relates to a health care professional or managed care organization that is the subject of an investigation for alleged fraud or abuse under the state Medicaid program. The agencies that have a duty to exchange information regarding allegations of Medicaid fraud or abuse include the Medicaid fraud enforcement divisions of the office of the attorney general, and each board or agency with authority to license, register, regulate, or certify a health care professional or managed care organization that may participate in the Medicaid program. The law creates a duty of one agency to share information with another unless the release of the information would jeopardize an ongoing investigation or prosecution, or the release of the information is prohibited by other law. An agency that receives information from another agency must obtain permission from the agency providing the information before using the information.

SB 1694 also broadens the scope of the violations listed in the Human Resources Code relating to kickbacks and other fraud and abuse activities. In addition, SB 1694 amends the Penal Code to increase the category of the offense if the offense involves the state Medicaid program. It amends the Penal Code to clarify that the offenses and penalties listed in Section 35A.02 also extend to false claims submitted to the Medicaid program.

Impact: A number of laws passed this session enhance the Medicaid anti-fraud provisions in Texas law. The numerous additional anti-fraud provisions, the enhancement of the penalties related thereto, the new qui tam provisions consistent with federal law, and the federal requirements for education of the health care workforce on Medicare and Medicaid fraud and abuse issues require additional vigilance and compliance with the requirements of the Medicaid and Medicare programs.

Effective: September 1, 2007

Brenda Strama

Drugs and Pharmacies

HB 948 by Yvonne Davis and Ellis

Relating to requirements for labeling certain drugs.

HB 948 requires the Texas State Board of Pharmacy to adopt rules requiring the label on a dispensing container for prescription drugs to be in plain language and printed in an easily readable font size for the consumer. HB 948 also requires the Pharmacy Board to adopt rules specifying the information a pharmacist must provide to a consumer when dispensing a prescription to the consumer for self-administration.

Impact: UT System pharmacies should be aware of HB 948 and must ensure that drug labels comply with rules adopted by the Texas State Board of Pharmacy. UT System should monitor that rulemaking. (HB 948 does not provide a timeframe for the adoption.)

Effective: September 1, 2007

Lannis Temple

SB 625 by Janek and John Davis

Relating to restrictions on the interchange of transplant immunosuppressant drugs.

SB 625 prohibits pharmacists from substituting generically equivalent versions of drugs for immunosuppressive therapy following transplant unless the prescribing physician consents in advance to the substitution.

A joint committee between the Pharmacy Board and the Medical Board will make recommendations to the Pharmacy Board on the list of drugs impacted by SB 625 and the corresponding rules.

Impact: SB 625 impacts UT System pharmacies and pharmacists. They should be aware of this law, and pharmacies should adopt procedures to insure that the law is followed.

Effective: June 15, 2007

Lannis Temple

SB 994 by Nelson and Delisi

Relating to prescriptions for certain controlled substances.

Prior law prohibited pharmacies from accepting electronic prescriptions for certain controlled substances from out-of-state physicians.

SB 994 allows pharmacists to dispense Schedule III and IV controlled substances based on an e-mail prescription (in addition to written, oral, or telephonic prescriptions) from the prescribing physician, veterinarian, or dentist. It also adds authorized advanced practice nurses and physician assistants to the list of those who can prescribe Schedule III and IV drugs.

Physicians, dentists, or veterinarians who are licensed in and practice in another state with a DEA registration number would now be allowed to prescribe Schedule III, IV, and V drugs in this state by oral, telephonic, and electronic (e-mail) means (written prescriptions were already allowed).

Schedule III drugs include anabolic steroids, some barbituates, and hydrocodone. Schedule IV includes ambien and long acting barbituates, among others. Schedule V includes cough suppressants with small amounts of codeine, and some preparations with small amounts of opium.

Impact: SB 994 impacts UT System pharmacies, physicians, dentists, advance practice nurses, physician assistants, and pharmacists by making it easier to prescribe and fill prescriptions for certain controlled substances. Since many health care providers would opt to send e-mails for these prescriptions instead of using the telephone, the error rate in these prescriptions would probably decrease as oral orders may be subject to misinterpretation.

UT System pharmacies should be aware of this statute and should adopt procedures for implementation.

All UT System physicians, dentists, advance practice nurses, physician assistants, and pharmacists should be aware of the statute.

Effective: September 1, 2007

Lannis Temple

SB 1274 by Van de Putte/Patrick and Hopson

Relating to the compounding of a drug or device by a pharmacist.

SB 1274 authorizes the Texas State Board of Pharmacy to adopt rules governing the procedures for a pharmacist, as part of compounding, to add flavoring to a commercial product.

Flavoring is the practice of adding a few drops of flavor to an existing commercially manufactured drug to make that medication more palatable to the patient. Flavoring of medications has been shown to increase patient compliance.

Impact: UT System should monitor rulemaking by the Texas State Board of Pharmacy under SB 1274, and UT System pharmacies and pharmacists should be informed when the rules are adopted.

Effective: September 1, 2007

Lannis Temple

SB 1658 by Nichols, et al. and Hopson

Relating to the authority of a pharmacist to fill certain prescriptions in the event of a disaster.

In the wake of hurricanes Katrina and Rita, it became apparent that continued access to healthcare services in an emergency is vital, particularly access to prescription medications. Prior law authorized pharmacists to refill medications without a doctor's prescription. However, the refill could only be made for a three-day period.

SB 1658 extends the three-day period to 30 days under certain circumstances to provide more time for a patient to access his or her doctor in the event of a natural or manmade disaster. The extension of time applies only if the governor has declared a state of disaster, the State Pharmacy Board has notified pharmacies that the 30-day disaster extension applies, the pharmacist is unable to contact the prescribing health care provider, and the pharmacist believes that failure to refill the prescription might result in patient suffering.

Impact: UT System pharmacies and pharmacists should be aware of this law and pharmacies should adopt any appropriate procedures.

Effective: September 1, 2007

Lannis Temple

SB 1879 by Williams/Van de Putte and Hamilton

Relating to the regulation of controlled substances; providing an administrative penalty.

SB 1879 makes several changes relating to the regulation of controlled substances.

Because of the rise of prescription drug abuse throughout the country and the law enforcement, health care, social services, and court costs to the state in fighting such abuse, many states have begun using prescription drug monitoring programs to prevent the misuse of pharmaceuticals. These programs require documentation and checks to prevent abusers from using several different methods of obtaining such drugs. Under prior law, Texas monitored only Schedule II prescription drugs.

SB 1879 extends the monitoring to Schedule III through V drugs and establishes administrative penalties for noncompliance with the monitoring. The bill also makes

several changes to the current monitoring program to better ensure that all entities involved in the drug distribution process are monitored and held in compliance with the law.

SB 1879 also sets up an advisory committee to study Texas statutes concerning controlled substances and prescriptions for pain management. This committee shall recommend changes to assist public health needs, the professional medical community, and persons affected by acute, chronic, or end-of-life pain.

SB 1879 specifies information that must be included in a prescription for a controlled substance. Also, after consultation with the Texas Medical Board and the State Board of Pharmacy, a new rule will be adopted by the director of the Department of Public Safety concerning when a prescription for a Schedule II controlled substance may be re-issued.

The requirement for pharmacies to electronically access and verify the accuracy of the registration numbers takes effect only after the Department of Public Safety establishes a means to accomplish that verification.

Impact: UT System pharmacies, pharmacists, and all health care professionals who prescribe controlled substances should be aware of this bill. All UT System pharmacies should adopt procedures to comply with the new requirements.

Effective: September 1, 2007, with various exceptions provided by Section 10 of the bill

Lannis Temple

SB 1896 by Lucio Jr. and Delisi

Relating to the distribution and redistribution of certain drugs.

Chapter 431, Health and Safety Code, establishes the Texas Drug Donation Program so that unused pharmaceutical drugs may be recycled and redistributed to charitable medical clinics. SB 1896 provides that clinics, offices, and hospitals that are not licensed as wholesale distributors of pharmacy drugs are authorized to donate unused medication to charitable clinics. In addition, SB 1896 authorizes charitable donors to donate medications to a patient assistance program or a charitable pharmacy.

SB 1896 also authorizes a licensed health care professional responsible for administering drugs in a penal institution in this state to return to a pharmacy certain unused drugs.

Impact: Since UTMB contracts to serve the medical care for Texas correction facilities, this bill will help pharmacists consulting at those facilities to conserve on medications by allowing them to return unused medications to their pharmacies.

Since the UT System has patient assistance programs, this bill will assist in making more medications available to the patients of the programs.

The bill also will allow all UT System pharmacies, clinics, and hospitals that are not licensed as wholesale distributors of pharmacy drugs to donate unused medications to UT System patient assistance programs.

UT System pharmacies, clinics, and hospitals should be aware of SB 1896 and they should implement procedures to insure that unused medications are properly donated to UT System patient assistance programs.

The UTMB pharmacies contracting with Texas correction facilities should implement procedures to insure unused medications are returned to their pharmacies.

Effective: June 15, 2007

Lannis Temple

Hospital Authorities and Districts

HB 2168 by Hill/Robby Cook and Carona

Relating to the powers of municipal and county hospital authorities and hospital districts created under general or special law.

HB 2168 amends the two separate statutes regulating municipal and county hospital authorities to expressly permit those entities to form a nonprofit corporation that would have the same powers as a development corporation under the statute relating to the financing, constructing, and inspection of health care facilities. It permits the hospital authorities to contribute money to or solicit money for the corporation. It also permits the nonprofit corporation to form joint ventures with public or private entities to carry out the functions of the authority. The nonprofit corporations would be subject to Chapter 2258 of the Government Code (relating to prevailing wage rates) to the same extent as the hospital authority.

HB 2168 further amends the statute governing hospital districts to permit the creation of nonprofit corporations to own or operate all or part of one or more ancillary health care facilities, consistent with the purposes of the district. In addition, a separate provision in HB 2168 permits hospital districts to form joint ventures. This is a large expansion of hospital district powers and would allow a taxing entity the ability to use tax monies on joint ventures with public and private entities.

Many hospital authorities have formed nonprofit corporations, but the corporation's status has been unclear. HB 2168 clarifies the power of these authorities to form nonprofit corporations that would allow them to joint venture with physicians and other entities and thus be more competitive with other health care entities. This express power allows a hospital authority to have the tort immunity caps available to units of local government, but also have the corporate ability to enter into joint ventures and spend funds on matters that might otherwise be prohibited to a governmental entity. It could also take some of its activities out of the scrutiny of the Public Information Act.

Impact: Some of the UT System health institutions may contract with municipal or county hospital authorities, and HB 2168 could provide more opportunity for joint activities, to the extent that the state can joint venture such activities through its own nonprofit corporation or directly. Conversely, hospital authorities may be in a better position to compete against UT System health institutions. Some health institutions contract with hospital districts, which will be able to expand their activities through nonprofit corporations.

Effective: June 16, 2007

Brenda Strama

SB 1107 by Watson and Naishtat

Relating to the powers and duties of the Travis County Healthcare District.

SB 1107 makes a number of changes to various statutes, but the changes apply only to the Travis County Healthcare District established in 2003. These changes address:

- (1) dual eligibility for certain district employees for benefits from a municipal retirement system and another retirement program created by the hospital district, a charitable organization affiliated with the district, or another defined entity, to the extent the employee may have participated in and is eligible for both retirement programs;
- (2) permitting the district to affiliate with a public or private entity to provide regional administration and delivery of health care services and using money contributed by the affiliated entity to provide health care services to the resident of that governmental entity;
- (3) notwithstanding the prohibition against the corporate practice of medicine, allowing the district to employ physicians, dentists, or other health care providers;
- (4) allowing the district to create a certified nonprofit health corporation under the Texas Medical Practice Act to employ physicians and permitting the district to fund the corporation;
- (5) permitting the district to hold an election to assess a tax rate higher than the district's rollback rate;
- (6) requiring the Texas Medical Board to certify a nonprofit organization created by the district to serve migrant, homeless, or community health centers under federal statutes, or to serve a federally qualified health center;
- (7) repeal of section 281.123 of the Health and Safety Code prohibiting the district from imposing a sales and use tax; and

(8) allowing the district to contract with any person to provide or assist in the provision of services without obtaining the approval of the county commissioners.

Impact: The changes to the organization and operation of the Travis County Healthcare District could impact the UTMB residency program at Brackenridge Hospital and at other Seton hospitals. There may be additional reimbursement available, opportunities for additional affiliations, more flexibility in contracting, and an ability for the district to expand services. SB 1107 also could have a positive impact on the availability of services to employees of UT System and students and employees of UT Austin.

Effective: September 1, 2007

Brenda Strama

Commissions and Studies

HB 14 by Keffer, et al. and Nelson, et al.

Relating to reorganizing certain state institutions that provide financing for cancer research, including creating the Cancer Prevention and Research Institute of Texas, and information about certain cancer treatments; granting authority to issue bonds.

HB 14 creates the Cancer Prevention and Research Institute of Texas (Institute) and grants authority to issue bonds to finance cancer research. The Institute is established to promote innovation in cancer research with a focus on prevention and cures, to develop research capabilities within institutions of higher education and other public or private entities, and to develop and implement the Texas Cancer Plan. The Institute will make grants for the funding of research, research facilities, and research to develop therapies, protocols, medical pharmaceuticals, or procedures for treating cancer. The Institute will be comprised of two primary committees: an Oversight Committee which is the governing body, and an 18-member Scientific Research and Prevention Programs Committee (including 2 nonvoting members appointed by the Chancellor of UT System) which will review grant applications and make grant recommendations to the Oversight Committee. Grantees must enter into contracts with the Institute, including an intellectual property agreement that allows the state to collect royalties, income, and other benefits.

A dedicated cancer prevention and research fund is established, consisting of patent, royalty, and licensing fees received through contracts as well as state appropriations. With the approval of a constitutional amendment, up to \$300 million in general obligation bonds may be issued per state fiscal year beginning January 1, 2008, the proceeds of which are to be deposited in separate accounts to be used for making grants and purchasing laboratory facilities.

The Texas Cancer Council is abolished, and employees of the Texas Cancer Council automatically become employees of the Cancer Prevention and Research Institute of Texas.

HB 14 also expresses legislative intent that lung cancer patients have access to a written summary about alternative treatments to be developed by the lung cancer advisory council established by the bill.

HB 14 is consistent with Recommendation 9 made by the Task Force on Access to Health Care in Texas in its “Code Red” report.

Impact: The Cancer Prevention and Research Institute represents a significant opportunity for UT System institutions, both academic and health, to receive funding for innovative cancer initiatives. Depending on the intellectual property agreements required by the Institute for any UT awards, there may be an impact on UT intellectual property revenue or current policies and procedures relating to intellectual property rights. In addition to appointments made by the Chancellor to the scientific committee, UT System employees may be considered for appointment to that committee or the oversight committee.

Effective: HB 14 is effective upon passage of the constitutional amendment to be submitted to Texas voters at the November 6, 2007, general election; if the amendment is not approved, the bill does not take effect.

Melodie Krane

HB 429 by Madden and Deuell

Relating to a study of the expenses of health care for certain elderly inmates.

HB 429 requires a study by the Texas Department of Criminal Justice (TDCJ) to determine whether there would be health care cost savings by granting parole to certain elderly inmates. The TDCJ is required to submit a report to the legislature not later than December 1, 2008.

Impact: Although HB 429 requires the study to be completed by TDCJ, UTMB might be asked to assist with the study since it provides a significant amount of health care to inmates. Further, the results of the study could ultimately have a significant economic impact on UTMB if many inmates are paroled and the payments to UTMB are reduced.

Effective: September 1, 2007

Brenda Strama

HB 1370 by Coleman and Zaffirini

Relating to the Interagency Coordinating Council for HIV and Hepatitis.

HB 1370 adds a representative of the Coordinating Board as a member of the Interagency Coordinating Council for HIV and Hepatitis and expands its duties to compile, identify, assess, and evaluate issues related to the prevention of AIDS, HIV infection, and hepatitis and the provision of services to individuals who have hepatitis or are infected with HIV. Among its new duties are the inventory of all public money spent in Texas on HIV infection, AIDS, and hepatitis prevention and health care services, the evaluation of the level and quality of health care services, and barriers to prevention. The Department of State Health Services is required to file a report with the legislature by September 1 of each year containing policy recommendations based on information reported to the council related to prevention and to the delivery of health care services. The Health and Human Services Commission provides administrative support to the council.

Impact: UT System personnel may be asked to provide information to the council. UT System legal officers will need to analyze any information requests for compliance with privacy and other laws.

All UT System health care practitioners who treat patients with AIDS or hepatitis or patients who are infected with HIV should be aware of HB 1370.

Effective: September 1, 2007

Lannis Temple

HB 1373 by Guillen and Zaffirini

Relating to creating the Chronic Kidney Disease Task Force.

HB 1373, the Glenda Dawson Act, focuses on disease management by creating the Chronic Kidney Disease Task Force to be composed of 13 members, including one member from a nephrology department of a state medical school. The duties of the task force are to develop a plan to educate patients and health care professionals about chronic kidney disease and its complications, to develop a plan to educate professionals about the advantages of end-stage renal disease modality education, to access options and transplantation before the onset of end-stage renal disease, and to make recommendations for implementation of a plan for screening, diagnosis and treatment of chronic kidney disease. The Department of State Health Services is to provide administrative support to the task force. A report is to be issued by the task force by January 1, 2009.

HB 1373 is consistent with Recommendation 8 made by the Task Force on Access to Health Care in Texas in its “Code Red” report.

Impact: To the extent that professionals and patients are better educated about chronic kidney disease and are better able to address this issue in a timely fashion, there should

be relief from providing services on an emergency basis, thereby reducing costs of treatment. Employees of UT System health institutions may be considered for appointment to the task force.

Effective: June 15, 2007

Melodie Krane

HB 1396 by Dukes/Coleman and Zaffirini

Relating to the Office for the Elimination of Health Disparities and the health disparities task force.

HB 1396 changes the name of the Office of Minority Health to the Office for the Elimination of Health Disparities and moves the office from the Department of State Health Services to the Health and Human Services Commission. It also alters the emphasis of the Office's work to include an analysis of health disparities and access to health care by multicultural, disadvantaged, and regional populations.

Impact: To the extent the Office conducts studies, UT System health institutions may receive requests for information or may have contracting or grant opportunities relating to the Office for the Elimination of Health Disparities.

Effective: September 1, 2007

Brenda Strama

HB 3154 by Laubenberg/Jackson and Deuell

Relating to the creation of a review committee to study the provision of indigent health care through county and regional health care services.

HB 3154 creates a regional health care system review committee to study the implications of implementing regional health care services in Public Health Region 3 (comprised of Collin, Cooke, Dallas, Denton, Tarrant and 14 other counties). Through hearings and study, the committee is to examine whether a regional system of providing indigent health care should be offered, whether a mechanism for the participation of additional counties in a regional health care system should be considered, and perform a review of funding of indigent health care in the region. The committee must meet by September 30, 2007, with a report to be issued by September 1, 2008. Membership on the committee includes state officials and county officials, including the chief executive officer of each public, for-profit, and nonprofit hospital system in the region.

HB 3154 is consistent with Recommendation 2 made by the Task Force on Access to Health Care in Texas in its "Code Red" report.

Impact: To the extent that the committee develops an efficient regional indigent health care system in Region 3, there would be a reduction in the necessity of providing indigent health care services in hospital emergency rooms.

Effective: September 1, 2007

Melodie Krane

HCR 159 by Morrison and Shapleigh/Zaffirini

Requesting that the governor, lieutenant governor, and speaker appoint a select commission on higher education and global competitiveness.

This concurrent resolution requests the governor, lieutenant governor, and speaker of the house of representatives to create a select commission on higher education and global competitiveness to draft a Texas Compact that reflects a long-term vision and step-by-step plan to attain certain goals by 2020. The commission is composed of 15 members who reflect the demographic diversity of Texas, with the governor, lieutenant governor, and speaker each appointing five members from the business community, academia, and other areas with interest in higher education and workforce needs.

The goals to be attained by 2020 are to educate the population of Texas to levels comparable to the highest performing competitor states and nations; to achieve global recognition for Texas public colleges and universities for excellence in their core missions and for innovations that strengthen the state's economy and improve the quality of life for its citizens; and to serve different regions of Texas in ways that respond to each region's unique higher education needs.

HCR 159 further resolves that the commission examine the following issues related to global competitiveness in educational attainment: current trends in educational attainment and the potential impact of those trends; objectives and accountability measures related to the state's educational attainment goals, including performance benchmarks comparing Texas with competitor states and nations; enhancing regional support for higher education and strengthening the link between higher education and regional economic development goals; improving the number of adults attaining postsecondary credentials and strengthening the role and performance of community colleges; structuring higher education funding to reward student and institutional outcomes that are aligned with state and regional priorities; increasing the quantity, quality, and commercialization of university-based research; assessing long-term higher education capacity needs and creative approaches to meeting those needs; creating a policy research mechanism to track, analyze, and make recommendations to state policy makers based on the state's progress in achieving attainment and economic competitiveness goals; and the effect of tuition deregulation and higher tuition rates on participation in higher education, and whether tuition deregulation and higher tuition rates have adversely affected participation in higher education by minority or rural students.

It further resolves that the commission submit a full report, including findings, recommendations, a plan and timeline for implementing the recommendations, and enabling legislation, to the governor and legislature by November 1, 2008.

Impact: This concurrent resolution requests the appointment of a select commission on higher education and global competitiveness. An officer or employee of UT System may be appointed to serve on the commission, and UT System and its institutions may be asked to provide information to the commission for purposes of its plan and report to the legislature. Commission recommendations, and particularly those recommendations that are enacted into law, may impact UT System and its institutions in the future. The System Office of Governmental Relations will, and appropriate institutional personnel should, closely monitor the commission's activities.

Effective: Signed by the governor June 15, 2007

Karen Lundquist

HJR 90 by Keffer, et al. and Nelson, et al.

Proposing a constitutional amendment providing for the establishment of the Cancer Prevention and Research Institute of Texas and authorizing the issuance of general obligation bonds for the purpose of scientific research of all forms of human cancer.

This resolution proposes a constitutional amendment in conjunction with HB 14 which establishes the Cancer Prevention and Research Institute of Texas (Institute). In addition to setting out the purposes of the Institute, the constitutional amendment grants the legislature the authority to authorize the issuance of general obligation bonds on behalf of the Institute not to exceed \$3 billion, the proceeds of which will be deposited into separate funds or accounts in the treasury to be used by the Institute for designated purposes without the necessity of an appropriation. The resolution also authorizes entering into related credit agreements. Under the resolution, grant recipients are required to have an amount of funds equal to one-half the amount of the grant dedicated to the research that is the subject of the grant request.

Impact: The resolution will provide for significant funding for cancer-related research and development, including those at academic and health institutions of higher education.

Effective: The constitutional amendment is to be submitted to Texas voters at the November 6, 2007, general election and is effective upon passage.

Melodie Krane

SB 140 by Nelson and Kolkhorst

Relating to a study of the feasibility of providing immunizations to certain students enrolled in health professional degree programs.

SB 140 directs the Department of State Health Services and the Texas Higher Education Coordinating Board to conduct a joint study of the feasibility of providing immunizations without charge or at a discount to economically disadvantaged students enrolled in health professional degree programs at institutions of higher education in this state. A report of findings and recommendations is due to the legislature not later than January 15, 2009.

Impact: UT System institutions with health professional degree programs may be asked to provide information for the study, which may ultimately recommend that the institutions provide, pay for, or absorb the cost of immunizations for these students. Institutions should monitor developments and take advantage of opportunities to comment.

Effective: June 15, 2007. The report on the study is due not later than January 15, 2009.

Steve Collins

SB 141 by Nelson and Morrison

Relating to a feasibility study regarding joint health science courses at a public or private institution of higher education.

SB 141 authorizes the Coordinating Board to conduct a study to evaluate the feasibility of a public or private institution of higher education providing courses in which students enrolled in different health science or health profession education programs may enroll to study basic health science curricula together. If the study is conducted, it must be in consultation with the administrative head or designee of each state agency that is a member of the Health Professions Council and with appropriate representatives of private or independent institutions of higher education.

If the Coordinating Board conducts the study, it is required to complete the study by September 30, 2008, and report its recommendations to the governing board of each public or private institution of higher education that offers health science or health profession education programs, the governor, and the legislature concerning whether it is feasible to provide those joint health science courses, which courses should be offered, which institutions of higher education or types of institutions should offer the courses, and any other relevant issues.

Impact: Any Coordinating Board recommendations that are enacted may impact the health science courses that are offered at UT System institutions. UT System should monitor the Coordinating Board's study if it chooses to conduct one.

Effective: June 16, 2007

Karen Lundquist

SB 415 by Lucio Jr./Zaffirini and McReynolds

Relating to a risk assessment program for Type 2 diabetes and the creation of the Type 2 Diabetes Risk Assessment Program Advisory Committee.

SB 415 is consistent with Recommendation 8 made by the Task Force on Access to Health Care in Texas in its “Code Red” report.

The incidence of Type 2 diabetes is growing near epidemic levels in children, with children as young as elementary and middle school ages developing risk factors for this disease. According to the Centers for Disease Control and Prevention, risk is even higher among ethnic minority groups; of Hispanic children born in 2000, about 50 percent are expected to become diabetic.

The University of Texas-Pan American administered the acanthosis nigricans (AN) screening program in certain elementary schools. SB 415 expands both the geography and scope of that program and requires more extensive screening through the same office, the Border Health Office of the University of Texas-Pan American (previously the Texas-Mexico Border Health Coordination Office of the University of Texas-Pan American).

HB 415, like the previous statute, requires the Office to coordinate with the schools along the Texas-Mexico border. It also allows the Office to expand the program to other areas in Texas with its existing funding or by obtaining other funding through gifts, grants, and donations.

SB 415 establishes an appointed Type 2 diabetes risk assessment program advisory committee to advise the border health office on several parameters of the study and program.

Impact: The University of Texas Pan American will be responsible for setting up and administering the program. The 80th Legislature did not specifically appropriate money for its implementation, and thus the Office will have to use existing funding or obtain funding through gifts, grants, and donations.

Effective: September 1, 2007

Lannis Temple

SB 556 by Lucio Jr./Van de Putte and McReynolds

Relating to the creation of an interagency obesity council.

SB 556 creates the Interagency Obesity Council. The council, consisting of the commissioner of agriculture, commissioner of state health services, and commissioner of education, would discuss their agencies' programs which promote health and nutrition and prevent obesity, consider tax incentives for employers who design activities to prevent workforce obesity, and prepare a report every two years. The council will also monitor efforts to prevent and treat the obesity crisis for both adults and children.

SB 556 is consistent with Recommendation 8 made by the Task Force on Access to Health Care in Texas in its report, "Code Red."

Impact: SB 556 does not directly impact UT System. However, there may be an indirect impact with the promotion of more wellness, nutrition, and obesity prevention programs (perhaps with grants), which might lead to more programs of this type at UT System institutions.

Effective: June 16, 2007

Lannis Temple

SB 649 by Shapleigh and Morrison

Relating to a study by the Texas Higher Education Coordinating Board concerning the effectiveness of joint partnerships between institutions of higher education.

SB 649 authorizes the Coordinating Board to conduct a study to determine whether institutions of higher education, including component institutions of different university systems, may effectively enter into joint partnership agreements to develop joint degree programs and joint research programs, to make joint appointments of faculty or other personnel, and to maintain joint facilities. If the Coordinating Board conducts the study, it is required to report to the legislature by January 1, 2009, concerning its recommendations for implementing effective joint partnerships between institutions of higher education. The Coordinating Board may take action to conduct the study only to the extent existing resources are available for that purpose.

Impact: Any Coordinating Board recommendations that are enacted may impact UT System institution programs. UT System should monitor the Coordinating Board's study if it chooses to conduct one.

Effective: September 1, 2007

Karen Lundquist

SB 1566 by Patrick and Jackson

Relating to the creation of the Texas Bleeding Disorders Advisory Council.

SB 1566 creates the Texas Bleeding Disorders Advisory Council, a short-term advisory panel. The council is to study and advise the Department of State Health Services, the Health and Human Services Commission, and the Texas Department of Insurance on issues that affect the health and wellness of persons living with hemophilia and other bleeding or clotting disorders.

The council is composed of members appointed jointly by the commissioner of state health services and the commissioner of insurance, including a physician, a nurse, and a social worker each of whom treats individuals with hemophilia or other bleeding or clotting disorders. The two commissioners serve on the council as nonvoting, ex officio members. The commissioners may appoint additional nonvoting members, including persons experienced in the diagnosis, treatment, care, and support of persons with hemophilia or other bleeding or clotting disorders.

Among others, the areas to be studied by the council include legislative or administrative changes to policies and programs that affect the health and wellness of persons with these disorders; legislative or administrative changes to policies and programs that affect product-specific reimbursement to providers; and best practices in standards of care and treatment.

SB 1566 requires the advisory council to report findings and recommendations to the governor and the legislature not later than December 1, 2008, following the opportunity for public review and comment. The council is abolished September 1, 2009.

Impact: Qualified employees of UT System are eligible for appointment to the council. Since the council will be making recommendations for legislative and administrative changes, including the identification of best practices, UT System providers of health care for persons with hemophilia or other bleeding or clotting disorders should closely monitor the advisory council proceedings and recommendations.

Effective: June 15, 2007. The council is to report not later than December 1, 2008.

Steve Collins

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Finance and Accounting

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Relating to the discontinuation of the Telecommunications Infrastructure Fund.

HB 735 repeals Subchapter C, Chapter 57, of the Utilities Code which establishes, governs, and funds the Telecommunications Infrastructure Fund (TIF). In addition, it repeals provisions of the Education Code and the Government Code that reference the TIF as well as amending various sections of both codes to eliminate references to the TIF.

Impact: The TIF has, in the past, benefited public school systems, institutions of higher education, distance learning providers, and telehealth and telemedicine providers through various grant and loan programs. Because institutions of higher education have not benefited from TIF funding in recent years, its repeal will have minimal impact, other than UT System institutions seeing a slight reduction in telecommunications costs because TIF assessments will no longer be imposed on telecommunications bills after November 1, 2008.

Effective: September 1, 2008

Jim Phillips

HB 860 by Paxton/Byron Cook and Williams

Relating to the management, investment, and expenditure of state funds and institutional funds and the adoption of the Uniform Prudent Management of Institutional Funds Act.

HB 860 adopts the new Uniform Prudent Management of Institutional Funds Act (UPMIFA), a uniform law developed by the National Commission on Uniform State Laws. It rewrites Chapter 163, Property Code. The law regulates the investment and management of charitable funds, including university endowment funds. The new law emphasizes preservation of the endowment in making investment decisions, including giving primary consideration to donor intent, incurring only reasonable costs, making investment decisions pursuant to an overall investment strategy, and diversifying investments unless inconsistent with the purpose of the fund.

UPMIFA creates two new rules different from the previous law: (1) elimination of the historic dollar value rule and (2) allowing donor restrictions to be modified without court involvement if the fund has a value of less than \$25,000 and has existed for at least 20 years.

New Section 163.005, Property Code, establishes a presumption of imprudence if annual expenditures exceed a threshold. For an endowment fund valued at \$1million or more, averaged over three years, the threshold is seven percent of fair market value (FMV), except that for a university system with an endowment fund with an aggregate value of \$450 million or more, the threshold is nine percent. (UT System qualifies for the latter.)

For an endowment fund valued at less than \$1 million, the threshold is five percent of FMV. If an institution pools funds for investment (as with UT System investments through UTIMCO), Section 163.005 applies at the pooled level only and not to individual funds comprising the pool, including individual funds that are not technically pooled but that are managed under a collective investment policy.

A separate provision of HB 860, which has no relationship to UPMIFA or institutional funds management, expands and modifies the authority of the comptroller to invest state funds held in the treasury.

Impact: This law governs the investment and management of the endowment funds of UT System and System institutions, including those managed by UTIMCO.

Effective: September 1, 2007

Steve Collins

HB 1196 by Kolkhorst, et al. and Janek

Relating to restrictions on the use of certain public subsidies.

Texas law authorizes the distribution of public subsidies to businesses to promote economic development by various entities, such as the state, counties, municipalities, public school districts, special-purpose districts or authorities, or economic development corporations. "Public subsidies" means any benefits or assistance designed to stimulate economic development, including grants, loans, loan guarantees, and fee waivers.

HB 1196 adds a new Chapter 2264 to the Government Code that:

- (1) obligates such Texas entities to require a business applying for a public subsidy to certify that the business (and any branch, division, or department of that business) does not knowingly employ an undocumented worker;
- (2) requires such a certification to provide that if the business is convicted for a violation of 8 U.S.C. Section 1324a(f) (a federal law establishing criminal penalties for persons engaging in a pattern or practice of violating the prohibitions in federal law against the employment of unauthorized aliens), then the business must repay the public subsidy with interest, with the rate and terms of the payment of interest being specified in a contract between the business and the Texas entity distributing the public subsidy;
- (3) authorizes a Texas entity distributing public subsidies to bring civil actions to obtain such repayments, which shall include the recovery of court costs and reasonable attorney's fees incurred in such civil actions; and
- (4) provides that a business will not be liable for any violation of the new Chapter 2264 by a subsidiary, affiliate, or franchisee of the business, or by a person with whom the business contracts.

Impact: To the extent that UT System or institutional offices may engage in the distribution of public subsidies to businesses to promote economic development, the new Chapter 2264 places additional obligations on such offices to ensure that the certifications required by Chapter 2264 are obtained from businesses applying for such subsidies, as well as requires such offices to enforce such certifications, including performing all actions necessary to recover public subsidies from recipients that breach those certifications.

Additionally, UT System and institutional offices may also be impacted by the new Chapter 2264 as recipients of public subsidies intended to promote economic development. As a result, such UT offices may also be required to make the certifications required by Chapter 2264 and be subject to the consequences provided by Chapter 2264 in the event that such certifications are breached.

Effective: September 1, 2007

Scott Patterson

HB 2365 by Truitt, et al. and Duncan

Relating to financial accounting and reporting for this state and political subdivisions of this state.

HB 2365 adopts a new Chapter 2264, Government Code, governing financial accounting and reporting for the state and political subdivisions. The bill authorizes the state (including institutions of higher education) and political subdivisions to account for and report financial activities on a “statutory modified accrual basis” for government-wide and fund-level internal and external financial reporting. Use of the permitted basis is deemed to satisfy any statute that requires compliance with generally accepted accounting principles.

The bill effectively exempts Texas from the requirements of Statements 43 and 45 of the Governmental Accounting Standards Board (GASB) that would require government financial reporting to use the full accrual basis instead of the previously accepted modified accrual basis for governmental accounting. Under the modified accrual basis, revenue is recognized when it becomes available and measurable, and expenditures are typically recognized in the period in which the liability is incurred. The full accrual basis would dramatically increase the stated cost of future post-employment benefits.

Section 2264.103 requires a “state system” (Employees Retirement System, Teacher Retirement System, The University of Texas System, and Texas A&M University System) to fully disclose to its members if the system is not obligated to provide “other postemployment benefits,” such as insurance, as well as whether those benefits are limited by funding obligations or whether the funding obligations extend throughout the life of the member.

Section 2264.104 requires the state and political subdivisions to disclose seven items in the notes of its annual financial statement, including the postemployment benefits it provides and any other information it believes will assist in explaining the nature and cost of its commitment to provide those benefits. If the other postemployment benefits are not guaranteed, the state and political subdivisions may report for informational purposes the liability that would exist if those benefits had been guaranteed.

Impact: The new accounting rules apply to UT System, as well as ERS and the Texas A&M University System, beginning in FY 2008, with compliance required not later than December 1, 2008. TRS remains subject to the new rules effective for FY 2007, with compliance required not later than December 1, 2007.

Effective: June 15, 2007

Steve Collins

HB 2694 by Hamilton and Janek

Relating to the disaster contingency fund.

HB 2694 provides that in responding to an emergency or disaster, state agencies and local governments should first rely on their regularly appropriated funds; however, under certain conditions they may request funds from the disaster contingency fund to offset extraordinary costs of preventative measures and costs incurred repairing disaster-related damage. Repair costs are only available if a state of disaster has been declared by the local authorities and by the governor in the affected county or counties. The Governor's Division of Emergency Management is to administer the disaster contingency fund.

Impact: HB 2694 impacts UT System institutions by potentially limiting the circumstances under which they could request additional funds from the state to offset the costs of responding to a disaster.

Effective: June 15, 2007

Leo L. Barnes

HB 3430 by Strama, et al. and Hegar/Shapleigh

Relating to the availability of information about state expenditures and rules, including the creation of a state database containing information on state expenditures, and to certain comptroller reports, and to certain amounts received by institutions of higher education.

HB 3430 requires the comptroller of public accounts to establish and post on the Internet a searchable database of state expenditures, including contracts and grants. The database must include the amount, date, payor, and payee of expenditures. The database must also

include a listing of state expenditures by object of expense and by class and item. “State agency” is defined to expressly include higher education.

To the extent that information required to be included in the database is already being collected and maintained, an agency is required to provide the information to the comptroller. However, the law expressly negates any requirement that a state agency, including an institution of higher education, record information not already being recorded or otherwise expend resources, such as engaging in computer programming, in order to make information reportable to the comptroller.

Each state agency, including an institution of higher education, that maintains a website is required to include a link to the expenditure database.

Other provisions (derived from SB 700) require an economic impact statement on rules that affect small businesses, but those provisions do not apply to UT System. Similarly, there is a provision (derived from HB 42) requiring notice to the Legislative Budget Board of major state contracts and LBB publication of those contracts, but that provision expressly excludes institutions of higher education from the definition of subject state agencies.

Section 7 of the bill (derived from SB 479) adds Section 51.953, Education Code, which provides that revenue an institution of higher education receives from claims filed with a health benefit plan on behalf of the student health center are institutional funds and may be used only for facilities, operations, or services of the student health center.

Impact: UT System will be required to provide the comptroller of public accounts with information on expenditures and to provide web links to the comptroller’s expenditure database. However, UT System is not required to record and provide to the comptroller any information not now captured or maintained, nor is UT System required to engage in computer programming or expend any resources in order to make information electronically reportable to the comptroller.

The provision related to the accounting for and use of receipts from health benefit claims applies to each institutional student health center in UT System and, should an institution receive such revenue, the revenue must be accounted for and used as provided by the statute.

Effective: October 1, 2007

Steve Collins

SB 99 by Zaffirini/Lucio Jr. and Guillen

Relating to the identification of and provision of assistance to colonias and for tracking the progress of certain state-funded projects that benefit colonias.

The 79th legislature saw several bills that targeted “colonias,” which are economically depressed areas primarily along the Mexican border, and provided economic development aid to them. SB 99 makes some enhancements to the definitions, makes some technical corrections, and attempts to close some loopholes in the existing statutes.

SB 99 adds provisions dealing specifically with colonias and institutions of higher education. Section 51.0052, Education Code, is amended to put more affirmative reporting and compliance obligations on institutions of higher education that fund colonia assistance projects. Section 51.9201, Education Code, is added to require institutions of higher education that have programs in the areas of community, rural, or urban development to create partnerships with governmental agencies and counties to implement programs, policies, and strategies to develop alternative technologies to assist colonias that have inadequate services or are without services, including water, wastewater, utility, transportation, housing, and public health care services. The definition of colonia is changed slightly, and other minor corrections have been made.

Impact: The described provisions expressly apply to institutions of higher education. The UT System Office of Academic Affairs and UT Brownsville, UT El Paso, and UT Pan Am should assess the specific impact on UT System and those institutions. The actual impact on UT System will depend on the degree to which each of these institutions participate in the programs described.

Effective: June 15, 2007

Mark Bentley

SB 247 by Ellis, et al. and Van Arsdale, et al.

Relating to prohibiting the investment of state funds in certain private business entities doing business in Sudan.

SB 247 adds Chapter 2264 to the Government Code to prohibit certain investment in Sudan by the Employees Retirement System (ERS) and the Teacher Retirement System (TRS) and to require those retirement systems to divest under certain circumstances. UT System and UTIMCO are not subject to the Act.

The comptroller of public accounts is to develop and maintain a list of “scrutinized companies,” which are companies such as those contracting with the government of Sudan or supplying military equipment within Sudan. ERS and TRS are each required to notify the scrutinized companies in which the retirement system owns direct or indirect holdings and, under certain circumstances, to divest from those holdings according to a

schedule provided by the statute. ERS and TRS may delay divestment to prevent a loss in value.

Impact: SB 247 has no direct impact on UT System or its institutions. However, most System and institutional employees are members of TRS, which is subject to the law. According to the fiscal note on the legislation, TRS estimates compliance with the statute may result in a loss of as much as \$51 million in the first year, with ongoing losses in future years totaling \$70 million over the next five years.

Effective: January 1, 2008

Steve Collins

SB 377 by Janek and Chisum

Relating to the electronic payment of certain taxes and the electronic filing of certain reports.

SB 377 directs the comptroller to adopt rules requiring a taxpayer, including a UT System institution, that paid more than \$10,000 in certain specified tax types during the preceding fiscal year to make payments via electronic funds transfer if the comptroller anticipates that the taxpayer will pay at least that amount during the current fiscal year. The specified tax types are state and local sales and use taxes; direct payment sales taxes; gas severance taxes; oil severance taxes; franchise taxes; gasoline taxes; diesel fuel taxes; hotel occupancy taxes; insurance premium taxes; mixed beverage gross receipts taxes; motor vehicle rental taxes; and telecommunications infrastructure fund assessments. SB 377 also gives the comptroller broad rulemaking authority to extend or suspend the requirement to tax types not specified if necessary to protect the state's interest. Lastly, SB 377 requires anyone who is required to make a payment via electronic funds transfer to file an accompanying report electronically as well.

Impact: UT System business officers should anticipate and monitor changes in comptroller rules requiring electronic funds transfer in these circumstances.

Effective: June 15, 2007, except that Section 2 takes effect September 1, 2008

Kyle R. ZumBerge

SB 470 by Brimer and Keffer

Relating to the submission of uniform financial reports.

SB 470 provides that the comptroller's uniform accounting and financial reporting procedures may prescribe a uniform format for and a uniform method of reporting the financial information included in the annual financial report. SB 470 also requires state agencies, including institutions of higher education, to report expenditures in the uniform

manner required by the comptroller. The comptroller of public accounts is authorized to adopt rules to implement the uniform method of reporting financial information.

Impact: UT System Administration and institutions must comply with the uniform reporting requirements. Business offices should be aware of SB 470 and should make any necessary changes in the manner of reporting expenditures.

Effective: May 18, 2007

Katy Lumpkin

SB 968 by West and Chisum

Relating to financing tools for certain obligations for public improvements and for certain obligations of The University of Texas System.

SB 968 updates Chapter 1371, Government Code, to authorize state agency and other local government issuers of debt obligations to employ modern interest rate management products (such as swaps, caps, collars, and locks) in order to reduce management costs and manage interest rate risks, and to require that they observe prudent financial practices in authorizing and monitoring interest rate management agreements. To assure prudent financial practices, reporting and other requirements are added, but certain large and sophisticated issuers are exempted from the additional requirements, including UT System.

Chapter 65, Education Code, was also updated to authorize the UT Board of Regents to enter into “bond enhancement agreements” relating to Permanent University Fund, Revenue Financing System, and certain other obligations. Bond enhancement agreements may include interest rate or currency rate swap agreements to hedge or modify payment, currency, rate, spread, or other exposure. Payments due from the Board of Regents under a bond enhancement agreement may be made from any lawful source; payments relating to Permanent University Fund bond enhancement agreements may be made from surplus Available University Fund. The Board of Regents may designate officers or employees of the Board of Regents to act on its behalf in determining or setting the counterparty and terms of a bond enhancement agreement. Unless the Board of Regents elects, a bond enhancement agreement authorized by Chapter 65 is not a credit agreement for the purposes of Chapter 1371.

Impact: SB 968 will provide UT System Office of Finance with additional tools to engage in interest rate management on the bonds issued by UT System.

Effective: June 15, 2007

Jim Phillips

SB 1332 by West and Chavez

Relating to the establishment of debt management policies and guidelines by the Bond Review Board, including the approval by the board of certain interest rate management agreements, and to other matters affecting public finance.

SB 1332 requires issuers of state securities to provide the Bond Review Board (BRB), upon request, copies of Requests for Proposals, responses, and executed contracts for professional services rendered in connection with debt issuances. The BRB is required to adopt policies that help the board and state issuers evaluate potential risks involved with swaps and the effect of such agreements on the finances and debt of the issuer and the state. The BRB is required to annually prepare a debt affordability study. Most issuers, if using an advisor for a bond issue, swap, or investment of bond proceeds, are required to use registered and qualified advisors. UT System is not subject to the advisor provisions.

Impact: UT System may be required to provide copies of RFPs, proposals, and executed contracts for professional services rendered in the issuance of securities, upon request of the Bond Review Board. UT System is not subject to additional requirements intended to protect smaller, less sophisticated issuers.

Effective: September 1, 2007, except Sections 1371.154 & 1371.155, Government Code, as added by this Act, take effect January 1, 2008.

Jim Phillips

SB 1339 by Estes and Chisum

Relating to allowing money in the disaster contingency fund to be used to provide assistance to producers of agricultural products affected by a disaster caused by severe drought, wildfire, flood, storm, or hurricane.

Section 418.073 of the Government Code creates a disaster contingency fund from which the governor (with the concurrence of the disaster emergency funding board) can make funds available in the event of a disaster caused by severe drought, wildfire, flood, storm, or hurricane. SB 1339 revises Section 418.073 to (1) explicitly provide that the fund may be made available to a state or local agency for use in providing assistance to producers of agricultural products affected by or recovering from such disasters and (2) define such “agricultural products” to include any farm or ranch product, including a product produced by aquaculture (such as producing and selling fish and other aquatic animals).

Impact: UT System and its institutions might, under certain circumstances, receive amounts from the disaster contingency fund for use in providing assistance to producers of agricultural products as set forth in SB 1339.

Effective: June 15, 2007

Scott Patterson

SB 1446 by Duncan and McCall

Relating to the removal of indirect cost recovery fees from the list of items that must be accounted for as educational and general funds by institutions of higher education.

SB 1446 conforms the definition of educational and general funds in Section 51.009(c) of the Education Code with the 2003 amendment regarding the accounting of indirect cost recovery fees by deleting the requirement that they be accounted for as “educational and general funds.” Deleting the indirect cost recovery fees from the list of “educational and general funds” makes them “institutional funds” as opposed to “local funds,” as defined by the statute. Thus, indirect cost recovery fees will no longer be considered appropriated funds.

Impact: Little, if any, impact is anticipated since SB 1446 conforms the statute to current practices.

Effective: June 15, 2007

Melodie Krane

Purchasing and Contracts

HB 119 by Fred Brown and Ogden

Relating to the exemption from competitive bidding for certain purchases.

HB 119 requires competitive bidding for certain state agency purchases, but does not generally apply to purchases by UT System or its institutions.

HB 119 requires competitive bidding, whether formal or informal, if a purchase (1) exceeds \$5,000, and (2) is made under a written contract. HB 119 also requires that a catalog purchase or lease of automated information system that (1) exceeds \$5,000, or (2) is made under a written contract, be based on an evaluation of at least three catalog offers when possible. If an agency does not comply with the requirement, the agency must document the reasons for noncompliance before making the procurement.

Impact: Because institutions of higher education typically procure goods and services under the best value standard of Sections 51.9335, 73.115, and 74.008, Education Code, HB 119 will not generally impact UT System or its institutions. However, in the unlikely event that UT System or an institution elects to purchase goods or services under Chapter 2155 or Chapter 2157, Government Code (as authorized by Section 51.9335(d), Education Code), this bill (1) requires competitive bidding if a Chapter 2155 purchase (a)

exceeds \$5,000, and (b) is made under a written contract; and (2) requires a written justification before making a Chapter 2157 catalog purchase or lease that (a) exceeds \$5,000, or (b) is made under a written contract, if at least three catalog offers are not evaluated prior to making the purchase.

Effective: September 1, 2007

Dana L. Hollingsworth

HB 1268 by Van Arsdale and Ellis

Relating to the award of attorney's fees under the terms of certain contracts with a governmental entity.

HB 1268 prohibits governmental contracts from providing for the award of attorney's fees to the governmental entity in a dispute in which the entity prevails unless the contract also provides for the award of attorney's fees to each other party to the contract if that party prevails in the dispute. A contract provision that violates this section is void and unenforceable.

"Governmental contract" means a contract awarded by a governmental entity, including an institution of higher education, for general construction, an improvement, a service, or a public works project or for a purchase of supplies, materials, or equipment.

HB 1268 applies only to a contract executed on or after September 1, 2007.

Impact: The Office of General Counsel is reviewing contract templates to identify those that may need revision in light of this new requirement. Additional guidance will be supplied to the Purchasing Council and OFPC before September 1, 2007.

Effective: September 1, 2007

Caren Burbach

HB 1886 by Callegari and West

Relating to procurement methods of certain political subdivisions and certain other entities for the construction, rehabilitation, alteration, or repair of certain projects.

HB 1886 primarily addresses alternative delivery processes available to local government and municipalities for civil works projects.

However, in Section 11, the bill also clarifies that if architectural or engineering services are required for a job order contracting work proposal for an institution of higher education (Section 51.784(i), Education Code), the services must be performed by an architect or engineer designated by the institution and, if the services are not performed by an in-house professional, the institution must select the professional on the basis of

demonstrated competence and qualifications in accordance with Section 2254.004, Government Code.

Section 12 of the bill also prohibits a governmental entity from using an interlocal agreement to acquire architectural or engineering services through a purchasing cooperative. "Governmental entity" is not expressly defined but in context appears to be a broad term inclusive of institutions of higher education.

Impact: Since HB 1886 is a clarification of existing law as to selection of architects and engineers on the basis of demonstrated competence and qualifications, all UT System campuses should already be in compliance with Section 2254.004, Government Code.

Effective: September 1, 2007

Edwin Smith

HB 2293 by Noriega, et al. and Watson

Relating to a requirement that state agencies purchase low-emissions vehicles as a minimum percentage of their vehicles purchased.

HB 2293 amends Chapter 2158, Government Code, to require state agencies that purchase 10 or more vehicles in a state fiscal biennium to ensure that not less than 10 percent of the passenger vehicles or other ground transportation vehicles purchased by such agencies during each state fiscal biennium meet or exceed specific low-emissions standards established by the U. S. Environmental Protection Agency. Furthermore, the new Chapter 2158 provides an exemption from the above requirement to purchase low-emissions vehicles if such a vehicle meeting the agency's operational needs is not commercially available.

Impact: UT System and its institutions may, but are not required to, purchase vehicles under Chapter 2158 because of the "best value" procurement authority granted to Texas institutions of higher education as set forth in Sections 51.9335, 73.115, and 74.008 of the Education Code. Nevertheless, UT System and its institutions purchase and maintain vehicles, and as a result may consider voluntary compliance with the new requirements that HB 2293 adds to Chapter 2158.

Effective: September 1, 2007

Scott Patterson

HB 2918 by Isett and Deuell

Relating to relating to state information technology contracting and procurement practices.

HB 2918 extends the Texas Project Delivery Framework requirements set forth in Subchapter J of Chapter 2054 of the Government Code so that the requirements apply to state agency contracts with a value of \$1 million or more under which the vendor will perform or manage an outsourced function or process (defined by HB 2918 as “major contracts”). For example, state agencies (including university systems and institutions of higher education) must prepare the following in the event they enter into such a major contract: a business case providing the initial justification for the major contract, a statewide impact analysis of the contract’s effect on the state’s common information resources infrastructure, a project plan, a procurement plan, and a method to monitor changes to the scope of each major contract. Furthermore, HB 2918 requires the contract management guide developed by the attorney general to establish procedures for such major contracts, including the use (when applicable) of the documents required by the Texas Project Delivery Framework.

HB 2918 repeals the catalog purchase method formerly established under Subchapter B of Chapter 2157 of the Government Code. As a result, HB 2918 eliminates the designation of catalog information systems vendors (or CISVs) under Texas law, as well as all legal requirements that the comptroller (as the successor to the Texas Building and Procurement Commission; see HB 3560) and those state agencies subject to Chapter 2157 purchase automated information systems using such a catalog purchase method. (Institutions of higher education may, but are not required, to purchase under Chapter 2157.) HB 2918 modifies Chapter 2157 to require state agencies (as well as to allow local governments) to purchase automated information systems as follows.

If a state agency wishes to purchase information technology commodity items (i.e., commercial software, hardware, or technology services, but not telecommunications services), the state agency must purchase such commodity items under the purchasing method described in Section 2157.068 of the Government Code in which the DIR negotiates a schedule of statewide contracts for such commodity items, unless the state agency has express statutory authority to employ a separate best value purchasing method in performing such a purchase. (HB 2918 also modifies Section 2155.502 of the Government Code to provide that such a schedule of statewide contracts may include contracts for such commodity items that were previously awarded using a competitive process by the federal government or any U. S. state governmental entity.) Otherwise, a state agency is required to purchase automated information systems using a purchasing method designated by the comptroller to obtain the best value for the state, including a “request for offers” purchasing method established by the comptroller.

Impact: The “best value” procurement authority granted to institutions of higher education under Sections 51.9335, 73.115, and 74.008 of the Education Code provide that such institutions are not required to purchase goods or services in accordance with Chapters 2155 or 2157 of the Government Code. Moreover, Chapter 2262 of the Government Code states that it does not apply to institutions of higher education (ref.

Section 2262.002 (a) of the Government Code), with the exception of one section of Chapter 2262 that is not affected by HB 2918 (ref. Section 2262.004 of the Government Code.) As a result most, but not all, of the provisions in HB 2918 that affect Chapters 2155, 2157, or 2262 of the Government Code do not directly affect UT System or its institutions. Nevertheless, the provisions of these three chapters of the Government Code may present purchasing “best practices” that UT System and its institutions may voluntarily decide to comply with, including the revisions made to those chapters by HB 2918.

University systems and institutions of higher education are subject to Chapter 2054 of the Government Code. As a result, UT System and its institutions are subject to the provisions of HB 2918 that extend the Texas Project Delivery Framework requirements to apply to all “major contracts” with a value of \$1 million or more under which a vendor will perform or manage an outsourced function or process. UT System and its institutions will be required to expend additional time and resources to comply with HB 2918’s changes to Chapter 2054 when such a “major contract” is procured.

Effective: September 1, 2007

Scott Patterson

HB 3291 by Otto and Averitt

Relating to a prohibition against the governing board of a public institution of higher education entering into certain contracts relating to permanent improvements at the institution.

HB 3291 amends Subchapter T, Chapter 51, Education Code (Higher Education - Construction and Repair of Permanent Improvements) by adding new Section 51.785, entitled “Certain Contracts Prohibited.” The new section prohibits contracts relating to a permanent improvement project if the payments to the contractor are “not reflected on the institution’s financial statement” unless the board is “specifically authorized to enter into the contract by other law or receives prior approval by the Texas Higher Education Coordinating Board.”

HB 3291 does not indicate what type of specific pre-authorization is required, nor does it describe any penalty for entering into a contract in violation of this law.

Impact: The impact on UT System is uncertain. HB 3291 appears to be directed at “off-balance sheet” financing schemes that some universities have employed for construction related to housing or research. UT System rarely engages in those financing methods. However, the bill is broad and ambiguous. At some point, all expenditures by UT System and its institutions are reflected on the financial statements, but those statements are retrospective ‘reflecting’ payments that have already been made on contracts that have already been executed. Appropriate offices with the System, such as finance and real estate, in consultation with the Office of General Counsel, will need to further consider the effect of this bill.

Effective: June 15, 2007

Edwin Smith

HB 3560 by Swinford and Janek/West

Relating to transferring to the comptroller the duties of the Texas Building and Procurement Commission that do not primarily concern state facilities and renaming the commission the Texas Facilities Commission.

HB 3560 abolishes the Texas Building and Procurement Commission (TBPC) and transfers to a new Texas Facilities Commission the TBPC's powers related to:

- charge and control of state buildings, grounds, or property;
- maintenance or repair of state buildings, grounds, or property;
- construction of a state building;
- purchase or lease of state buildings, grounds, or property by or for the state;
- child care services for state employees; and
- surplus and salvage property.

HB 3560 transfers all other powers and duties of the TBPC to the comptroller. HB 3560 also:

- (1) makes the transfer of the TBPC's powers and duties to the comptroller subject to sunset review by the Texas Legislature during the 2011 legislative session; unless the legislature acts by September 1, 2011, on that date all of the TBPC's powers and duties transferred to the comptroller by HB 3560 will automatically be transferred to the Texas Facilities Commission;
- (2) provides the comptroller with the authority to adopt rules to administer the chapters of the Government Code containing the TBPC powers and duties that are transferred to the Comptroller by HB 3560;
- (3) establishes a Statewide Procurement Advisory Council (with members appointed by the Governor, the Texas Facilities Commission, the Department of Information Resources, and the Legislative Budget Board) to advise the comptroller;
- (4) authorizes the state auditor to audit the transactions, processes, and performance of functions under Chapters 2155, 2156, 2157, and 2158 of the Government Code;
- (5) makes changes to the requirements for state agency use of historically underutilized businesses (HUBs) in purchasing and public works contracting as set forth in Chapter 2161 of the Government Code; for example, HB 3560 authorizes the state

auditor, in auditing a state agency's compliance with its strategic plan for increasing the use of HUBs in purchasing and public works contracting, to consider the success or failure of the state agency to contract with HUBs in accordance with the HUB goals set forth in the agency's strategic plan; and

(6) provides that the comptroller, the Texas Facilities Commission, and the Texas Land Commissioner are all represented on the State Council on Competitive Government.

Impact: As a result of HB 3560, UT System and each of its institutions will be required to work with the comptroller and the new Texas Facilities Commission concerning subjects that were previously regulated or otherwise addressed by the TBPC. In addition, changes to the HUB contracting requirements will require the HUB Offices at UT System and each of its institutions to ensure that the performance of HUB contracting at UT System and the UT institutions are in compliance with such changes.

Effective: September 1, 2007

Scott Patterson

SB 324 by Deuell/Fraser and Chisum

Relating to contingent payment clauses in certain construction contracts.

SB 324 amends Chapter 35 Business and Commerce Code ("Miscellaneous Commercial Provisions") by adding a new Section 35.521, entitled "Agreement for Payment of Construction Subcontractor." The new section authorizes the use of contingent payment or "pay-if-paid" clauses in agreements between contractors and subcontractors on construction projects, subject to certain limitations and procedures. Those clauses shift financial risk on non-payment from one party to another.

SB 324 applies only to contracts entered into on or after September 1, 2007.

Impact: SB 324 applies to UT System and its institutions as the owner of a project. The bill primarily affects the relationship between contractors and subcontractors and does not significantly change the relationship between an owner and a contractor. However, the bill does require an owner to provide certain financial information on request, subject to suspension of contract performance obligations, and it also allows contractors to assign causes of action to subcontractors who would then be able to assert their claims for payment directly against the owner.

Effective: September 1, 2007

Edwin Smith

SB 608 by Ellis and Callegari

Relating to restrictions on state contracts with certain contractors.

SB 608 prohibits a state agency from entering into a contract for purchase of goods or services that involves financial participation by a person who, during the previous five years, has been convicted of violating federal law or assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, Hurricane Katrina, or any other disaster occurring after September 24, 2005.

SB 608 requires a state agency to include the following statement as a part of any bid or award of a contract for goods or services: “Under Section 2155.006, Government Code, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.”

SB 608 provides that if a state agency finds that a contractor was ineligible to have its bid accepted or to receive the contract under the prohibitions in this bill, then the agency may terminate the contract without further obligation.

Impact: All UT officers involved in procurements should be aware of SB 608. This bill prohibits UT institutions and UT System from making a contract to purchase goods or services involving financial participation by a person who, in the prior five years, was convicted of violating federal law or assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, Hurricane Katrina, or any other disaster occurring after September 24, 2005. The bill requires UT institutions and UT System to include as a part of any bid or award of a contract for goods or services, the following statement: “Under Section 2155.006, Government Code, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.”

Effective: September 1, 2007

Max J. Werkenthin

Facilities

HB 4 by Puente and Averitt

Relating to water conservation.

HB 4 is an omnibus bill relating to water conservation, with provisions specifically applying to higher education.

Section 9 of HB 4 adds Section 51.969, Education Code, which directs the Texas Higher Education Coordinating Board to develop curriculum and provide related instruction regarding on-site reclaimed water system technologies, including rainwater harvesting, condensate collection, and cooling tower blow down. Rainwater harvesting is a process in which rain is collected and stored, often captured from the roof of a structure and deposited into a cistern, where it is then used in and around the structure for non-potable and/or landscaping uses.

Section 10 of HB 4 amends Section 447.004, Government Code, to add Subsection (c-1), which requires each new state building (including buildings of institutions of higher education) to include on-site reclaimed water system technologies such as rainwater harvesting if the building has a roof measuring at least 10,000 square feet or if incorporation of the system is otherwise feasible. An identical amendment is found in SB 3.

Section 10 of HB 4 also adds Subsection (c-2), which provides that the requirement of Section (c-1), which is to be incorporated into state building standards, does not apply if the state agency or institution determines that compliance is impractical, notifies the state energy conservation office of that determination, and supplies supporting documentation. A parallel provision is not included in SB 3. However, reading the two provisions together so as to give effect to both should preserve the effect of Subsection (c-2) as enacted in HB 4.

Impact: UT System institutions may have the opportunity to use the curriculum developed by the Coordinating Board. Future UT System building projects will need to consider the standards for on-site reclaimed water system technologies.

Effective: June 15, 2007, except that Section 10 takes effect September 1, 2009

Mark Bentley
Steve Collins

HB 3693 by Straus , et al. and Fraser

Relating to energy demand, energy load, energy efficiency incentives, energy programs, and energy performance measures.

HB 3693 amends various sections of the Education Code, the Government Code, the Health and Safety Code, the Utilities Code, and the Tax Code to promote solar panel use in public school buildings, energy efficiency and savings in state buildings, and the use of energy efficiency equipment and appliances.

Several sections of the bill have a direct impact on higher education. Note in particular Sections 8 and 12 described below.

Under Section 3 (new Section 51.9271, Education Code) and Section 6 (new Section 2165.008, Government Code), for educational, housing or other state buildings in its

control, an institution of higher education must purchase for use in each type of light fixture “the commercially available model of light bulb that . . . is compatible with the light fixture . . . and uses the fewest watts for the necessary luminous flux or light output.”

Under Section 5 (new Section 2158.301, Government Code), all equipment and appliances purchased after September 1, 2007, must meet federal energy conservation standards or Energy Star standards if “cost-effective.” Note, however, that the best value purchasing statute for institutions of higher education (Section 51.9335, Education Code), makes purchasing under Chapter 2158 permissive.

Under Section 7 (new Section 2165.058, Government Code), all vending machines contracts after September 1, 2007, must require that the vending machines (except ones with perishable food) have activated energy saving or energy management devices.

Under Section 8 (new Chapter 2264, Government Code), state agencies, including institutions of higher education, must “record in an electronic repository [its] metered amount of electricity, water, or natural gas consumed for which it is responsible to pay and the aggregate costs for those utility services.” The recorded information must be reported on “a publicly accessible Internet website with an interface designed for ease of navigation if available, or at another publicly accessible location.”

Under Section 12 (amending Section 388.005, Health and Safety Code), institutions of higher education must: 1) implement all energy efficiency measures that meet the standards established for a contract for energy conservation measures under Section 302.004(b), Local Government Code; 2) establish a goal to reduce electric consumption by 5 percent each state fiscal year for 6 years; 3) report progress annually to the State Energy Conservation Office; and 4) if energy goals are not met, justify in the annual report that “all available measures” have already been implemented. These requirements can be avoided if the State Energy Conservation Office determines that, before September 1, 2007, the institution has: 1) adopted, and keeps in effect, a plan for energy conservation which establishes a percentage goal for reducing electrical consumption; and 2) reports on the conservation plan “each calendar quarter to the governor, the Legislative Budget Board, and the State Energy Conservation Office.”

Impact: UT System and its institutions are each subject to the described energy management requirement of HB 3693. As to the energy efficiency measures described in Section 12, the UT System plan in effect should exempt UT System from the new standards, although the System will be required to make quarterly reports.

Effective: September 1, 2007

Edwin Smith

SB 3 by Averitt and Puente

Relating to the development, management, and preservation of the water resources of this state; providing penalties

SB 3 is an omnibus bill relating to water conservation, with provisions specifically applying to higher education.

Section 2.27 of SB 3 amends Section 447.004, Government Code, to add Subsection (c-1), which requires each new state building (including buildings of institutions of higher education) to include on-site reclaimed water system technologies such as rainwater harvesting if the building has a roof measuring at least 10,000 square feet or if incorporation of the system is otherwise feasible. An identical amendment is found in HB 4.

The amendment to Section 447.004 by SB 3 does not contain the provision found in HB 4 as Subsection (c-2), which permits a state agency or institution to avoid the effect of the new building standard if it determines that compliance is impractical, notifies the state energy conservation office of that determination, and supplies supporting documentation. However, reading the two provisions together so as to give effect to both should preserve the effect of Subsection (c-2) as enacted in HB 4.

Impact: Future UT System building projects will need to consider the standards for on-site reclaimed water system technologies.

Effective: September 1, 2007, except that Section 2.27 takes effect September 1, 2009, and Articles 4, 9, 10, and 12 take effect June 16, 2007

Mark Bentley
Steve Collins

SB 12 by Averitt, et al. and Bonnen, et al.

Relating to programs for the enhancement of air quality, including energy efficiency standards in state purchasing and energy consumption; providing penalties.

This major air emissions bill addresses numerous programs. It increases the scope of the Texas Emissions Reduction Plan, extending it to 2013, and increases grants from \$13,000 to \$15,000 per ton of NOx emissions reduced. The Low-Income Vehicle Repair Assistance, Retrofit and Accelerated Vehicle Retirement Program is amended to allow vehicles up to two years old to qualify as replacement vehicles and expands eligibility to vehicle owners who earn up to 300 percent of the federal poverty level.

SB 12 makes two changes to air permitting. The Texas Commission on Environmental Quality must give additional notice for concrete batch plant permits and may not include in enforcement actions certain violations that are self-reported under a facility's federal operating permit if the violations do not require automatic enforcement.

Energy efficiency requirements are also added. The State Energy Conservation Office (SECO) may make more stringent energy efficiency provisions in the state building code; state agencies, including institutions of higher education, are required to adopt plans to reduce electricity consumption 30 percent over the next six years; state agencies must buy Energy Star or other energy efficient equipment and appliances; and the Public Utility Commission is required to create a grant program for solar power demonstration projects.

Impact: The “state building code” provisions dealing with building energy efficiency standards will have no impact on UT System because Chapter 388, Health and Safety Code, governs local jurisdictions and their building codes, not state buildings. The “energy efficient equipment and appliances” mandate has limited impact on UT System institutions because the “best value” procurement authority generally excludes UT System from the requirements of Chapter 2158, Government Code. However, UT System institutions should be mindful of the clear legislative intent that all state agencies should purchase energy efficient equipment “if available and cost effective,” which may be consistent with UT System’s “best value” requirements.

The electricity reduction goals apply to institutions of higher education. However, the specifics of the section, including the five percent per year electricity reduction goal for the next six years and the reporting requirements, do not apply to institutions of higher education that have, before September 1, 2007, adopted an energy conservation plan and that submit quarterly reports on the plan to the governor, Legislative Budget Board, and SECO. UT System meets the requirements of this exemption, and thus UT System can continue to comply with the energy conservation plan adopted by the Board of Regents in 2001.

Effective: June 8, 2007, except Article 5 takes effect September 1, 2007

Jim Phillips

SB 812 by Janek and Woolley

Relating to the exemption from ad valorem taxation of property owned by certain nonprofit corporations that provide chilled water and steam to certain health-related institutions of this state.

Texas Medical Center Central Heating and Cooling Services Cooperative Association (TECO) provides steam and chilled water to UT System institutions in the Medical Center, and under existing law its real and personal property is exempt from property taxes if it provides services “exclusively” to tax-exempt entities. SB 812 allows TECO to sell excess capacity to ineligible institutions without forfeiting its property tax exemption as long as TECO “primarily” serves eligible institutions.

Impact: SB 812 has no direct affect on UT System institutions, but UT System institutions in The Medical Center, Houston, Texas, should be aware that TECO will likely be serving additional customers.

Effective: January 1, 2008

Kyle R. ZumBerge

SB 831 by Ellis and Straus

Relating to energy savings performance contracts.

SB 831 amends various sections of the Education Code, Government Code, and Local Government Code related to energy savings performance contracts. Relevant to UT System and other institutions of higher education are amendments to Section 51.927, Education Code (Energy Conservation Measures), which would increase the maximum allowable pay-back period and the length of the term of contracts for energy or water conservation measures from 15 years to 20 years or the average useful life of the conservation measures, whichever is less. SB 831 also requires that the engineer who reviews the savings calculations have a minimum of three years experience in energy calculation and review, and prescribes the primary focus of the engineer's review.

Impact: The increased pay-back period for conservation measures in SB 831 could have a positive impact on UT System by making large scale energy conservation projects more viable.

Effective: June 16, 2007

Edwin Smith

Information Resources

HB 66 by Leibowitz, et al. and Watson

Relating to power management software for state agencies.

HB 66 requires the Department of Information Resources (DIR) to research and select by competitive bid power management software to be used, if technically feasible, by state agencies to reduce the energy required to operate state computer networks and networked personal computers. The term "state agency" is defined to include a university system or institutions of higher education as defined by Section 61.003, Education Code.

HB 66 requires all state agencies (except institutions of higher education) to acquire and use the power management software if, as determined by DIR, the state agency would benefit from using power management software that would provide cost savings to the state in the biennium ending August 31, 2009.

HB 66 requires institutions of higher education to acquire and use the power management software only if DIR, in consultation with the Information Technology Council for Higher Education (ITCHE), determines that the institution of higher education's use of

power management software would provide cost savings to the state. In making this determination, DIR must perform the analysis described by Section 2054.121(c), Government Code, and consider:

- (1) the impact on the mission of higher education, student populations, and federal grant requirements;
- (2) alternate methods of implementation to achieve the purpose; and
- (3) exempting institutions of higher education from all or part of the requirements.

HB 66 requires that this analysis also include an assessment of how the use of power management software affects the security of electronic data.

Impact: HB 66 will require UT System to acquire power management software selected by DIR for computer networks and networked personal computers if DIR, in consultation with ITCHE, determines that UT System's use of power management software would provide cost savings to the state.

Effective: September 1, 2007

Dana L. Hollingsworth

HB 921 by Delisi and Ellis

Relating to the sharing of information among state agencies.

HB 921 requires each agency's strategic plan for information resources management to include a statement of how the agency has implemented any applicable data sharing standards developed by the Texas Health Care Policy Council.

HB 921 also requires the Texas Health Care Policy Council to develop standards for the secure sharing of information electronically among state agencies that provide social services, mental health services, substance abuse services, or health services. Those standards must be published by September 1, 2008.

Impact: UT System's strategic plan must include a statement of how it has implemented any applicable data sharing standards developed by the Texas Health Care Policy Council. UT System institutions that provide social services, mental health services, substance abuse services, or health services shall conform to common client information interchange standards whenever possible in developing, procuring, and maintaining electronic and information resource systems to allow for the secure sharing of information, while ensuring the protection of personally identifiable information from inappropriate release. UT System should monitor the development of standards by the Texas Health Care Policy Council.

Effective: June 15, 2007

Caren Burbach

HB 1788 by Pitts and Hegar

Relating to the planning, reporting, and review of the state's information resources.

HB 1788 provides that the Department of Information Resources' (DIR's) biannual performance report provided in Section 2054.055 of the Government Code is due to the governor and the Legislature on November 15 of each even-numbered year. The bill requires DIR to include additional information in such a report, including a summary of the amount and use of Internet-based training conducted by state agencies and institutions of higher education, and a summary of each state agency's results in providing access to electronic and information resources to individuals with disabilities as required by Subchapter M of Chapter 2054 and the rules adopted by the DIR under that subchapter. Texas institutions of higher education may be required to provide DIR with information about their information resources and information resources technologies that DIR determines is necessary to prepare such a biannual performance report.

HB 1788 requires DIR to provide a biannual "automated information systems report" to the governor, lieutenant governor, speaker of the house, and state auditor by December 31 of each odd-numbered year. Such a report is to assess the automated information systems of all state agencies, including an analysis for better management and use of such systems, the status of data sharing by such systems, and the modification of such systems for streamlined data collection, online reporting, and support of advanced analytics.

HB 1788 clarifies that a state agency's information resources manager is the presiding officer of the governing body of a state agency (or his or her designee) if the agency is governed by one or more fully paid full-time state officials; otherwise, a state agency's information resources manager is the executive director of that agency (or his or her designee.)

With respect to those state agencies that are required to create a strategic plan under Section 2056.002 of the Government Code, HB 1788: (1) provides DIR with the authority to issue instructions on how such state agencies are to prepare their strategic plan, (2) requires each state agency's strategic plan to include an analysis of the strategic use of its information resources, (3) requires each state agency to provide its plan to DIR, and (4) deletes certain requirements to be met in such a strategic plan. However, Chapter 2056 of the Government Code does not require university systems or institutions of higher education to create such a strategic plan.

HB 1788 requires each state agency to perform a biannual information resources deployment review of the operational aspects of the agency's information resources deployment by December 1 of each odd-numbered year. Such a review must be performed in accordance with the statutory requirements as well as with instructions and rules implemented by DIR. Furthermore, HB 1788: (1) requires each state agency's

biannual information resources deployment review to be analyzed by the quality assurance team established under Section 2054.158 of the Government Code and permits any member of the quality assurance team to report to the governor, lieutenant governor, or speaker of the house that a state agency's deployment decisions are not in compliance with the state strategic plan, a state statute, or DIR rules or standards, and (2) permits DIR to determine that a state agency's deployment decisions are not in compliance with the state strategic plan, a state statute, or DIR rules or standards and, if DIR makes such a determination, DIR can require the state agency to develop a corrective action plan to correct such deficiencies, for which DIR will provide status reports to the the state auditor and the Legislative Budget Board. Institutions of higher education are required to perform biannual information resources deployment reviews.

HB 1788 authorizes DIR to specify the hardware configurations for state commodity items that certain state agencies must use when developing their planned procurement schedules for commodity hardware, software, or technology services. However, institutions of higher education are not subject to Section 2054.1015.

HB 1788 provides DIR with the ability to only issue guidelines (instead of rules) concerning electronic information resources state agency surveys (which are no longer required to be performed annually) and state agency reporting requirements for implementation of Subchapter M of Chapter 2054 of the Government Code concerning access to electronic and information resources by individuals with disabilities.

Impact: The information technology offices at UT System and each of its institutions will be required to expend time and resources to meet the new statutory obligations implemented by HB 1788.

Effective: September 1, 2007

Scott Patterson

HB 1789 by Pitts and Hegar

Relating to the management and oversight of information resources projects.

HB 1789 eliminates the Electronic Government Program Management Office that the Department of Information Resources (DIR) was required to establish and use to direct and facilitate the implementation of electronic government projects. HB 1789 transfers certain statutory duties of the Program Management Office back to DIR.

HB 1789 authorizes DIR to develop rules or guidelines for DIR's use in reviewing project management practices for "major information resources projects" as defined in Chapter 2054 of the Government Code.

HB 1789 provides that once a state agency completes a major information resources project, the state agency is required to report to the quality assurance team established by Section 2054.158 of the Government Code on whether the project met the agency's

objectives or other expectations, as well as provide a post-implementation review to the quality assurance team and the agency's executive director.

HB 1789 requires state agencies to manage all information resources projects (including smaller or lower risk projects) using "project management practices", i.e., the documented and repeatable methods that a state agency uses to apply knowledge, skills, tools, and techniques to satisfy project activity requirements. HB 1789 authorizes DIR to: (1) establish guidelines for such project management practices by October 1, 2007, that are to take into account varying levels of project size and complexity and accommodate existing project management practices of state agencies, and state agencies are required to comply with such guidelines by November 1, 2007; (2) establish a comprehensive technical assistance program to aid state agencies in developing and implementing their own project management practices; (3) make formal recommendations to a state agency regarding the agency's need to develop, implement, or improve its project management practices; and (4) report on state agencies' progress in developing and implementing project management practices. HB 1789 further requires each state agency's information resources manager to oversee the implementation of the agency's project management practices.

HB 1789 repeals a law that authorized a state agency to request permission from the Legislative Budget Board and the budget division of the governor's office to delay implementation of a technology initiative, including a major information resources project.

HB 1789 requires a state agency to file the business case and statewide impact analysis required for each proposed major information resources project with the quality assurance team instead of DIR, the Legislative Budget Board, and the state auditor.

HB 1789 repeals the provisions relating to the management of electronic government projects, and to additional planning, oversight, and reports concerning electronic government program management.

Impact: HB 1789 will require the information technology offices at UT System and each of its institutions to expend time and resources to meet the new project management practices and reporting obligations on information systems projects that are set forth in HB 1789.

Effective: September 1, 2007

Scott Patterson

HB 2714 by Bonnen, et al. and Watson

Relating to a program for the recycling of computer equipment of consumers in this state; providing administrative penalties.

HB 2714 adds a new Subchapter Y to Chapter 361 of the Health and Safety Code that implements a program for the collection, recycling, and reuse of computer equipment that has reached the end of its useful life. Each state agency (including each institution of higher education) that procures computer equipment is required to: (1) make each bidder submitting a bid to sell or lease computer equipment to the agency certify the bidder's compliance with the new Subchapter Y, at the risk of the bidder being unable to participate in the bidding, (2) give special preference to computer manufacturers that have programs to recycle the computer equipment of other manufacturers; and (3) comply with rules adopted by the comptroller (formerly the Texas Building and Procurement Commission; see HB 3560) and the Department of Information Resources that implement the state procurement requirements set forth in Subchapter Y. Pertinent aspects of the program include the following:

- (1) Before a computer manufacturer may offer computer equipment for sale in Texas, the manufacturer must adopt and implement a plan for the recovery of computer equipment for recycle or reuse (a "recovery plan"), and affix a permanent, readily visible label to the computer equipment with the manufacturer's brand. In addition, the computer manufacturer must provide the Texas Commission on Environmental Quality (TCEQ) with a report by January 31 of each year that details the implementation of its recovery plan.
- (2) Retailers of computer equipment are prohibited from selling or offering to sell new computer equipment in Texas unless the equipment is labeled with the manufacturer's label, and the manufacturer of such equipment is included on the TCEQ's list of manufacturers that have recovery plans in place.
- (3) The collection, recycling, and reuse provisions apply to computer equipment used and returned to the manufacturer by a Texas consumer, who is defined as an individual who uses computer equipment that is purchased primarily for personal or home business use.
- (4) The requirements do not apply to: (A) televisions, motor vehicles, personal digital assistants, or telephones; (B) a consumer's lease of computer equipment or use of computer equipment under a lease agreement; or (C) the sale or lease of computer equipment to an entity when the manufacturer and the entity enter into a contract that effectively addresses the collection, recycling, and reuse of computer equipment that has reached the end of its useful life.
- (5) A computer manufacturer will not have any liability for information that a consumer leaves on computer equipment that is collected, recycled, or reused, (although such a manufacturer remains subject to liability arising under other law). Instead,

consumers are responsible for any information in any form that is left on the consumer's computer equipment that is collected, recycled, or reused.

(6) The TCEQ is required to educate consumers about the the collection, recycling, and reuse of computer equipment, including though an Internet site established by the TCEQ for that purpose.

(7) The TCEQ is authorized to conduct audits and inspections to determine compliance with Subchapter Y. Moreover, the TCEQ and the attorney general are authorized to enforce the new Subchapter Y against computer manufacturers and retailers as well as persons who recycle or reuse computer equipment. Furthermore, HB 2714 authorizes the attorney general to pursue injunctive relief and penalties for violations of Subchapter Y.

(8) The TCEQ is authorized to determine that a federal program for the collection and recycling of computer equipment preempts Subchapter Y, in which case Subchapter Y would expire.

Impact: HB 2714 will require UT System and its institutions to spend additional time and resources ensuring that the requirements of HB 2714 are met whenever computer equipment is procured or leased.

Effective: September 1, 2007, but not to be enforced before September 1, 2008.

Scott Patterson

HB 2918 by Isett and Deuell

Relating to relating to state information technology contracting and procurement practices.

HB 2918 extends the Texas Project Delivery Framework requirements set forth in Subchapter J of Chapter 2054 of the Government Code so that the requirements apply to state agency contracts with a value of \$1 million or more under which the vendor will perform or manage an outsourced function or process (defined by HB 2918 as "major contracts"). For example, state agencies (including university systems and institutions of higher education) must prepare the following in the event they enter into such a major contract: a business case providing the initial justification for the major contract, a statewide impact analysis of the contract's effect on the state's common information resources infrastructure, a project plan, a procurement plan, and a method to monitor changes to the scope of each major contract. Furthermore, HB 2918 requires the contract management guide developed by the attorney general to establish procedures for such major contracts, including the use (when applicable) of the documents required by the Texas Project Delivery Framework.

HB 2918 repeals the catalog purchase method formerly established under Subchapter B of Chapter 2157 of the Government Code. As a result, HB 2918 eliminates the designation of catalog information systems vendors (or CISVs) under Texas law, as well

as all legal requirements that the comptroller (as the successor to the Texas Building and Procurement Commission; see HB 3560) and those state agencies subject to Chapter 2157 purchase automated information systems using such a catalog purchase method. (Institutions of higher education may, but are not required, to purchase under Chapter 2157.) HB 2918 modifies Chapter 2157 to require state agencies (as well as to allow local governments) to purchase automated information systems as follows.

If a state agency wishes to purchase information technology commodity items (i.e., commercial software, hardware, or technology services, but not telecommunications services), the state agency must purchase such commodity items under the purchasing method described in Section 2157.068 of the Government Code in which the DIR negotiates a schedule of statewide contracts for such commodity items, unless the state agency has express statutory authority to employ a separate best value purchasing method in performing such a purchase. (HB 2918 also modifies Section 2155.502 of the Government Code to provide that such a schedule of statewide contracts may include contracts for such commodity items that were previously awarded using a competitive process by the federal government or any U. S. state governmental entity.) Otherwise, a state agency is required to purchase automated information systems using a purchasing method designated by the comptroller to obtain the best value for the state, including a “request for offers” purchasing method established by the comptroller.

Impact: The “best value” procurement authority granted to institutions of higher education under Sections 51.9335, 73.115, and 74.008 of the Education Code provide that such institutions are not required to purchase goods or services in accordance with Chapters 2155 or 2157 of the Government Code. Moreover, Chapter 2262 of the Government Code states that it does not apply to institutions of higher education (ref. Section 2262.002 (a) of the Government Code), with the exception of one section of Chapter 2262 that is not affected by HB 2918 (ref. Section 2262.004 of the Government Code.) As a result most, but not all, of the provisions in HB 2918 that affect Chapters 2155, 2157, or 2262 of the Government Code do not directly affect UT System or its institutions. Nevertheless, the provisions of these three chapters of the Government Code may present purchasing “best practices” that UT System and its institutions may voluntarily decide to comply with, including the revisions made to those chapters by HB 2918.

University systems and institutions of higher education are subject to Chapter 2054 of the Government Code. As a result, UT System and its institutions are subject to the provisions of HB 2918 that extend the Texas Project Delivery Framework requirements to apply to all “major contracts” with a value of \$1 million or more under which a vendor will perform or manage an outsourced function or process. UT System and its institutions will be required to expend additional time and resources to comply with HB 2918’s changes to Chapter 2054 when such a “major contract” is procured.

Effective: September 1, 2007

Scott Patterson

HB 3106 by Isett and Hegar

Relating to the implementation of enterprise resource planning by the comptroller.

HB 3106 would transfer the responsibility for “enterprise resource planning” from the Department of Information Resources to the Comptroller of Public Accounts. Enterprise resource planning (ERP) is defined broadly and would include the administration of most, if not all, accounting procedures applicable to a state agency with the goal of assuring compatibility with the uniform statewide accounting system.

The comptroller is given very broad authority over ERP implementation at all state agencies, including institutions of higher education. This authority includes issuing rules adopting standards for implementation and modification of ERP systems and could require an agency to modify, delay, or stop implementation of an ERP system. Expenditure of state funds for implementing or maintaining an ERP system would have to be consistent with the comptroller’s rules.

HB 3106 establishes an Enterprise Resource Planning Council to develop a plan containing the key requirements for the comptroller’s implementation of ERP standards. Representatives of the Information Technology Council for Higher Education will serve on the Council.

Impact: Until the Enterprise Resource Planning Council is formed and a plan adopted, it is hard to predict what impact the comptroller’s rules might have on UT System’s ERP implementation in the future. The comptroller’s authority is very broad and the legislature’s direction for greater uniformity and compatibility within the statewide accounting system is clear.

Effective: September 1, 2007

Katy Lumpkin

SB 687 by Shapleigh and Solomons

Relating to the use of TexasOnline by state agencies and local governments.

SB 687 modifies the provisions of Chapter 2054 of the Government Code concerning the “TexasOnline” project, a project that encourages the provision of governmental services on the Internet. SB 687:

- (1) further defines the types of point-of sale electronic payment transactions that Texas state agencies and local governments can conduct using TexasOnline;
- (2) authorizes the Department of Information Resources (DIR) to include in TexasOnline a method by which state agencies and local governments may track payments that they receive, whether or not such payments are made through TexasOnline; and

(3) authorizes DIR to adopt standards for state agency Internet websites to ensure consistency and compatibility with TexasOnline and requires each state agency to make its Internet website conform to those standards.

Impact: SB 687 may present UT System and its institutions with new opportunities to use TexasOnline to both process and track payments electronically. However, the provisions of SB 687 that require state agency websites to conform to DIR-defined standards to ensure consistency and compatibility with TexasOnline will require UT System and its institutions to spend time and resources revising UT's websites to meet such standards.

Effective: June 15, 2007

Scott Patterson

SB 757 by Hegar and Callegari

Relating to the planning and management of state telecommunications services by the Department of Information Resources.

Chapter 2054 of the Government Code creates a Telecommunications Planning and Oversight Council, which establishes plans and policies for a statewide system of telecommunications services that is to be implemented, managed, and operated by the Department of Information Resources (DIR). Such plans and policies are to include a statewide telecommunications operating plan for implementation of a statewide telecommunications network, including technical specifications that DIR is required to use in implementing such a network. Chapter 2054 provides that one of the members of the Council is to represent the interests of The University of Texas System and be appointed by the Chancellor.

SB 757 modifies Chapter 2054 to provide that the Telecommunications Planning and Oversight Council must:

(1) work in consultation with DIR regarding: (a) the portions of a biannual performance report addressing progress in a state telecommunications network, (b) telecommunications elements of the the state strategic plan, which Chapter 2054 requires to include information about best practices to assist state agencies in adopting methods for design, deployment, and management of telecommunications services, (c) the establishment of plans, policies, functional requirements, procurement documents, and service objectives for a statewide system of telecommunications services, and (d) the establishment of a statewide telecommunications operating plan for all state agencies; and

(2) relinquish to DIR the gathering of state agency network configuration information and the responsibility to submit a biannual report to the Legislature on the performance of the state-wide consolidated telecommunications system and the centralized capitol complex telephone system.

Impact: The changes that SB 757 makes to the authority and role of the Telecommunications Planning and Oversight Council under Chapter 2054 of the Government Code will retain for UT System the ability to ensure that its interests are represented in the establishment of plans and policies for statewide telecommunications services and systems, but possibly not to the same extent afforded to UT System under the prior version of Chapter 2054.

Effective: September 1, 2007

Scott Patterson

Real Property, Public Lands, and Eminent Domain

HB 387 by Callegari/Flynn and Patrick

Relating to repeal of the law relating to the Texas National Research Laboratory Commission.

HB 387 amends Section 65.33, Education Code, to clean up language relating to UT System's eminent domain powers to eliminate obsolete references to the Superconducting Supercollider project and update references to the general law governing the process for condemnation, which is now codified as Chapter 21, Property Code.

HB 387 deletes references in Texas law generally to the Texas National Research Laboratory Commission, which was created in 1987 for the purposes of formulating and presenting the state's siting proposal for the Superconducting Supercollider research facility, and subsequently representing the state in the facility's development, financing, and operation. The facility was cancelled, and these references are obsolete.

Impact: HB 387 has a positive impact on UT System because it clarifies the section of the Education Code that regulates the use of eminent domain by the Board of Regents without diminishing the powers granted. The bill eliminates obsolete specific authority for UT System to identify and provide or acquire a suitable site for the former supercollider project.

Effective: June 15, 2007

Mark Bentley

HB 412 by Eissler/Strama and Carona

Relating to erecting or maintaining certain outdoor signs or advertising; creating an offense; providing penalties.

Chapter 391 of the Transportation Code, known as the Highway Beautification on Interstate and Primary Systems and Certain Roads Act, is Texas' compliance with the

Highway Beautification Act of 1965 (23 U.S.C. Section 131, 136, 319). HB 412 amends or adds the following sections to Chapter 391 of the Transportation Code:

- Provides that a person commits an offense if the person erects, rather than willfully erects, or maintains certain outdoor advertising, or allows certain outdoor advertising to be erected or maintained on property owned by the person.
- Provides that, in addition to the attorney general, a district or county attorney can sue to collect a penalty. If the attorney general collects a penalty for an offense, it is to be deposited in the state highway fund, but if a county or district attorney collects a penalty, it is to be credited to the county road and bridge fund of the county in which the violation occurred.
- Authorizes the Texas Transportation Commission, in lieu of a suit to collect a civil penalty, after notice and an opportunity for a hearing before TxDOT, to impose an administrative penalty.
- Requires a court to revoke the permit issued under Section 391.068 for a location that is the subject of a violation if a previous penalty was imposed against the same person. The revocation of the permit is in addition to any other penalty imposed.

HB 412 amends or adds the following sections to Chapter 394 of the Transportation Code:

- Provides that Chapter 394 does not apply to a temporary directional sign or kiosk erected by a political subdivision.
- Provides that a person commits an offense if the person erects an off-premise sign without first obtaining a permit.
- Provides that an offense is committed if a person allows an off-premise sign to be erected on property owned by the person and if the property owner knows or should have known that the sign was a violation.
- Provides that a violation of these sections is a misdemeanor punishable by no less than a \$500 and no more than a \$1,000 fine and provides that each day of the prohibited activity is a separate offense.
- Provides that it is a defense to prosecution that a person removes the unauthorized sign not later than the 45th day after the person received a citation of the offense.
- Provides that a person who intentionally violates Chapter 394 is liable for a civil penalty of not less than \$150 or more than \$1,000 for each violation, depending on the seriousness of the violation and whether this person has previously violated this chapter. Provides that each day is a separate violation.
- Requires that a civil penalty collected by the attorney general be credited to the state highway fund but, if it is collected by the district or county attorney, then such

penalty should be credited to the county road and bridge fund of the applicable county.

- Requires the attorney general or district or county attorney, before a suit can be brought, to provide written notice to the person to be charged with the violation.
- Provides that a sign erected in violation of Chapter 394 is a public nuisance.
- Requires an owner of a sign that is a public nuisance to remove the sign upon written notice from TXDOT. If the owner fails to do so within 45 days, the attorney general is to file for an injunction to require the removal of the sign.
- Entitles the state to recover from the owner of the sign all administrative and legal costs and expenses incurred to remove the sign.

Impact: UT System or its institutions will be affected by HB 412 to the extent any real property is used or leased for outdoor advertising.

Effective: September 1, 2007

Katy Lumpkin

HB 1495 by Callegari, et al. and Nichols

Relating to a bill of rights for property owners whose property may be acquired by governmental or private entities through the use of eminent domain authority.

HB 1495 directs the attorney general to prepare a Landowner's Bill of Rights in plain English setting out the rights of the landowner and the procedures that must be followed by the state or by a private entity with rights of eminent domain, including all of the landowner's rights and options during the condemnation process. The Bill of Rights will be posted on the attorney general's website. Before a governmental entity or private entity with eminent domain authority begins negotiations to acquire real property, the entity must send a Bill of Rights to the landowner as shown on the tax rolls. A petition filed for eminent domain must include a statement that the Bill of Rights has been provided as required. The Bill of Rights must also be posted on the website of governmental entities, including UT System.

HB 1495 applies to all acquisitions, even those where eminent domain is not contemplated. However, there is no penalty for failure to provide the notice other than its necessity in a condemnation action.

The attorney general must complete the landowner's bill of rights by January 31, 2008.

Impact: UT System must comply with HB 1495 in all real property acquisitions. The new requirements could slow down the process of acquiring property. Since HB 1495 requires the notice to be given even when condemnation is not contemplated, it may

unnecessarily create a feeling of adversarial relations that could make good faith negotiations more difficult. Failure to give the notice when required could permanently remove eminent domain as a tool in the process with respect to that particular property.

Effective: February 1, 2008

Mark Bentley

HB 1787 by Hartnett and Watson

Relating to the determination of title to real property through a declaratory judgment.

HB 1787 provides that in addition to an action of trespass to try title, declaratory judgment is available as a remedy to a person who has a legal interest in land, and whose interest is challenged by a statute, municipal ordinance, contract, or franchise. Declaratory judgment is only available in real property title matters concerning property line disputes.

Impact: HB1787 has minimal impact on UT System. It permits a declaratory judgment action when the sole issue concerning title to real property is a boundary line dispute.

Effective: June 15, 2007

Katy Lumpkin

HB 3273 by Crownover and Averitt

Relating to the powers and duties of the Railroad Commission of Texas; providing an administrative penalty.

HB 3273 gives the Railroad Commission (RRC) the right to impose administrative penalties on natural gas producers, purchasers, transporters, sellers, gatherers, and shippers for failure to adhere to standards of conduct established by the RRC. HB 3273 also makes confidentiality clauses in gas purchase contracts illegal and unenforceable after September 1, 2007, or when the current contract expires.

Impact: The effects of this bill should be positive for UT System. HB 3273 affords UT System the opportunity for additional information about the terms of gas purchase contracts and therefore better monitoring of money owed to UT System, since the contracting process between operators and the persons purchasing gas from them should be more transparent. More money to the operators means more royalties for the Permanent University Fund.

Effective: September 1, 2007

Mark Bentley

HJR 30 by Jackson, et al. and Janek

Proposing a constitutional amendment to allow the repurchase of real property acquired by a governmental entity through eminent domain.

HJR 30 proposes an amendment to Article III of the Texas Constitution to add Section 52j. The amendment would allow a governmental entity to sell real property acquired through eminent domain to the person who owned the property at the time of the condemnation (or to that person's heirs, successors, or assigns) at the price the entity paid at the time of the acquisition if the public use for which the property was acquired is cancelled, if no actual progress is made within the statutorily-prescribed time, or if the property is unnecessary for the public use.

Under the Constitution as it currently stands, the state must receive the fair market value of any property it sells, including to the former owners. This amendment would allow the sale to take place at the same price the state paid to acquire the property, regardless of the fair market value of the property at the time of repurchase. HB 2006, which would have changed the law to give effect to this provision, was vetoed by the governor.

Impact: There is a potential economic impact on UT System. UT System is a governmental entity for purposes of the proposed constitutional amendment. Absent a statutory directive to do so, it is unlikely that UT System would act as the proposed amendment permits. Repurchasing property at the same price paid for it would not allow the time value of money or the rate of inflation to be taken into account, essentially resulting in a windfall to the former owner, who would have had the money interest-free in the meantime.

Effective: Upon adoption by the voters at the November 6, 2007 general election

Mark Bentley

SB 622 by Carona and Callegari

Relating to the collection of certain data for the Texas Natural Resources Information System and the duties of the Texas Geographic Information Council.

The Texas Geographic Information Council (TGIC) is a collection of the agencies that do statewide information gathering of geographic information. SB 622 adds emergency planning to the role of the TGIC and slightly updates the content of the annual report that TGIC makes.

Impact: UT is a member of the TGIC through the UT Austin Center for Space Research. Other elements of UT System use Geographic Information System (GIS) information, but are not members of TGIC.

Effective: May 11, 2007

Mark Bentley

SB 654 by Seliger and Pickett

Relating to the management of certain public land; providing for penalties.

SB 654 makes several changes to the Natural Resources Code and the Education Code affecting the leasing of unsold public school land and the granting of easements over state lands, including university lands. The bill modernizes the practice of leasing, makes improvements to the language regarding delivery of leases and memoranda of leases, and eliminates a provision that easements must be granted on forms approved by the attorney general. (In fact, the attorney general has not approved those forms in many years.) The bill eliminates a minimum rate for easements that was set in 1933 and not updated since.

SB 654 makes important changes to the Board of Regents' control of the Permanent University Fund land by modernizing the language from the Natural Resources Code and moving the relevant sections to the Education Code.

Impact: SB 654 has positive impact on the operations of UT System. By moving the relevant sections of the law from the Natural Resources Code to the Education Code, the law clarifies the process by which the Board of Regents manages easements on the Permanent University Fund land and eliminates confusion between General Land Office and UT System authority. Archaic provisions, such as the minimum rates for easements that were obsolete and never used, are removed so as not to cause confusion with persons and entities desiring to acquire the easements. Approval by the attorney general of easement forms has not been done for many years, so eliminating the requirement conforms the law to the current practice.

Effective: June 15, 2007

Mark Bentley

SB 1461 by Seliger and Byron Cook, et al.

Relating to certain matters regarding a clean coal project, including contracting authority and indemnification requirements, liability, representation of a state agency by the attorney general, and monitoring of sequestered carbon dioxide.

Parts of University Lands are being reserved as a potential field for the disposal and storage of carbon dioxide gas from a proposed FutureGen site in west Texas. SB 1461 could affect the way that project is finalized.

SB 1461 allows the governor and the state comptroller to grant a franchise tax credit to an entity like FutureGen. It retains the language giving the governor the right to contract on behalf of a state agency.

Impact: SB 1461 impacts UT System in two significant ways. First, the Bureau of Economic Geology (“BEG”) is required to monitor, measure, and verify the permanent status of sequestered carbon dioxide in which the Railroad Commission has acquired an interest. No funds or compensation to UT Austin or the BEG are included.

Second, SB 1461 removes the ongoing liability of the generator of carbon dioxide for any escape or release of carbon dioxide after the Railroad Commission acquires title to the gas so long as the injection is performed in accordance with a permit issued by the state. This means that the only indemnification available to the Permanent University Fund (PUF) will be under the lease from the Railroad Commission. There is a significant risk of liability to the PUF from the operation of injection sites under this statute.

SB 1461 provides express statutory duties for the BEG, and the limitation on a producer’s liability necessitates consideration of contractual indemnification in the RRC lease.

Effective: September 1, 2007

Mark Bentley

Use of Campus Facilities

HB 11 by Byron Cook, et al. and Eltife

Relating to the filing of sales reports with the comptroller by wholesalers and distributors of certain alcohol and tobacco products.

HB 11 adds language to the Tax Code authorizing the comptroller to require wholesalers and distributors of beer, wine, malt liquor, cigars, cigarettes, and tobacco products to file a monthly report of their sales to Texas retailers when the comptroller considers such a report necessary for the administration of a tax under the Tax Code. The information collected in such reports is generally confidential and not subject to disclosure under the Public Information Act, except as otherwise provided in the Tax Code. HB 11 authorizes the comptroller to take criminal, civil, and administrative action against wholesalers or distributors of beer, wine, or malt liquor that fail to file such reports.

Impact: While the Regents’ Rules and Regulations prohibit sales of tobacco on UT System campuses or at university-sponsored events, such rules identify circumstances where the use of alcoholic beverages may be permitted on property and in buildings owned or controlled by UT System or any of its institutions. Campuses on which alcoholic beverages are offered for retail sale should be aware that under HB 11 the comptroller may require the reporting by the distributor or wholesaler of information related to alcoholic beverages delivered for retail sale at UT System and its institutions.

Effective: September 1, 2007

Scott Patterson

HB 85 by Branch, et al. and Van de Putte

Relating to credit card marketing activities at postsecondary educational institutions; providing a civil penalty.

HB 85 regulates credit card marketing activities by card issuers at postsecondary educational institutions by limiting such activities to times and locations as designated by an institution's governing board.

Credit card marketers must develop and make available to students on campus educational material that covers certain aspects of responsible credit card use that is developed in consultation with or subject to approval of the institution. These materials must also be posted on the Internet and given to students who are issued a card. It also prohibits the offer of gifts or other incentives for completing a card application unless educational material is provided at the same time.

If on-campus credit card marketing is allowed, a governing board must also require that credit card and debt education programs become part of new student orientation. An intentional violation of HB 85 subjects a person to a civil penalty not to exceed \$2,500.

Impact: Under current Regents' Rules and Regulations, Series 80103 governing solicitation, and the broad general delegation to institutional presidents under Series 20201, the time, place, and manner of credit card marketing activities are subject to regulation by UT System institutions. An institution that has not designated policies for these marketing activities must do so in order for lenders to engage in those activities on campus. The Board of Regents should adopt a policy for inclusion of credit card and debt education in campus orientation programs.

Effective: September 1, 2007

Leo L. Barnes

HB 374 by Picket/Swinford and Zaffirini

Relating to use of state buildings and grounds by a television or film production company.

HB 374 requires all state agencies or other state governmental entities to allow a production company the use of state building or grounds if the production meets certain criteria and is approved by the Music, Television, Film and Multimedia Office (the Office) subject, however, to the agency's final approval. The agency retains authority and control over the use of its buildings and grounds during production. The production company shall pay reimbursement for any costs or damages incurred to the agency.

Subject to certain discretion, the Office will determine any fees to be charged the production company and deposit them in the general revenue fund.

Impact: HB 374 will impact any UT System institution that may be the site for a proposed television or film production. Series 80107 of the Regents' Rules and Regulations, which covers the filming of motion pictures or television productions, should be reviewed carefully to determine if HB 374 requires an amendment to the rule, particularly in regards to its provisions on insurance requirements and use fee.

Effective: September 1, 2007

Leo L. Barnes

HB 3123 by Miles and Gallegos

Relating to involvement in charitable events by holders of alcoholic beverage licenses and permits.

Existing law authorizes the Texas Alcoholic Beverage Commission to issue rules relaxing the restrictions of the Alcoholic Beverage Code with respect to gifts that the liquor or wine industry makes to civic, religious, or charitable organizations. HB 3123 makes it clear that the Code does not prohibit the holders of alcoholic beverage permits or licenses that are at different levels of the alcoholic beverage industry from sponsoring, simultaneously or jointly, a civic, religious, or charitable event (including by lending money, services, or other things of value to such an event), so long as:

- (1) any license or permit to sell or serve alcoholic beverages at the event is held by a retailer who is independent of the sponsors of that event, and
- (2) none of the retailers sponsoring the event receive any direct benefit or service because of joint sponsorship by a wholesaler or manufacturer of alcoholic beverages.

Impact: The Regents' Rules and Regulations identify circumstances where the use of alcoholic beverages may be permitted on property and in buildings owned or controlled by UT System or any of its institutions. HB 3123 provides holders of alcoholic beverage permits or licenses that operate on UT property and buildings with a greater ability to sponsor or make gifts to events conducted for civic, religious, or charitable organizations.

Therefore, the offices at UT System and its institutions that manage sales of alcoholic beverages at campus buildings or facilities may need to take steps to ensure that such holders of alcoholic beverage permits or licenses do not make gifts of university property or services to civic, religious, or charitable organizations or otherwise sponsor events for such organizations that are not permitted under applicable laws, rules, or regulations (including the Regents' Rules and Regulations) or that are not authorized by UT System or the applicable institutions.

Effective: September 1, 2007

Scott Patterson

SB 904 by Brimer and Truitt

Relating to the continuation and functions of the Texas Alcoholic Beverage Commission; providing penalties.

SB 904 is the “sunset” bill for the Texas Alcoholic Beverage Commission. The bill extends the existence of the Texas Alcoholic Beverage Commission (TABC) through September 1, 2019, and makes multiple changes to the law providing for the governance, management, and operation of the agency.

Some substantive provisions of SB 904 change laws governing or affecting licensees or permittees, including those that may operate on university property, such as:

- (1) a requirement that TABC submit a biennial report to the Legislature on TABC’s enforcement efforts concerning alcohol sales and consumption during prohibited hours, which would identify individuals or establishments violating the Alcoholic Beverage Code;
- (2) a requirement that an establishment holding a permit to sell alcoholic beverages (including beer) for on-premises consumption post warning signs on the restroom doors informing of the risks of drinking alcohol during pregnancy;
- (3) an increase in the number of provisions in the Alcoholic Beverage Code that, if violated by a person or entity holding an alcoholic beverage permit or license, may result in the suspension of that person’s or entity’s permit or license without the person or entity being allowed by TABC to pay a civil fine in lieu of such suspension;
- (4) a provision that a person holding an alcoholic beverage permit or license commits a Class A misdemeanor by refusing TABC, an authorized TABC representative, or a peace officer to enter their premises to investigate or inspect the premises in accordance with their duties under the Alcoholic Beverage Code;
- (5) a provision that the prohibitions on consumption of alcoholic beverages in a public place during the specific hours set forth in Section 105.06 of the Alcoholic Beverage Code apply to a premises licensed or permitted by the TABC;
- (6) a provision that makes the sale, offer, or consumption of an alcoholic beverage during prohibited hours a Class A misdemeanor if performed in violation of the prohibitions on such sale and consumption set forth in Chapter 105 of the Alcoholic Beverage Code, or the provisions of Chapter 32 of the Alcoholic Beverage Code providing for the suspension of a private club registration permit; and

(7) a provision that Section 49.02 of the Penal Code, which provides a criminal offense for a person appearing in a public place while intoxicated to the degree that the person may endanger the person or another, applies in the event that the person is intoxicated in a premises that is licensed or permitted under the Alcoholic Beverage Code.

Impact: The Regents' Rules and Regulations identify circumstances where the use of alcoholic beverages may be permitted on property and in buildings owned or controlled by UT System or any of its institutions. The provisions of SB 904 may affect those offices at UT System and its institutions that control and manage the sale of alcoholic beverages on UT property and buildings (especially the provisions in SB 904 that would directly affect the holders of licenses and permits under the Alcoholic Beverage Code.)

Effective: September 1, 2007

Scott Patterson

Environmental Safety

HB 2285 by Chisum and Seliger

Relating to the renewal period for a license or registration related to radioactive materials and other sources of radiation issued by the Department of State Health Services.

HB 2285 amends the Health and Safety Code relating to licenses or registrations issued by the Department of State Health Services (DSHS). Currently, DSHS has broad authority to charge fees for all licenses or registrations it issues in amounts to recover direct and indirect costs for administration and enforcement with the term for all licenses issued by DSHS being 2 years. HB 2285 exempts licenses relating to nuclear and radioactive materials from this general authority. The bill also removes the word "annual" in the specific statutory authority, and similar phrases, so that the frequency of the license and registration fee could be changed by DSHS. Local law enforcement agencies which may use X-ray machines for screening objects for safety reasons are exempt from the fee but are otherwise subject to the statutory provisions.

Impact: The DSHS will be able to alter the fees charged for licensing and the term of the licensing and registration, including licenses and registrations held by UT System institutions.

Effective: September 1, 2007

Melodie Krane

SB 814 by Janek/Shapleigh and Dukes

Relating to environmental lead investigations by the Department of State Health Services.

SB 814 addresses environmental lead contamination and authorizes the Department of State Health Services (DSHS) to adopt rules establishing standards for follow-up care and coordination of care for children with confirmed blood lead levels of concern. The rules must be consistent with federal requirements concerning environmental lead investigations and guidance to parents, guardians, and consulting physicians.

If a report of a child with elevated blood lead levels is received, DSHS may conduct an investigation of the home environment, child care facilities, and child-occupied facilities that may be sources of a lead hazard after receiving written consent of the owner or operator of the facility.

“Child-occupied facilities” are defined to include day care centers, preschools, or kindergartens visited by children under the age of six at least two days a week for at least three hours a day or 60 hours a year.

Impact: If UT System institutions operate day care centers or have day care centers on institution property, those day care centers or other child-occupied facilities could become subject to DSHS environmental lead investigations, but the consent of the institution or operator of the day care center would be required.

Effective: September 1, 2007

Jim Phillips

SB 1604 by Duncan and Bonnen

Relating to responsibilities of certain state agencies concerning radioactive substances; imposing fees and surcharges; providing administrative and civil penalties.

SB 1604 transfers the remaining radioactive substance jurisdiction from the Department of State Health Services (DSHS) to the Texas Commission on Environmental Quality (TCEQ), establishes a gross receipts fee on the disposal of certain radioactive wastes, and regulates in situ uranium mining. Previously, TCEQ regulated the disposal of low-level radioactive waste and DSHS regulated the processing and storage of radioactive materials and the long term care of by-product material. Oil and gas “naturally occurring radioactive materials” will continue to be regulated by the Railroad Commission. Provisions governing the transfer of jurisdiction, appropriations, property, and employees of the DSHS are contained in the bill, as are provisions governing how pending matters are to be handled.

Impact: Other than the transfer of jurisdiction and the imposition of a gross receipts fee on certain licensees, the changes to the radioactive substances regulatory scheme are minimal. UT System institutions will have to obtain and maintain the same licenses and

observe the same regulatory requirements but will now deal with one agency--the TCEQ--instead of two agencies, which was sometimes the case in the past. UT System institutions may experience some transition issues as the responsibilities move and may want to plan accordingly.

Effective: June 15, 2007

Jim Phillips

Workers' Compensation and Risk Management

HB 34 by Solomons/Leibowitz and Brimer

Relating to the prohibition of certain payments or other inducements regarding a workers' compensation claim; providing an administrative violation.

HB 34 makes it an administrative violation for a workers' compensation insurance adjuster, claims manager or other person with authority to request or who performs certain workers' compensation related health care services, such as a medical exam, peer review, or case management to pay, solicit, or receive any unauthorized payment or inducement for a referral or performance of the service.

Impact: The UT System Workers' Compensation Insurance program and the employees at UT System institutions who manage workers' compensation claims or who perform workers' compensation related medical exams, peer reviews, and other such services should be aware of this bill.

Effective: September 1, 2007

Leo L. Barnes

HB 472 by Solomons and Van de Putte/Estes

Relating to the regulation of third-party administrators, including administrators with delegated duties in the workers' compensation system of this state; providing penalties.

HB 472 amends the Insurance Code to more broadly regulate "administrators" who directly or indirectly collect premiums or contributions, or adjust or settle claims various types of benefit programs, including health and workers' compensation benefits. Administrators must be licensed according to the statute; however, self-insured workers' compensation plans are excepted from the definition of "administrator."

HB 472 requires that the services of a third party administrator be provided under a written agreement that contains certain specified provisions, including the administrator's duties to the insurer and the types of insurance that the administrator is authorized to administer, as well as underwriting standards. An insurer who uses the services of an

administrator must ensure competent administration of its programs and if a plan has more than a 100 benefit holders, the insurer must perform a semi-annual review, one of which must be an onsite audit. The agreement between a workers' compensation carrier and a third-party administrator must be approved by the Insurance Commissioner.

HB 472 also provides grounds for the denial, suspension, or revocation of an administrator's license along with penalties for violations of state law or commission rules.

Impact: HB 472 applies to UT System benefit programs regarding life, health, accident or workers compensation benefits. UT System programs are not themselves subject to the bill's administrative licensure requirement, but any third-party administrator with whom a UT System program contracted is subject, thereby imposing certain oversight obligations on the UT System program. Any agreement entered into for administrative services of the listed benefit programs by a third party are subject to the requirements of the bill.

Effective: With the exception of several provisions that grandfather in certain licensees and service providers or allow additional time for obtaining a license, HB 472 takes effect September 1, 2007.

Leo L. Barnes

HB 888 by Giddings, et al. and Watson

Relating to the cost of obtaining copies of an injured employee's medical records for use by an ombudsman under the office of injured employee counsel's ombudsman program; providing for an administrative violation.

HB 888 requires that upon written request of the Office of Injured Employee Counsel's ombudsman, a health care provider shall provide an injured employee's health records at no cost. A health care provider may not require payment for copies before providing them to the ombudsman. However, a workers' compensation insurance carrier is liable, without any deduction from other benefits, to a health care provider for the cost of producing the records. Copying charges are set by the Workers' Compensation Insurance commissioner.

The Workers' Compensation Insurance Division's public counsel office may make rules regarding the time frame for producing copies along with other related matters.

Failure to comply with HB 888 is an administrative violation for a workers' compensation carrier or a health care provider.

Impact: UT System hospitals and clinics, as well as UT System practitioners, are health care providers for purposes of this statute and may be requested by an ombudsman to provide covered medical records. In addition, UT System's Workers' Compensation Insurance program should be aware of HB 888.

Effective: June 15, 2007

Leo L. Barnes

HB 1005 by Giddings and Van de Putte

Relating to making a timely submission of a claim for payment by a workers' compensation health care provider.

HB 1005 provides, under certain situations, for the tolling of the time limits within which a health care provider must submit a claim for reimbursement to a workers' compensation insurance carrier for services provided to a workers' compensation claimant. A health care provider does not lose the right to reimbursement for failure to timely submit a claim if the provider can show that within the prescribed period it erroneously filed its claim with the claimant's health insurance carrier, HMO, or the wrong workers' compensation insurance carrier or when a catastrophic event has caused substantial interference with the provider's business.

However, the provider must submit the claim properly within 95 days of receiving notice of its filing error. The filing time can be extended by agreement

Impact: HB 1005 impacts UT System health care institutions and providers seeking reimbursement for workers' compensation related health care services. HB 1005 also impacts UT System's Workers' Compensation Insurance program (UT WCI), as health care providers who previously may have been barred from seeking reimbursement may now be able to do so.

Effective: September 1, 2007

Leo L. Barnes

HB 1006 by Giddings and Watson

Relating to doctor licensing requirements for peer review, utilization review, and retrospective review of medical decisions regarding workers' compensation claims.

HB 1006 requires Texas licenses of all doctors who conduct certain reviews of health care provided to injured workers, including peer reviews and utilization reviews, for either workers' compensation insurance carriers or utilization review agents. Also, a health care provider is barred from charging more than the cost of copying or including otherwise recouped costs when providing records for a utilization review pursuant to rules adopted by the Commissioner of Workers' Compensation Insurance division.

Impact: HB 1006 may impact the choice of utilization review agents or doctors that are used by UT System Workers' Compensation program. HB 1006 may impact doctors employed at UT System health institutions who are not licensed to practice in this state.

Also, UT System health insitutions may be impacted by the limits placed on copying charges for medical records.

Effective: September 1, 2007

Leo L. Barnes

HB 2004 by Giddings and Lucia III

Relating to requiring that a doctor who reviews a workers' compensation case be certified in a professional specialty appropriate to the care received by the injured employee.

HB 2004 requires that a workers' compensation related peer review, utilization review, retrospective review, designated doctor function, medical or dental or chiropractic exam and quality review be performed by a doctor, dentist, or chiropractor who is a licensed practitioner of the health care under review. Doctors must hold a specialty certification appropriate to the care being reviewed.

The Workers' Compensation Insurance Commissioner may adopt rules regarding which specialties are appropriate for treatment of certain injuries. An entity requesting peer review must provide the reviewing doctor all current, relevant medical records.

Impact: HB 2004 may impact UT System's Workers' Compensation Insurance program by limiting the providers who may engage in the review of a claim or perform health care services. UT System health care institutions and their employees may be impacted as well in regards to the licensing and certification requirements of HB 2004.

Effective: September 1, 2007

Leo L. Barnes

HB 2639 by Smithee/Heflin and Duncan

SB 1138 by Duncan and Smithee

Relating to risk management programs for members and advisors of student organizations at public and private postsecondary educational institutions and to certain insurance requirements for fraternities.

HB 2639 and SB 1138, identical companion bills that were both enacted, require public and private institutions of higher education, other than medical or dental units and certain other educational entities, with one or more registered student organizations to provide at least once each academic year a risk management program for student leaders of registered student organizations. Unless all student organizations are required to have representatives attend the program, the institution must adopt a policy that specifies certain organizations or types of organizations whose representatives must attend. The

selection of a certain organization or type of organization must be based on a determination of particular benefit from a risk management program.

A student organization with an obligation to have its designated officers attend the risk management program must have any advisors who have not previously done so attend as well. However, an advisor who is not faculty or staff may be allowed to meet attendance requirements through a computer-based program. While any member of the organization may attend the program, no more than four officers or similar positions in the organization may be required to attend. If there is a vacancy or void in the organization's leadership, the institution shall designate an equivalent to fulfill the attendance requirement. All officers and advisors that attend the program must report to the organization's full membership concerning the program's contents. The program may address any appropriate issue, however, it must address alcohol and illegal drug use, hazing, sexual abuse and harassment, fire and safety issues, conduct at organization events, and adoption of a risk management policy.

Notice of the program is to be given to student organizations in a manner determined by the institutions. Program attendance must be taken and, along with the notice of the program, archived in an appropriate location for at least three years. A student's failure to attend as required may be reasonably sanctioned.

The provisions concerning the higher education institution risk management program apply beginning with the 2008 fall semester.

The Department of Insurance is to conduct a study concerning levels and types of insurance fraternal organizations are required to carry by their national organizations as well as the types, levels, availability, and affordability of such coverage. By January 1, 2009, the department is to submit a written report summarizing the results of the study to the governor, lieutenant governor, speaker of the house, and relevant standing committees of both houses.

Impact: These bills apply to all UT System academic institutions that have registered student organizations. They do not apply to System Administration or any UT "medical or dental unit" as defined in Section 61.003 (5) of the Education Code.

Effective: September 1, 2007

Leo L. Barnes

Gifts, Estates, and Trusts

HB 391 by Hartnett and Wentworth

Relating to estates of decedents.

HB 391 modifies various sections of the Probate Code and has the following effects:

(1) In the case of concurrent jurisdiction, provides that a court where a probate matter was first filed shall retain jurisdiction and the other action shall be stayed. A court with jurisdiction may determine that it is in the best interest of the estate to transfer venue to another court;

(2) Provides that a charitable organization or governmental entity shall have the later of 12 months from the date the beneficiary receives notice of a bequest of a future interest, or 6 months from the date an inventory is filed, to disclaim the bequest of a future interest. The disclaimer must be filed in the county of the residence of the deceased or if the deceased is not a resident of Texas and real property is disclaimed, then the disclaimer must be filed in the county where the property is located;

(3) Provides the standards by which a ward's marriage may be declared void after the death of the ward, including providing that the courts shall use the annulment standards specified in the Family Code;

(4) Prescribes the contents of letters of administration if no will exists;

(5) Prescribes the contents of a written application for emergency intervention if emergency funds need to be obtained for funeral and burial expenses, and for emergency access to the decedent's rental property if required; and

(6) Prescribes the contents of the written order of sale of real property if the court has determined that the real property needs to be sold.

Impact: HB 391 requires UT System to disclaim the bequest of a future interest before the later of 12 months from the date UT System receives notice of a bequest of a future interest, or 6 months from the date an inventory is filed, and to disclaim the bequest in accordance with the terms of this bill.

Effective: September 1, 2007, except that Article 8 takes effect June 15, 2007

Katy Lumpkin

HB 564 by Hartnett and Wentworth

Relating to the administration and operation of certain trusts and other property interests held for the benefit of another.

HB 564 amends various sections of the Property Code related to trusts, as follows:

Section 111.0035 is amended to clarify that the terms of a trust may not limit any common-law duties of a trustee to keep a beneficiary of an irrevocable trust, age 25 or older, informed at any time the beneficiary is entitled to a distribution from the trust or would receive a distribution from the trust if the trust were terminated. This change (and the repeal of Section 113.060, Property Code, by this bill) is intended to address concerns

regarding potential overbroad judicial interpretation of the scope of the statutory duty to keep beneficiaries informed.

Section 111.004(10) is amended to expand the definition of “person” to include a limited liability company, a joint venture, a government, a governmental subdivision, agency or instrumentality, a public corporation, or other legal or commercial entity.

Section 112.059 is amended to permit and provide a procedure for the termination of certain trusts of insufficient value to justify the costs of administration.

Section 113.058 is amended to provide that a trustee is not required to give bond unless the instrument requires or it is ordered by the court. Notwithstanding, any person may bring an action to require or terminate a requirement for a bond.

Section 113.085(a) is amended to permit co-trustees to act by majority decision.

Section 114.081 is amended to provide protection for persons other than beneficiaries who in good faith and for value deal with a trustee without knowledge that the trustee is acting outside of the scope of the trustee’s duties. Section 114.081 is further amended to conform its protection of third parties with the protection afforded by Section 1012 of the Uniform Trust Code, especially since the statutory remedies have been expanded to allow a court to void an act of a trustee (see Section 114.008, Property Code, Subsection (a)(9)).

Section 114.086 is added to permit certification of a trust to a person other than a beneficiary by providing the information enumerated in this section and provides protections for those persons acting in good faith with the trustee on the basis of the certification.

Section 116.172 is amended to provide that to the extent a trustee accounts for interests in minerals or other natural resources under this section, delay rentals and annual rents on a lease from are to be allocated to income. Before this change, only nominal delay rentals and nominal annual rents on a lease were allocated to income; more than nominal delay rentals and annual rents on a lease were allocated equitably.

HB 564 makes various amendments to Chapter 141, Property Code, related to transfers that can be made to custodians for the benefit of minors under the Texas Uniform Transfers to Minors Act. Section 113.060 regarding the trustee’s duty to keep beneficiaries informed is repealed. When enacted by the 79th Legislature, this section was not intended to change any existing common law duty of a trustee, which is why it is being repealed.

Impact: The majority of the bill has no impact on UT. However, the provisions related to certification of a trust may affect business dealings with trustees when they are not willing to provide a copy of a trust instrument. In these cases, UT will need to request a certification from the trustee.

Effective: June 15, 2007

Katy Lumpkin

SB 469 by Brimer/Zaffirini and Patrick

Relating to the creation by the Texas Higher Education Coordinating Board of a certificate of recognition for persons who contribute certain gifts or donations to public institutions of higher education.

SB 469 requires the Coordinating Board to design and produce a certificate of recognition for presentation by an institution of higher education to a person who in any year contributes to the institution one or more gifts or donations totalling at least \$10,000. The Coordinating Board is required to prepare and provide the certificate at no cost to an institution of higher education that requests it in writing and provides information necessary to establish the donor's eligibility for the certificate.

Impact: UT System or its institutions could choose to request a certificate of recognition to be provided by the Coordinating Board at no cost. Offices of external relations and development offices should be aware of SB 469.

Effective: June 15, 2007

Karen Lundquist

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Health Benefits and Wellness

HB 522 by Woolley, et al. and Duncan/Janek

Relating to adoption and operation of requirements regarding health benefit plan identification cards.

HB 522 creates an advisory committee to advise the Texas Department of Insurance (TDI) on the development of electronic health plan identification cards that allow health care providers to access health plan enrollee eligibility information. It permits at least one member of the advisory committee to be a representative of a medical unit of an institution of higher education. The committee will make recommendations regarding the use by health benefit plan issuers or administrators of Internet website technologies, smart card technologies, magnetic strip technologies, biometric technologies, or other information technologies to facilitate the generation of a request for eligibility information that is compliant with the transaction standards and the rules of the Council for Affordable Quality Healthcare Committee on Operating Rules for Information Exchange.

The bill also requires TDI to designate a county or counties in which it will implement a pilot electronic identification card program no later than May 1, 2008, and to adopt rules for such a program.

Impact: The Office of Health Affairs and/or UT System health institutions may wish to recommend a person to be appointed as the higher education representative on the advisory committee created by the bill. The Office of Employee Benefits, the Office of Health Affairs, and institutions with facilities that provide health care may wish to monitor and/or provide recommendations to the advisory committee on the type of information that should be stored on the identification cards and the methods that health care providers will need to use to access the information stored on the cards, as well as the rules for implementing the pilot program.

The UT System group health insurance program will not be required to participate in this pilot program. UT System institutions that participate as providers in health plan networks may be required to accept electronic identification cards if they are located in a county where the pilot electronic identification card program is implemented.

Effective: May 25, 2007

Barbara M. Holthaus

HB 1297 by Delisi and Nelson

Relating to the creation of a state employee wellness program.

The State Employees Health Fitness Act of 1983 (Chapter 664, Government Code) permits a state agency, department, institution, or commission to use state funds for

health fitness education and activities and to use available facilities for health fitness programs. Prior law required any health fitness program developed pursuant to the Act, including a plan developed by a UT System institution or UT System Administration, to obtain approval of the plan from the Texas Department of Health (TDH). (TDH has been subsumed by the Health and Human Services Commission (HHSC).)

HB 1297 amends the Act in several respects. First, it repeals the requirement that a state agency, department, institution, or commission must obtain approval from HHSC before implementing a fitness program under Chapter 664.

HB 1297 also creates a new state employee wellness program and requires HHSC to appoint a state wellness coordinator. This individual must coordinate with state agencies whose employees participate in the Employee Retirement System of Texas (ERS) uniform group insurance program (UGIP) to develop a model worksite wellness program and assist these agencies in establishing their own wellness programs. It also creates a state board consisting of employees from certain state agencies that participate in the ERS UGIP, representatives from certain state employee organizations, and representatives from the Texas Medical Association, the American Cancer Society, and the American Heart Association to advise HHSC and the coordinator about the worksite wellness program.

HB 1297 further permits a state agency, department, institution, or commission to develop a state agency wellness council to increase employee interest in worksite wellness, develop policies to improve agency infrastructure to increase worksite wellness, and involve employees in worksite wellness programs. No funding is provided in connection with this provision.

HB 1297 also permits, but does not require, a state agency, department, institution, or commission to allow each employee 30 minutes during normal working hours for exercise three times each week, to allow all employees to attend on-site wellness seminars when offered, and to provide eight hours of additional leave per year to an employee who receives a physical examination and completes an on-line risk assessment tool.

Finally, HB 1297 requires HHSC to adopt rules no later than January 1, 2008.

HB 1297 is consistent with Recommendation Eight made by the Task Force on Access to Health Care in Texas in its “Code Red” report.

Impact: UT System institutions and UT System Administration will no longer be required to submit wellness programs for review.

UT System institution employees are not state employees who participate in the ERS UGIP. Therefore, they are not eligible to serve on the board created by HB 1297 to advise HHSC in the development of the model worksite programs and are not targeted for programs to be overseen by the board.

However, UT System institutions and UT System Administration appear to fall under the definition of a “state agency” that has the option to establish a wellness council as well as the option to provide the wellness incentives enumerated in HB 1297 to their employees.

Since HB 1297 provides HHSC with the authority to adopt rules, wellness initiatives undertaken by a UT System institution or UT System Administration pursuant to the bill must comply with those rules. The Board of Regents may wish to consider whether to adopt a Board rule concerning interpretation and compliance by System institutions with these rules.

Effective: September 1, 2007

Barbara M. Holthaus

HB 2015 by Smithee and Duncan

Relating to the reporting of claim information under certain health benefit plans; providing administrative penalties.

HB 2015 requires insurance carriers that contract with employers, including governmental entities, to provide the employer, upon request, with data concerning the health claims paid on behalf of the employer. The information must include pending claims and cover the 36 months preceding the date of the request. In order to receive the information, the employer must certify that its plan documents require it to comply with the HIPAA privacy requirements with regard to the claims information it receives. The information must be requested on or before the second year after the coverage is terminated. The information may be used by the employer only to perform treatment, payment, or health care operations as those activities are defined by the HIPAA privacy rules. Information provided to a governmental entity pursuant to this provision is confidential and not subject to release under the Texas Public Information Act.

Impact: HB 2015 does not affect UT System to the extent that it self-funds health coverage provided through its uniform group health program (UGIP). However, UT System falls within the definition of an “employer” under the bill to the extent that it contracts with carriers to provide fully-funded insurance products on behalf of the UGIP. UT System already has full access to claims data because UT System’s requests for proposals and vendor contracts for fully-insured health insurance products require the vendor to agree to provide all requested claims information to UT System. UT System should be careful to include these requirements in future contracts in order to avoid application of the restrictions imposed by this bill .

Effective: September 1, 2007

Barbara M. Holthaus

HB 2548 by Todd Smith and Averitt

Relating to coverage limitations in health benefit plans.

The Texas Risk Pool is a state sponsored insurance plan that provides health insurance to eligible Texas residents who, due to medical conditions, are unable to obtain coverage from commercial insurers. The Risk Pool also serves as a state alternative for individual health insurance coverage, as required by federal insurance portability law, to individuals who lose eligibility for employer group coverage.

Under HB 2548, an individual who is otherwise eligible to participate in the Risk Pool is not disqualified from participating because that individual: (1) was eligible for continuation health benefit coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) through an employer health plan but failed to elect the coverage within the election period; or (2) elected COBRA coverage that subsequently lapsed or was canceled.

HB 2548 also clarifies that Section 1506.153(7), Insurance Code, which disqualifies an individual from participation in the Risk Pool if that individual was eligible for coverage under an employer health plan but declined that coverage, does not apply if: (1) the individual is a part-time employee; (2) the declined employer health plan coverage provided more limited coverage than the Risk Pool; and (3) there is no direct or indirect employer contribution toward the premium the employee is required to pay for the plan coverage.

Impact: Office of Employee Benefits staff and Human Resources staff who provide health benefit information at UT System institutions should be aware of HB 2548 when advising employees and eligible dependents about their health care coverage options. The bill will make it easier for certain System employees and dependents who have lost eligibility for UT System uniform group insurance program (UGIP) coverage to qualify for Texas Risk Pool coverage. However, since benefits-eligible part-time employees at UT System do receive employer premium contributions, such employees would not become eligible for the Risk Pool if they waive participation in the UGIP.

Effective: June 15, 2007

Barbara M. Holthaus

HB 3064 by Delisi and Nelson

Relating to registration and regulation of certain discount health plans; providing penalties.

HB 3064 requires a person or company that arranges for a consumer to receive a discount on health care services to register with the Texas Department of Licensing and Registration and to comply with requirements governing the marketing and advertising of such discounts and contracts entered into between the discount program operator and

health care providers offering discounted services under the program. The bill clarifies that these discount programs do not constitute insurance.

Impact: UT System institutions that operate facilities that provide health care may be approached by discount program operators requesting that its providers participate in a discount plan. The Office of Employee Benefits and Human Resources offices at UT System institutions may be approached by discount program operators wishing to offer discount services to employees and retired employees. In assessing these requests, it will be important to be able to distinguish these programs, which are neither subject to any guaranteed issue requirements nor regulated by the Texas Department Insurance, from actual health plans.

Effective: September 1, 2007

Barbara M. Holthaus

SB 22 by Nelson/Williams and Delisi

Relating to long-term care insurance and a partnership for long-term care program and to the eligibility for certain home and community-based services.

SB 22 authorizes the Health and Human Services Commission to create a partnership for long term care program to allow individuals to purchase long-term care insurance policies that are eligible for asset disregard up to the value of services covered by the policy should they ever apply for Medicaid long-term care coverage. These policy holders will be able to protect benefits available to them under their long-term care insurance policies from Medicaid “spend-down” requirements if they apply for Medicaid. In other words, individuals who purchase such coverage should be able to access both Medicaid and their long-term care insurance benefits to cover the cost of any nursing home and community care that they require.

Impact: UT System offers its employees the option of purchasing long-term care insurance. Once the program is in place, UT System will be able to offer coverage that allows participants to take advantage of the program.

Effective: March 1, 2008, except Section 1 takes effect September 1, 2007

Barbara M. Holthaus

SB 1731 by Duncan and Isett, et al.

Relating to consumer access to health care information and consumer protection for services provided by or through health benefit plans, hospitals, ambulatory surgical centers, birthing centers, and other health care facilities, and funding for health care information services; providing penalties.

SB 1731 requires physicians to make information on the cost of proposed health care and provider's billing practices available to consumers. Specifically, physicians must:

- (1) create and post written policies explaining their billing procedures to patients in their offices or clinics where patients are likely to see them. The policies must address any discounts available to uninsured or indigent patients, interest charged on unpaid balances, and procedures for resolving billing complaints;
- (2) provide, upon request, to a patient who is uninsured or seeking treatment outside of the insurer's network, an estimate of the cost of proposed services that will not be covered by the patient's health care plan;
- (3) provide, upon request, itemized billing statements for services provided to a patient and a written explanation, in plain language, of charges for services previously rendered; and
- (4) refund overpayments made by a patient within 30 days of discovery of the overpayment, unless the payment is subject to the state insurance laws on prompt payment of claims involving managed care or preferred provider plans for which the physician is a network provider.

The Texas Medical Board (TMB) must adopt rules addressing these requirements by May 1, 2008.

SB 1731 imposes similar requirements on hospitals licensed under Chapter 241 of the Health and Safety Code (Code), birthing centers licensed under Chapter 244 of the Code, and ambulatory surgical centers licensed under Chapter 243 of the Code. It also requires "facilities-based physicians" who work within these facilities but are not part of the facility's health benefit plan network to explain in their billing statements: (1) that the reason the patient is being billed is because the physician's services are not covered in the patient's health plan; (2) how the patient can set up a payment plan; and (3) how the patient can file complaints about billing with the TMB.

The Department of State Health Services (DSHS) and the TMB must develop and post online consumer guides on health care standards and billing and reimbursement practices.

The Texas Department of Insurance (TDI) is required to collect and publish aggregate data from insurers on claim reimbursement rates to be used to disseminate health care cost information that will enable consumers to compare and evaluate health costs within a given geographic region. UT System's uniform group insurance program (UGIP) basic health plan is subject to this requirement. TDI can, by rule, exempt health plans from the

requirement if such data would not be relevant to accomplishing this purpose. TDI must adopt rules about this requirement by May 1, 2008.

SB 1731 requires certain health plans (not including UT System's UGIP) to notify enrollees about the possibility that non-network providers may bill the enrollee directly for the cost of any services not covered by the enrollee's health insurance. Facilities and hospital-based physicians who do not participate as network providers in a facility's network must also provide notice to each enrollee that they treat if they engage in such billing.

SB 1731 also requires TDI to appoint a committee to study facility-based network adequacy of health plans, including employer sponsored plans.

Finally, SB 1731 requires that notices issued by employers and health benefit plans about the availability of continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA coverage) must include information about the Texas Risk Pool. Health plans that administer COBRA coverage continuation plans must also inform COBRA plan participants, at least 45 days before the participant's COBRA coverage is due to expire, that the participant may qualify for Texas Risk Pool coverage.

Impact: Physicians employed by UT System institutions will be subject to the portions of SB 1731 that address physician billing. Physicians who violate these provisions will be subject to sanction by the TMB. Institutions that employ physicians should monitor the TMB's rulemaking relating to these provisions.

Hospitals operated by UT System institutions ordinarily do not require licensure under Chapter 241 of the Code and are not likely to operate birthing centers licensed under Chapter 244 of the Code or ambulatory surgical centers licensed under Chapter 243. However, they may enter into affiliation agreements with such facilities. Therefore, although UT System institutions are not likely to be directly impacted by the requirements imposed by the bill on these facilities or to employ "facility-based physicians," they should monitor the TMB rulemaking process relating to these provisions to ensure that their own facilities or physicians do not fall within the scope of the rules.

The Office of Health Affairs (OHA), UT System health institutions, and academic institutions that operate educational programs for health care practitioners may wish to monitor and/or use the consumer health care guides to be developed by DSHS and the TMB pursuant to SB 1731. The OHA and institutions that participate in health plan networks may wish to become involved in the TDI study regarding network adequacy.

UT System's UGIP will be required to provide reimbursement data for claims paid under its basic medical plan unless TDI exempts it from compliance by rule. The Office of Employee Benefits may wish to explore requesting such an exemption from TDI.

Finally, UT System institutions and third party administrators that provide COBRA coverage on behalf of UT System will be required to provide the information to UT System health plan or COBRA participants who lose eligibility to participate in the plan

or plan-related COBRA coverage about the possible availability of health coverage under the Texas Risk Pool. It should be noted that the requirements for Texas Risk Pool coverage were changed by another bill enacted during this legislative session, HB 2548.

Effective: September 1, 2007

Barbara M. Holthaus

Compensation and Reimbursement

SB 737 by Williams and Kolkhorst

Relating to the amount of hazardous duty pay for certain state employees.

SB 737 removes the \$300 per month cap on hazardous duty pay for eligible state employees. Hazardous duty pay is paid to certain state employees engaged in law enforcement activities, including UT System police officers, in lieu of longevity pay. Hazardous duty pay will now be paid at the rate of \$10 per month for each year of service, with no monthly cap.

Impact: All UT System institution offices that handle employee payroll should be aware of this change in calculating hazardous duty pay for eligible employees.

Effective: September 1, 2007

Michael H. Corley

SB 1310 by Wentworth and Rose

Relating to the reimbursement of travel expenses for state employees.

SB 1310 requires all state agencies, including institutions of higher education, to process employee travel reimbursement requests within 45 days of submission if the expenses are not in dispute. Agencies are also required to reimburse employees for reimbursable expenses within 30 days after resolution of any dispute between the agency and employee over travel expenses.

Impact: All UT System institution offices that process employee travel expense vouchers should be aware of these new time limits.

Effective: June 16, 2007

Michael H. Corley

Veteran's Preference

HB 1275 by McClendon/Rose and Uresti

Relating to the appeal by an individual entitled to a veteran's preference of certain adverse employment decisions.

Under the law, a person who qualifies for a veteran's employment preference is entitled to preference in employment with a "public entity" or "public work" of the state of Texas over other applicants who do not have greater qualification. HB 1275 amends this law to permit a person entitled to claim the preference who is aggrieved by an adverse hiring decision to appeal by filing a written complaint with the governing body of the employing entity. The governing body must respond to the complaint within 15 working days and may change the hiring decision if the preference was not applied. The decision of the governing body is final.

HB 1275 also requires public entities covered by this law to file quarterly reports with the comptroller stating the number of these complaints filed with and resolved by the governing body of the public entity.

Impact: The Board of Regents should adopt a procedure for resolution of complaints from aggrieved individuals. The veteran's preference in employment affects UT System Administration and all UT System institutions. All human resources offices should be aware of the veteran's preference and new complaint procedure.

Effective: September 1, 2007

Michael H. Corley

Loan Programs

HB 618 by Bonnen/O'Day and Jackson

Relating to the eligibility of emergency medical services personnel to participate in a low-interest home loan program offered by the state.

HB 618 amends a statute that provides for low-interest home loans to persons with low incomes and also to professional educators, fire fighters, corrections officers, county jailers, public security officers, and peace officers. HB 618 amends the list of those who may take advantage of the low-interest home loans to include emergency medical services personnel who meet the income and other criteria of the loan program.

HB 618 is consistent with Recommendation 7 made by the Task Force on Access to Health Care in Texas in its "Code Red" report.

Impact: If UT System or one of its institutions employs or contracts with emergency services personnel who meet the criteria for the low-interest home loan, HB 618 may

have the beneficial impact of assisting the qualified emergency services personnel with housing.

Effective: June 16, 2007

Brenda Strama

HB 3552 by Orr and Lucio Jr.

Relating to the issuance of private activity bonds and to certain home loan programs.

HB 3552 makes several technical amendments affecting allocation of the state ceiling, set asides, and other issues governing the issuance and use of private activity bonds for qualified mortgage and affordable housing programs.

The definitions of qualifying individuals was broadened in the Professional Nursing Program Faculty Member Home Loan provisions by including undergraduate and graduate “allied health program faculty members” as qualifying participants.

Impact: Allied health program faculty members at UT System institutions, in addition to professional nursing program faculty members, may now apply for low-interest home mortgage loans if they meet the other statutory qualifications (i.e., have an income of not more than 115 percent of the area median family income).

Effective: September 1, 2007

Jim Phillips

Unemployment Compensation

HB 2120 by Deshotel and Williams

Relating to the operation of the unemployment compensation system and computation of an individual’s unemployment compensation benefits; providing a criminal penalty.

HB 2120 amends the Unemployment Compensation Act to permit the Texas Workforce Commission to count wages “owed” as benefit wage credits in the individual’s base period of employment, even if payment of those wages has not yet been made.

HB 2120 also brings state law into conformity with current federal unemployment confidentiality regulations. The Workforce Commission is required to adopt and enforce new rules governing the confidentiality, use, and disclosure of unemployment compensation claim information. Criminal penalties (Class A misdemeanor) are provided for disclosure, receipt, or use of unemployment compensation information that reveals personally identifiable information, except as permitted by statute or rule.

Impact: UT System Office of Risk Management and all UT System institutions' human resources offices that handle unemployment compensation claims need to be especially aware of the new confidentiality rules.

Effective: June 15, 2007 (SB 1619 contains language identical to this bill, with an effective date of September 1.)

Michael H. Corley

SB 1619 by Lucio Jr. and Morrison

Relating to the confidentiality of certain employment information, including unemployment compensation information; providing criminal penalties

SB 1619 amends the Unemployment Compensation Act to bring state law into conformity with the federal unemployment confidentiality regulations. The Texas Workforce Commission is required to establish and enforce rules governing the confidentiality, use, and disclosure of unemployment compensation claim information. Criminal penalties (Class A misdemeanor) are provided for the disclosure, receipt, or use of unemployment compensation information that reveals personally identifiable information, except as permitted by statute or rule.

Impact: UT System Office of Risk Management and all UT System institutions' human resources offices that handle unemployment compensation claims need to be especially aware of the new confidentiality rules.

Effective: September 1, 2007 (HB 2120 contains language identical to this bill, with an effective date of June 15.)

Michael H. Corley

Retirement

HB 155 by Pickett, et al. and Lucio Jr.

Relating to correcting errors in the distribution of benefits by a public retirement system.

HB 155 adds procedures that a public retirement system must follow upon discovery of an error in the payment of benefits, and the complaint procedures a notice recipient must follow to file a complaint with the retirement system. Notification and response deadlines and time limitations for correction of payments are provided by HB 155.

Impact: HB 155 applies to employees of UT System and its institutions who are members of the Teacher Retirement System or the Employees Retirement System.

Effective: June 15, 2007

Caren Burbach

HB 2341 by Truitt and Duncan

Relating to certain investment products made available to certain public school employees.

HB 2341 permits open enrollment charter schools to refuse an employee's desire to use a vendor specified in a salary reduction agreement if that vendor does not comply with the school's uniformly applied administrative requirements that are necessary for compliance with the Internal Revenue Code Section 403(b) or related Treasury Regulations.

Impact: UT System institution charter schools are subject to the changes in law made by HB 2341.

Effective: September 1, 2007

Kyle R. ZumBerge

HB 2427 by Truitt, et al. and Whitmire

Relating to the continuation and functions of the Teacher Retirement System of Texas; providing penalties.

HB 2427 is the Teacher Retirement System (TRS) sunset bill and continues the agency through 2019. The bill incorporates many of the standard sunset provisions affecting the TRS Board and certain internal operations that will not directly impact UT System or TRS members. However, a couple of changes merit mention. TRS will be required to provide strengthened retirement benefits counseling for individual members and provide it in geographic regions of Texas outside of Austin. Disability retirees will now be required to file an annual compensation statement with TRS and if they earn compensation in excess of limits set by the TRS Board of Trustees, they may forfeit their disability annuity and have to pay an increased amount for TRS-Care coverage. The bill also strengthens TRS oversight over companies offering annuities and investment products to employees of school districts and open-enrollment charter schools.

Impact: Should UT System or its institutions operate open-enrollment charter schools, companies offering annuities or investment products to charter school employees must comply with the new oversight and consumer protection requirements. UT System employees who are members of TRS, should they retire under the disability retirement provisions after September 1, 2007, will be subject to the compensation limitations to be set by the TRS Board by rule.

Effective: September 1, 2007

Jim Phillips

HB 3322 by Truitt and Watson

Relating to a plan-to-plan transfer of certain assets from the TexaSaver 457 plan administered by the Employees Retirement System of Texas to a 457 plan created by an institution of higher education.

HB 3322 requires the Employees Retirement System (ERS) to transfer to a deferred compensation plan of an institution of higher education the assets of the institution's employees held by ERS in a 457 deferred compensation plan. The Board of Regents established its own deferred compensation plan known as the UTSaver Deferred Compensation Plan (UTSaver DCP) as of August 12, 2004. Before that time, UT System employees participated in the Employees Retirement System's 457(b) voluntary deferred compensation plan known as TexaSaver. After UTSaver DCP was created, the assets that UT System employees had contributed to TexaSaver remained with TexaSaver. The transfer occurs on request of the Board of Regents.

Impact: HB 3322 effects a plan-to-plan transfer of the subject deferred compensation accounts of all UT System employees who currently have TexaSaver accounts at ERS. The Board of Regents has made the formal request to initiate the transfer.

Effective: June 15, 2007

Kyle R. ZumBerge

SB 1039 by Lucio Jr., et al. and Homer

Relating to the payment of benefits to certain retirees of the Teacher Retirement System of Texas who return to work.

Existing law prohibits a Teacher Retirement System (TRS) retiree from working for a public education institution for more than 6 months without forfeiting their annuity check. SB 1039 allows a TRS retiree who returns to work at a public educational institution to work into the month of June of a school year if the work cannot be completed by May 31 and the retiree does not work beyond June 15 of that year. In addition, under SB 1039, the time spent by a retiree-rehire attending professional development classes or activities is not considered work for the purpose of calculating time spent at work.

Impact: SB 1039 governs TRS employees who have returned to work at a UT System institution. Institutional officers responsible for human resources or employee benefits should be made aware of the change in law in order to appropriately advise return-to-work retirees.

Effective: June 16, 2007

Kyle R. ZumBerge

SB 1846 by Duncan and Truitt

Relating to funding for, and benefits provided under, the Teacher Retirement System of Texas.

SB 1846 contains provisions affecting state funding of Teacher Retirement System (TRS) retirees and active members. The state contribution rate will increase from 6 percent to 6.58 percent of payroll and the bill stipulates that the state contribution may not be less than the contribution rate of active members. Eligible annuitants who retired before December 31, 2006, may receive a 13th check in January 2008 (equal to the annuity paid in August 2007, with a \$2400 cap) if the TRS funding status will allow it. Other provisions may have some impact on return to work retirees. For active members, the contribution rate may increase from 6.4 percent up to 6.58 percent in January 2008 if the next actuarial valuation requires it.

Impact: Employees who are members of TRS should review the information posted on the TRS website to learn of the implementation of provisions of SB 1846 that may impact them. UT institutions may see additional flexibility if hiring TRS retirees (pension and health insurance surcharges will not be owed on those who retired before September 2005).

Effective: September 1, 2007

Jim Phillips

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Ethics and Compliance

HB 590 by Delisi and Zaffirini

Relating to standards of conduct for and conflicts of interest of state officers and employees.

HB 590 amends the standards of conduct for state officers and employees by providing that a state employee who violates a standard of conduct or an ethics policy adopted under Section 572.051, Government Code, is subject to termination or other employment-related sanctions. Additionally, a state officer or employee is subject to applicable civil or criminal penalties if a violation of a standard of conduct also constitutes a violation of another law or rule. HB 590 further provides that the Texas Ethics Commission's sworn complaint and enforcement authority do not apply to violations of the standards of conduct.

HB 590 requires state agencies, including institutions of higher education, to adopt a written ethics policy for agency employees consistent with the standards of conduct and other provisions of Subchapter C, Chapter 572, Government Code (Standards of Conduct and Conflicts of Interest Provisions), and to distribute a copy of the ethics policy and Subchapter C to each new employee within three business days of employment. It also requires state agencies to give a copy of the policy and Subchapter C to each new officer not later than the third business day after qualifying for office.

By November 1, 2007, the Texas Attorney General, in coordination with the Texas Ethics Commission, is required to develop and distribute a model policy that state agencies may use. By January 1, 2008, each state agency is required to adopt an ethics policy and distribute it to each employee. However, a state agency is not required to adopt the model policy.

If a person with knowledge of a violation of an agency ethics policy that also constitutes a criminal offense reports the violation to an appropriate prosecuting attorney, the prosecuting attorney must notify the Texas Ethics Commission of the status of the investigation within 60 days of the report. The Ethics Commission is required to assist the prosecuting attorney in the investigation on request.

HB 590 applies only to conduct that occurs on or after September 1, 2007.

Note that some of the provisions in HB 590 duplicate Section 2113.014, Government Code, which requires copies of the standards of conduct to be given to employees and provides for non-payment of salary for a violation.

Impact: UT System and its institutions must adopt an ethics policy by January 1, 2008, and must distribute the policy to each employee. New officers and employees must receive a copy of the policy within three business days after employment or qualification for office. UT System's Office of General Counsel will monitor the policy development by the Attorney General and the Ethics Commission and will notify the institutions of any additional steps that must be taken.

Effective: September 1, 2007

Karen Lundquist

HB 1491 by Woolley and Williams

Relating to disclosure of certain relationships with local government officers.

HB 1491 amends the law that requires a local government officer to file a conflicts disclosure statement disclosing certain relationships with vendors. It applies when a person contracts or seeks to contract with a local governmental entity. Prior law included junior college districts, and HB 1491 adds charter schools operating under Subchapter D, Chapter 12, Education Code.

Impact: HB 1491 does not generally have a direct impact on UT System because the law applies only to local governments. It applies to Texas Southmost College, which partners with UT Brownsville, and thus may be of interest to UT Brownsville. It does not apply to either of UT Austin's charter schools because, according to UT Austin records, those schools are operating under Subchapter E, Chapter 12, Education Code.

Effective: May 25, 2007

Karen Lundquist

HB 1652 by Macias and Fraser

Relating to the provision of forms for personal financial statements filed with the Texas Ethics Commission.

HB 1652 requires the Texas Ethics Commission to mail a notice to each person required to file a personal financial statement with the commission. The notice must identify the filing dates, describe the manner in which the individual may obtain financial statement forms and instructions from the commission's Internet website, state that the commission will mail a copy of the form and instructions to the person on request, and state any fee for mailing the form and instructions and the manner in which the individual may pay the fee. If requested to do so, the commission must mail a copy of the form and instructions not later than the third business day after the commission receives the request. The commission is authorized to charge a fee for mailing the form and instructions in an amount that does not exceed the reasonable cost of production and mailing.

Impact: Members of the Board of Regents, the Chancellor, and the Presidents of UT System are required to file personal financial statements with the Texas Ethics Commission. The form and instructions are located on the commission's website and may be printed, filled out, and mailed, or may be filled out online, printed, and mailed. HB 1652 requires the commission to mail the filing notice to all filers, which the commission currently does, and also requires the commission to mail the form and

instructions on request. To a significant extent, HB 1652 codifies the commission's current practice, except that the commission does not currently charge a mailing fee.

Effective: June 15, 2007

Karen Lundquist

HB 2589 by McCall/Madden and Harris

Relating to the imposition of a civil penalty in connection with a self-corrected statement, registration, or report filed with the Texas Ethics Commission.

HB 2589 relates to the civil penalty imposed by the Texas Ethics Commission for correcting a filed report, including a personal financial statement. Under prior law, a report was not considered to be late, and thus not subject to a penalty, if the original report substantially complied with the law, any error or omission was made in good faith, the filer filed a corrected report by the 14th business day after learning of the error or omission. Prior law also prescribed methods for the Ethics Commission to use in determining whether a report substantially complied with the law. HB 2589 deletes the requirement that the original report substantially complies with the law. (However, certain campaign finance reports continue to be subject to the substantial compliance requirement.)

HB 2589 applies to reports due on or after September 1, 2007.

Impact: Members of the Board of Regents, the Chancellor, and the Presidents of UT System are required to file personal financial statements with the Texas Ethics Commission. HB 2589 allows corrections to that statement without penalty regardless of the type of error or omission as long as the error or omission was made in good faith and the person files a corrected report by the 14th business day after learning of the error or omission.

Effective: September 1, 2007

Karen Lundquist

HB 2839 by Susan King and Fraser

Relating to the deadline for filing a personal financial statement by persons appointed to certain state offices.

HB 2839 extends the deadline for filing the initial personal financial statement with the Texas Ethics Commission. Under HB 2839, appointed officers are required to file the initial statement not later than the 30th day after appointment or before the first senate committee hearing on confirmation (if required), whichever is earlier. Prior law provided a 14-day deadline.

HB 2839 applies to the filing of a personal financial statement by a person appointed to state office on or after May 25, 2007.

Impact: Members of the Board of Regents, the Chancellor, and the Presidents of UT System are required to file personal financial statements with the Texas Ethics Commission. HB 2839 extends the filing deadline for the initial statement.

Effective: May 25, 2007

Karen Lundquist

HB 3290 by Otto and Nichols

Relating to expanding the scope of an audit by the state auditor when the state auditor finds evidence of gross mismanagement.

HB 3290 allows the state auditor to expand the scope of an audit when the state auditor finds evidence of gross mismanagement. It provides that if in the course of an audit of a state agency or institution the state auditor finds evidence of gross mismanagement or grossly improper management oversight practices, the state auditor, after consulting with the head of the agency or institution, shall expand the scope of the audit into other aspects of the operations of the agency or institution to determine whether similar problems exist elsewhere.

Impact: All institutions of UT System are subject to audit by the state auditor, who under HB 3290 may expand the scope of an audit on finding evidence of gross mismanagement or grossly improper management oversight practices.

Effective: September 1, 2007

Karen Lundquist

SB 129 by West, et al. and Naishtat, et al.

Relating to reporting of gifts of cash or a cash equivalent to public officials.

SB 129 applies to state officers and employees who are required to file annual personal financial statements with the Texas Ethics Commission. The law requires those filers to report certain gifts that exceed \$250 in value, excluding close family gifts, political contributions, and lobby expenditures. SB 129 requires filers to disclose the value of the gift when the gift is cash or a cash equivalent such as a negotiable instrument or gift certificate.

SB 129 applies to personal financial statements required to be filed on or after January 1, 2008.

Impact: Members of the Board of Regents, the Chancellor, and the Presidents of UT System are required to file personal financial statements with the Texas Ethics Commission. SB 129 requires the disclosure of the value of any gifts of cash that exceed \$250.

Effective: September 1, 2007

Karen Lundquist

SB 1325 by West and McCall

Relating to the eligibility of relatives of public college and university board members to receive certain scholarships; providing a criminal penalty.

HB 1325 relates to the eligibility of relatives of public college and university board members to receive certain scholarships. It provides that a person is not eligible to receive a scholarship originating from and administered by an institution of higher education or university system if the person is related to a current member of the governing board of the institution or system. However, the person may be eligible if any of the following four circumstances apply: the scholarship is granted by a private organization or third party not affiliated with the institution or system; the scholarship is awarded exclusively on the basis of prior academic merit; the scholarship is an athletic scholarship; or the relationship is not within the third degree by consanguinity or the second degree by affinity.

A person applying for a scholarship originating from and administered by an institution of higher education or university system must file a written statement with the application indicating whether the person is related within the degrees specified above to a current member of the governing board of the institution or system. Filing a false statement is an offense that is a Class B misdemeanor.

The Coordinating Board is required to prescribe the statement and to adopt rules to administer this law by January 1, 2008.

SB 1325 applies only to a scholarship for which an application is filed on or after January 1, 2008.

Impact: SB 1325 restricts the eligibility of a close relative of a member of the Board of Regents to receive a scholarship from UT System. UT System should monitor the Coordinating Board's rulemaking under SB 1325. Student financial aid offices at all UT System institutions should be aware of SB 1325 and must collect the statement from loan applicants as required by the bill beginning January 1, 2008.

Effective: September 1, 2007

Karen Lundquist

Open Meetings and Public Information

HB 1497 by Van Arsdale and Williams

Relating to the consequences of the failure by a person requesting information under the public information law to timely respond to certain written communications from a governmental body.

Under the Texas Public Information Act (Act), governmental bodies are allowed to ask a requestor to clarify the request if the request is unclear. If the request is for a large amount of information, the governmental body may also discuss with the requestor how the scope of the request might be narrowed. HB 1497 allows the governmental body to consider a request withdrawn if the governmental body sends a written request for clarification or discussion to a requestor, and the governmental body does not receive a written response from the requestor within 61 days. The request for written clarification or discussion submitted by the governmental body must include a statement as to the consequence of the failure by the requestor to timely respond to the request. If the requestor's request includes his or her physical or mailing address, the governmental body's request for clarification or discussion must be forwarded to the requestor's address by certified mail to be considered withdrawn.

Impact: HB 1497 impacts UT System and its institutions in responding to requests for information under the Act by providing a deadline for a requestor to respond to UT's request for clarification or discussion. Under prior law, those matters languished due to inaction by the requestor since the written request for clarification or discussion tolled the ten-business-day deadline to seek an attorney general decision. Public information officers at System Administration and UT System institutions should be aware of the requirements of HB 1497.

Effective: September 1, 2007

Helen Bright

HB 2061 by Keffer, at al. and Williams

Relating to the disclosure of social security numbers under the public information law.

HB 2061 modifies the exception to the Texas Public Information Act pertaining to the social security numbers of living persons. The bill provides that social security numbers of living persons are excepted from public disclosure, but that they are not confidential under the Act or other law. Further, county and district clerks are not liable for the disclosure of social security numbers contained in a document filed with the county or district clerk. Upon written request of an individual, the clerk shall redact all but the last four numbers of the social security number from information held, unless another law requires the full social security number to be maintained in the document.

HB 2061 also modifies Property Code provisions pertaining to filing deeds or deeds of trust. Preparers of these documents may not include an individual's social security

number in a document that is presented for recording with the county clerk. If the instrument is presented to the county clerk, the clerk has no duty to ensure that an instrument does not contain an individual's social security number. HB 2061 also modifies the written notice that must be included on instruments transferring an interest in real property to or from an individual.

Impact: The changes made by HB 2061 will impact UT System and its institutions. In open records requests, UT System and its institutions still retain the authority to redact social security numbers without obtaining a ruling from the Attorney General, but if the social security number of a living person is inadvertently provided, civil or criminal liability could not attach since the exception is not mandatory and can be waived. Further, changes made to the Property Code pertaining to deeds and deeds of trust should be communicated to the Real Estate Office and the Office of General Counsel.

Effective: March 28, 2007

Helen Bright

HB 2248 by Van Arsdale and Williams

Relating to the ability of a governmental body under the public information law to request a redetermination from the attorney general on dismissal of litigation relating to the same issue.

Under prior law, the Texas Public Information Act did not allow a governmental body to request a redetermination of a decision from the attorney general. HB 2248 allows governmental bodies to request the attorney general for a redetermination under limited circumstances. If a governmental body filed suit against the attorney general as a result of an adverse decision, and the requestor withdrew the request during litigation resulting in dismissal of the suit but then subsequently requested the precise information, a governmental body may request a redetermination from the attorney general. A court may also dismiss a suit challenging an attorney general decision if all parties agree to dismissal and the requestor has voluntarily withdrawn the request or has abandoned the request.

Impact: HB 2248 provides legal recourse to UT System and its institutions when a requestor withdraws his or her open records request during litigation resulting in dismissal of the suit and then resubmits the same request for information.

Effective: September 1, 2007

Helen Bright

HB 2564 by Hancock and Wentworth

Relating to the authority of a governmental body to require the payment of a charge before complying with certain requests for the production of public information or for copies of public information.

HB 2564 authorizes a governmental body to establish a limit on the time that its employees are required to spend producing public information for inspection, duplication, or providing copies to a specific requestor. The time limit may be no less than 36 hours per requestor during the fiscal year. If a time limit is established, each time the governmental body complies with a request from a specific requestor, the governmental body shall provide the requestor written notice of the amount of time spent complying with the requestor's requests. If the requestor exceeds the established time limit, the governmental body shall timely notify the requestor of the costs necessary to comply with the request. The governmental body is not required to produce public information for inspection or duplication or provide copies unless the requestor timely responds to the governmental body in writing and commits to pay. The request is considered withdrawn if the requestor does not timely respond and commit to payment. Radio and television stations licensed by the FCC, certain newspapers, elected officials, and certain publicly funded legal services organizations are exempt from this provision.

Impact: HB 2564 impacts UT System and its institutions with regard to burdensome and multiple open records requests made by the same requestor. Currently, UT System and its institutions are limited in assessing costs under the Texas Public Information Act, especially when documents are gathered for inspection by the requestor. This bill authorizes UT System to establish an amount of time that it will spend in responding to a specific requestor's requests per fiscal year and then to charge the requestor for the personnel costs for complying with requests that exceed the time limit. Public information officers at System Administration and UT System institutions should be notified of the change in law. UT System Policy UTS139 - Texas Public Information Act will need modification to establish the time limit and procedures will need implementation to monitor requests and to apply the provisions of HB 2564.

Effective: June 15, 2007

Helen Bright

SB 175 by Wentworth and Parker

Relating to the calculation of certain deadlines under the public information law.

SB 175 amends the Texas Public Information Act (Act) by changing the calculation of certain deadlines from "calendar" days to "business" days. Deadlines will be extended for requestors making a deposit or posting a bond to obtain information under the Act, for the attorney general to render a decision when a governmental body requests that documents be withheld, and for governmental bodies to release records to individuals with a special right of access.

Impact: SB 175 impacts UT System and its institutions with regard to certain requests for documents received under the Act by extending certain deadlines. Public information officers at System Administration and UT System institutions should be aware of the changes to the Act.

Effective: June 15, 2007

Helen Bright

SB 592 by Wentworth and Parker

Relating to special notice to the news media of the meeting of a governmental body in certain situations under the open meetings law.

Governmental bodies are required to provide notice by telephone or telegraph of an emergency meeting or an emergency addition to the agenda to media who have previously filed a specific request for information with the governmental body and agreed to reimburse the cost for providing the special notice. SB 592 repeals notice by telegraph and also authorizes governmental bodies to send notice by facsimile transmission or electronic mail.

Impact: SB 592 impacts the Board of Regents and institutional committees that are subject to the Open Meetings Act and authorizes delivery to the media of required notice of an emergency meeting or emergency addition to the agenda by telephone, facsimile transmission, or electronic mail. The Board Office should be aware of this provision.

Effective: June 15, 2007

Helen Bright

SB 1046 by Wentworth and Morrison

Relating to the provision of notice to institutions of higher education of meetings of the Texas Higher Education Coordinating Board and to certain telephone conference meetings of the board and other boards of institutions of higher education.

SB 1046 directs the Coordinating Board to provide at least seven days notice to the chairman of each governing board and the chief administrative officer of each state institution of higher education concerning agenda items where final action is contemplated. Prior law required 30 days notice.

SB 1046 allows the Coordinating Board to hold an open or closed meeting by a telephone conference call, and requires notice of the meeting to identify as the location of the meeting a suitable conference or meeting room at the offices of the Coordinating Board or at an institution of higher education.

Finally, HB 1046 allows the governing board of an institution of higher education and the Coordinating Board to use a telephone conference call, video conference call, or communications over the Internet to consult with its attorney in an open or closed meeting even though the attorney is an employee.

Impact: SB 1046 changes timelines for giving notice to UT System and its institutions of agenda items by the Coordinating Board and allows the Board of Regents to consult with employee attorneys by telephone, video, or Internet during an open or closed meeting. The Board Office should be aware of the provision concerning consultations with attorneys.

Effective: September 1, 2007

Katherine A. Antwi

SB 1306 by Wentworth and Goolsby

Relating to the attendance by a quorum of a governmental body at certain events under the open meetings law.

SB 1306 provides that the term “meeting” also does not include a gathering of a quorum of a governmental body at a ceremonial event or press conference if formal action is not taken and any discussion of public business is incidental to the ceremonial event or press conference.

Impact: SB 1306 allows a quorum of the Board of Regents to attend a ceremonial event or press conference without posting notice or otherwise complying with the open meetings law. The Board Office should be aware of SB 1306.

Effective: May 22, 2007

Katherine A. Antwi

SB 1499 by Zaffirini and Corte

Relating to the meeting notice that a governmental body may post in certain emergency situations.

SB 1499 provides that the sudden relocation of a large number of residents from a declared disaster area to a governmental body’s jurisdiction would be considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation for purposes of the Open Meetings Act provision governing emergency meetings and emergency additions to agendas. In such a situation, the news media must be provided with notice or supplemental notice not later than one hour before the meeting as provided by Section 551.047, Government Code.

Impact: SB 1499 applies to meetings of the Board of Regents. The Board Office should be aware of this new provision related to situations in which an emergency meeting or an emergency addition to an agenda is permitted.

Effective: June 15, 2007

Katherine A. Antwi

Student Representatives

SB 276 by Wentworth and Rose

Relating to student members of the board of regents of a state university or state university system.

SB 276 relates to the selection process for the position of student regent. Under the law, the student government of each academic or medical institution in a university system solicits applications for the position, selects five applicants, and sends their applications to the chancellor after removing the names of the applicants and the name of the institution. SB 276 repeals the requirement to remove the applicant's name and the name of the university from the applications submitted to the chancellor.

SB 276 also changes the dates for soliciting and transmitting the names of applicants for student regent and changes the dates of the student regent's term. The student government is required to solicit applicants by November 1 (as opposed to September 1) and send the selected applications to the chancellor by January 1 (as opposed to November 1). The chancellor is required to send the system's recommendations to the governor by February 1 (as opposed to December 1). The governor may request an applicant to submit additional information, and is required to appoint the student regent on June 1, or as soon thereafter as practicable, for a term expiring May 31 (as opposed to February 1). The term of a student regent whose term was to expire on February 1, 2008, will serve until May 31, 2008.

SB 276 also requires the student regent to be in good academic standing as determined by the institution at the time of appointment and to remain enrolled at the institution. The student regent must maintain at least a 2.5 GPA throughout the term. The president of the institution is required to notify the governor if the student regent fails to maintain the required qualifications. If the governor receives such a notice, the governor shall declare the position of student regent vacant and shall fill the vacancy as soon as practicable for the unexpired term in consultation with the chancellor.

The bill also provides that the student regent serves without compensation but is entitled to reimbursement for actual expenses incurred in attending board meetings, subject to approval of the chairman.

Similar provisions apply to student regents at state universities.

The changes apply to a student regent serving on or appointed after May 23, 2007.

Impact: SB 276 allows the chancellor to see the name of each student regent applicant submitted to him or her, as well as the name of the institution in which the applicant is enrolled. SB 276 also changes deadlines in the appointment process, changes the student regent's term of office to more closely coincide with the academic year, and provides academic qualifications. Institution presidents are required to notify the governor if a student regent fails to maintain the required qualifications, and thus the presidents should be aware of SB 276.

Effective: May 23, 2007

Karen Lundquist

SB 1007 by West/Van de Putte and Giddings

Relating to student representation on the Texas Higher Education Coordinating Board and certain coordinating board advisory committees.

SB 1007 provides for a nonvoting student representative on the Coordinating Board. The appointment process, qualifications, powers and duties, and term of the student representative are substantially similar to those provided for the student regent. The student representative has the right to attend and participate in Coordinating Board meetings but may not vote or make any motions, and is not counted in determining whether a quorum exists. Any vacancy in the position is filled for the unexpired term by appointment by the governor.

The Coordinating Board is required to develop a uniform application form to be used by each institution of higher education to solicit applicants for the position. By November 1 of each year, the student government of each institution or unit in a university system is required to solicit applicants for appointment. The student government selects five applicants and sends the applications to the Chancellor by January 1. The Chancellor then selects two or more applicants and sends the applications to the governor by February 1. On June 1 or as soon as practicable, the governor is required to appoint one of the applicants to serve as the student representative for a one-year term.

The student representative must be enrolled as an undergraduate or graduate student at the time of appointment and be enrolled throughout the term, and be in good academic standing at the time of appointment. The student representative serves without compensation but is entitled to reimbursement incurred in attending meetings of the Coordinating Board or in attending to other work of the board. An institution at which a current student representative was enrolled may not solicit applicants for the next regular term.

SB 1007 also provides for nonvoting student representatives on certain Coordinating Board advisory committees. By August 1 of each year, the Coordinating Board must send to each institution of higher education a list of available positions for student

representatives on board advisory committees, the terms, and duties and requirements for each position. By September 1, each president must establish a nomination process and must forward to the Coordinating Board by December 1 the applications selected by the president. By February 1, the Coordinating Board is required to appoint a total of not less than four student representatives to designated advisory committees. The student representatives may attend and participate in committee meetings but may not vote and are not counted in determining whether a quorum exists. The student representative must meet the minimum requirements prescribed for a student regent, and serves without pay.

The initial term of the student representatives expire May 31, 2009.

Impact: The Chancellor of UT System will be required to select applicants for the Coordinating Board student representative and recommend them to the governor for appointment. The Presidents of UT System institutions will be required to solicit applicants for student representative on the Coordinating Board's advisory committees and make recommendations to the Coordinating Board. Procedures should be developed to implement SB 1007 as soon as practicable.

Effective: September 1, 2007

Karen Lundquist

Civil Liability and Claims

HB 1183 by Otto and Nichols

Relating to liability of landowners who allow their land to be used for radio control flying and related activities.

HB 1183 amends Chapter 75 of the Civil Practices and Remedies Code to add "radio controlled flying and related activities" to the list of recreational activities for which the liability of a land owner (including the state) is limited when a grant or invitation is made to a person to make use of the owner's land for recreational purposes. A landowner's potential liability for injury is not impacted by radio controlled flying activities originating on a landowner's property that causes injury outside the bounds of that property.

Impact: HB 1183 applies to UT System and its institutions and limits liability in a suit related to a person being given permission to use university property for the purpose of "radio controlled flying and related activities."

Effective: June 15, 2007

Leo L. Barnes

HB 1194 by England/Madden and Harris

Relating to indemnification of phlebotomists performing services under contract with the Texas Department of Criminal Justice.

State law requires an offender incarcerated in a facility operated by the Texas Department of Criminal Justice (TDCJ) to provide a specimen, collected by medical staff, to be included in the DNA database administered by the Department of Public Safety. TDCJ contracts with phlebotomists to collect such samples from offenders who will not comply with the requirement to the point that force is necessary to obtain the sample. However, the law does not indemnify phlebotomists from civil damages if an offender files suit, and some phlebotomists have raised concerns about such litigation.

HB 1194 indemnifies phlebotomists who perform such services for TDCJ.

Impact: HB 1194 does not impact UT System directly, and it does not impact UT System phlebotomists in practical terms because such employees' liability is now statutorily limited and they are already entitled to indemnification under Section 104.001, Civil Practice and Remedies Code.

Effective: June 15, 2007

Lannis Temple

HB 1560 by Callegari and Jackson

Relating to liability of a governmental unit for certain recreational activities.

HB 1560 adds "paintball use" to those recreational activities listed in Chapter 75 of the Civil Practices and Remedies Code for which governmental units have only limited liability when taking place on government owned, operated, or maintained premises designated for such activities. Warning signs with prescribed language, which now includes "paintball use," must be posted on such premises.

Impact: HB 1560 would impact any UT System institutions that own, operate, or maintain premises that are designated for "paintball use."

Effective: May 25, 2007

Leo L. Barnes

SB 300 by Ellis and Paxton

Relating to the duration of judgement liens in favor of the state.

Under current law, a judgment becomes dormant if it is not renewed every 10 years by issuing a writ of execution, and a judgment lien ceases to exist upon a judgment's

dormancy. The judgment renewal process costs about \$90 or more. SB 300 provides that a judgment in favor of the state or a state agency (including an institution of higher education) will no longer become dormant.

SB 300 also amends Section 52.006, Property Code, to provide that a properly filed abstract of judgment constitutes a lien and does not expire until 20 years after its recordation date or the date the judgment is satisfied or the lien released. The lien may be renewed for one more 20-year period by filing a renewed abstract of judgment before the expiration of the original abstract of judgment. This applies to judgments not yet dormant as of April 23, 2007, liens on record before April 23, 2007, and judgments and abstracts entered and recorded after April 23, 2007.

Impact: By definition UT System and its institutions are among the state agencies whose judgments will no longer become dormant. This will save UT System and its institutions time and money because they no longer will have to renew or revive judgments. UT System and its institutions will have to renew their judgment liens by filing renewed abstracts of judgment, but increasing the time period from 10 years to 20 years should save UT System and its institutions thousands of dollars in court costs and attorney and staff time by not having to renew them every 10 years. Although UT System and its institutions may no longer renew judgment liens ad infinitum but rather are limited to a single renewed abstract of judgment, they still may file abstracts of judgment ad infinitum if they wish.

Effective: April 23, 2007

Hannah D. Huckaby

SB 512 by Harris and Solomons

Relating to the attachment of a judgment lien to homestead property.

SB 512 provides guidelines for the release of a judgment lien as to homestead property. According to these guidelines, a judgment debtor may file an affidavit, which must substantially comply with certain form and language, in the real property records of the county in which the judgment debtor's homestead is located, and this affidavit would serve as a release of record of a judgment lien filed in that county. At the time of filing, the judgment debtor must attach to the affidavit-homestead-release evidence that, before the filing, the debtor sent to the judgment creditor by registered or certified mail, return receipt requested, a letter and copy of the affidavit-homestead-release. If the affidavit-homestead-release is properly filed, complies with statutory form and language, and includes evidence of this notice to the judgment creditor, then a bona fide purchaser or a mortgagee for value or a successor or assign of a bona fide purchaser or mortgagee for value may rely conclusively on the affidavit-homestead-release.

The judgment creditor may file a contradicting affidavit in the county's real property records asserting that the affidavit-homestead-release is untrue or other reasons that the judgment lien attaches to the property at issue. An affidavit-homestead-release does not

serve as release of record of a judgment lien with respect to a purchaser or mortgagee of real property that acquires the purchaser's or mortgagee's interest from the judgment debtor after the filing of this contradicting affidavit.

SB 512 affects judgment liens recorded on or after September 1, 2007.

Impact: SB 512 will affect all future judgment liens that are filed on behalf of UT System and its institutions. In response to an affidavit-homestead-release, UT System must research property and write and file papers, which was not previously required. UT System's contradicting affidavits must be filed with counties' property records, which will entail filing fees of about \$9 to \$20 per affidavit, depending on the county. There does not appear to be much oversight of this process.

Effective: September 1, 2007

Hannah D. Huckaby

SB 924 by Brimer and Solomons

Relating to rules and policies adopted by state agencies regarding engineering or architectural errors or omissions.

SB 924 amends Government Code Chapter 2252, Subchapter Z ("Contracts with Government Entity, Miscellaneous Provisions") by adding new Section 2252.904, entitled "Certain Rules or Policies of State Agencies." The bill sets out a number of broad, and sometimes vague, requirements and guidelines that a state agency must follow if it adopts a "rule or policy relating to the recovery of costs arising from an engineering or architectural error or omission (E&O) by a private design professional" on a project. "State agency" is defined broadly enough to include an institution of higher education, but institutions are not expressly included.

In addition to requiring notice to design professionals of any potential error or omission in the construction documents and allowing them an opportunity to participate in resolving them, SB 924 would require, among other things, that the "rule or policy" provide: "guidelines" for determining whether change orders were due to E&O; a "formula" for determining the cost of E&O claims; an evaluation of the totality of the design professional's performance on the project; a process for tracking E&O of agency employees; and a process for appealing an agency claim for cost to the State Office of Administrative Hearings without requiring the design professional to pay the claim.

Impact: The impact of SB 924 on UT System projects is uncertain because many of the requirements of the bill are poorly defined/described and there is no apparent penalty for failing to follow them. In addition, UT System has not adopted any formal "policy" regarding the recovery of E&O damages. However, to the extent that the requirements of the bill can be understood and complied with, the bill would appear to increase the level of documentation, analysis, and review associated with professional E&O claims on construction projects, and any future policy adopted by UT System relating to the

recovery of E&O costs from a design professional must be consistent with the requirements of the statute.

Effective: September 1, 2007

Edwin Smith

SB 1615 by Averitt/Duncan and Isett

Relating to the collection of delinquent obligations owed to the state.

SB 1615 affects the relationship between state agencies and the entities they contract with to collect their delinquent obligations or debt. For the purposes of this analysis, these entities will be referred to as “contractors” and these types of contracts as “contracts.”

SB 1615 establishes statutory authority for UT System institutions to recover collection costs from a debtor, not to exceed 30 percent of the total amount of the debt owed. It appears that only the collection costs incurred under a Contract can be recovered under this provision. It will not allow the recovery of collection costs incurred when the institutions are pursuing the debt themselves or through the Office of General Counsel (OGC).

The bill makes it clear that UT System institutions may share confidential information with a contractor as necessary to collect a debt, and that the contractor must protect the information just as the institutions are required to do.

The bill states that contracts must include insurance provisions protecting UT System institutions from liability for a contractor’s actions (i.e. reasonable insurance coverage for damages negligently, recklessly, or intentionally caused by the contractor) and specifically states that the contractor is subject to Chapter 392 of the Finance Code (the Texas Debt Collection Act).

The bill amends 2254.102(c) of the Government Code and exempts these contracts from the rather complicated approval process now in place for contingency fee contracts for legal services.

Impact: If UT System institutions wish to recover the statutory 30 percent collection costs from the debtor, additional controls will be required. Only collection costs incurred under contracts entered into on or after September 1, 2007, will be recoverable under this statutory authorization. Many agreements UT System institutions currently have with debtors (i.e. student loan notes) already include the contractual right to recover these collection costs, but may provide for percentages greater or less than 30 percent. The bill does not specifically state that such contractual terms trump the statutory percentage, so agreements may need to be reviewed for potential conflict. Additional instruction on this point will be provided by OGC in the near future.

Contracts covered by this bill that are entered into on or after September 1, 2007, must include the insurance provisions required by the bill. Form contracts should be reviewed and modified if necessary. Individuals responsible for drafting these contracts should be notified of the insurance clause requirement.

Statutory authority allowing release of confidential information to contractors is beneficial to the institutions.

Exemption from the contingent fee approval process could have a positive impact on revenues, although the bill's prohibition against granting litigation rights to a contractor creates a question as to whether we can exempt this type of litigation from the approval process.

(Note: The bill establishes a 30 percent cap on the compensation that can be paid to a contractor, but only as to contracts dealing with the collection of debt owed to the state comptroller's office. As such, this cap does not impact UT System institutions. Further, the bill requires state agencies to refer delinquent debt to the attorney general within 90 days of delinquency, instead of the current 120 days, if the debt meets the attorney general's guidelines. This shortened window does not apply to UT System institutions, which are instead required to follow OGC guidelines when referring delinquent debt for collection, per a delegation to OGC from the attorney general.)

Effective: September 1, 2007

Traci L. Cotton

SB 2031 by Ogden and Chisum

Relating to requiring legislative consent or approval of the settlement or compromise of a claim or action against the state that will involve state expenditures exceeding a certain amount.

SB 2031 requires agencies, institutions, and other entities of state government to obtain consent or approval of the legislature to settle matters if the settlement requires the state to pay total monetary damages exceeding \$25,000,000 in a state fiscal biennium or when a settlement commits the state to a course of action that in reasonable probability will entail a continuing increased expenditure of state funds over subsequent state fiscal bienniums. This requirement applies to any claim or any action against the state under any theory that is brought or may be brought before any court, administrative agency, or other tribunal. Settlements entered into without prior legislative consent or approval are void unless the agreement is expressly conditioned on obtaining legislative consent or approval. SB 2031 includes procedures for agencies, institutions, and other entities of state government to obtain legislative consent or approval. The attorney general is required to file a report of matters that may be settled in a manner that requires legislative consent or approval to the lieutenant governor, the speaker of the house, and certain legislative committees. SB 2031 does not apply to a refund of tax, fee, or any related penalty or interest.

Impact: SB 2031 requires UT System and its institutions to obtain legislative consent to settle claims or lawsuits that have monetary damages exceeding \$25,000,000 in a state fiscal biennium or that will commit state funds over subsequent state fiscal bienniums. Such high level lawsuits are rare and usually are a result of class action claims. SB 2031 does not apply to claims or lawsuits filed by UT System or its institutions. It is not clear whether SB 2031 applies to claims or actions against state employees.

Effective: June 15, 2007

Helen Bright

Law Enforcement and Security

HB 460 by Miller/Aycock and Hegar

Relating to the offense of fraudulent use or possession of a person's identifying information.

HB 460 increases the penalties imposed for violations of Section 32.51(a)(1) of the Penal Code, which makes it a crime to obtain, possess, or use an item of identifying information of another individual with the intent to harm or defraud another. Originally, the offense was punishable only as a state jail felony, which carries a maximum penalty of two years in jail, regardless of the amount of information involved. As amended, the penalty for a violation of this section increases based on the number of items the offender obtains, possesses, or uses. For example, an offense involving fifty or more items is now a first degree felony, which carries a maximum penalty of imprisonment for up to 99 years. In addition, the bill makes it an offense to collect, possess, or use identifying information about a deceased individual, including a stillborn fetus. Finally, it permits a person to be prosecuted for both a violation of this law and any other applicable law.

Impact: UT System and its institutions are often the target of computer hacking attempts and other attempts to access identifying information held by the institution about students, patients, and employees. HB 460 may help to deter such attempts. It also provides university police with more flexibility in charging individuals who are alleged to have committed identity theft.

Effective: September 1, 2007

Barbara M. Holthaus

HB 486 by Driver and Hegar

Relating to the continuing education requirements for chiefs of police.

HB 486 provides the Commission on Law Enforcement Officer Standards and Education with rulemaking authority to: 1) establish a uniform 24-month continuing education training period for police chiefs; 2) establish the first continuing education training period

for a police chief to begin the first day following the date the initial training was completed; and 3) provide for an orderly transition for police chiefs to a uniform continuing education training period.

Impact: HB 486 provides for uniform continuing education training periods for police chiefs at UT System institutions.

Effective: June 15, 2007

Katherine A. Antwi

HB 495 by Bonnen and Seliger

Relating to relating to the punishment for assault of emergency services personnel; imposing a criminal penalty.

HB 495 provides that it is a felony of the third degree for assaulting emergency services personnel while the person is providing emergency services.

Impact: Assaults against UT System personnel who provide emergency services in the course and scope of employment will now be third-degree felonies.

Effective: September 1, 2007

Lannis Temple

HB 1572 by Woolley and West

Relating to an exception from civil discovery for certain records of a law enforcement agency.

HB 1572 provides the supreme court with rulemaking authority to create an exception from discovery to the investigative files, strategies, and techniques from ongoing investigation of a nonparty law enforcement agency as defined by the Code of Criminal Procedure. The bill sets forth mandatory guidelines for the supreme court in adopting the rules and provides that the rules take effect January 1, 2008.

Impact: HB 1572 excepts the police departments of UT System and its institutions from participating in discovery of pending litigation in certain circumstances.

Effective: September 1, 2007

Katherine A. Antwi

HB 1955 by Elkins and Hegar

Relating to the licensing of certain peace officers by the Commission on Law Enforcement Officer Standards and Education.

HB 1955 allows a retired peace officer, unless his or her license was revoked, to continue to hold an inactive license but not serve as a peace officer until the license is reactivated. The Commission on Law Enforcement Officer Standards and Education is authorized to waive the reactivation fee of a retired peace officer who is eligible for reactivation. The commission is also required to adopt rules for the reactivation of a retired peace officer's license.

Impact: HB 1955 provides for reactivation of the licenses of retired peace officers of UT System and its institutions.

Effective: June 15, 2007

Katherine A. Antwi

HB 2210 by Bolton and Ellis

Relating to law enforcement reports concerning the commission of certain offenses and the provision of certain information in those reports to victims of those offenses.

HB 2210 requires peace officers who investigate certain classes of assaults and threats to prepare a written report as set forth in statute. The bill also directs a local law enforcement agency responsible for investigating the specified offenses to provide to the victim, upon request, a copy of the written report free of charge.

Impact: HB 2210 adds additional recordkeeping requirements for UT System and its institutions related to certain investigative reports by police officers.

Effective: September 1, 2007

Katherine A. Antwi

HB 2445 by Driver/Aycock and Williams/West

Relating to certain employment records maintained by the Commission on Law Enforcement Officer Standards and Education; providing an administrative penalty.

HB 2445 authorizes a law enforcement officer's previous employer, upon receipt of appropriate documents, to turn over the applicant's employment records to a hiring law enforcement agency. Also, the head of a law enforcement agency, upon resignation, retirement, termination, or separation of a law enforcement officer for any other reason, must include in the report to the Texas Commission on Law Enforcement Officer Standards and Education the type of discharge applicable to the law enforcement officer.

HB 2445 provides definitions for honorable discharge, general discharge, and dishonorable discharge. Further, a person who resigned, retired, or was terminated from duties as a peace officer may provide an explanation of the circumstances, which will be included in the report submitted by the head of the law enforcement agency.

HB 2445 also provides for the suspension and appeal of a license for a law enforcement officer who has been dishonorably discharged. An administrative law judge, using a preponderance of the evidence standard, must review any contest of an order of the Commission on Law Enforcement Officer Standards and Education. Venue is in the county where the offense occurred or in Travis County.

Impact: HB 2445 adds additional reporting requirements for UT System and its institutions related to police officers who resign, retire, are terminated, or who separate for any other reason.

Effective: September 1, 2007

Katherine A. Antwi

HB 3613 by Latham and Deuell

Relating to identification cards issued to peace officers, reserve law enforcement officers, and honorably retired peace officers by a law enforcement agency or other governmental entity.

HB 3613 requires a law enforcement agency or other governmental entity to provide its peace officers and reserve law enforcement officers with specified identification cards. A law enforcement agency or other governmental entity may provide an identification card to its honorably retired peace officers. A law enforcement agency or other governmental entity shall set the expiration date of the cards and take specific action on a lost or stolen card. All cards must be issued no later than January 1, 2008.

Impact: HB 3613 requires UT System and its institutions to issue peace officer identification cards containing information specified by law no later than January 1, 2008. All police departments should be aware of this requirement and make plans to issue the identification cards by January 1, 2008.

Effective: September 1, 2007

Katherine A. Antwi

SB 11 by Carona and Corte

Relating to homeland security and protection of the public, including protections against human trafficking; providing a penalty.

SB 11 establishes a statewide mutual aid system to provide integrated statewide aid response capacity between local government entities for homeland security and protection of the public. It provides additional leave time not to exceed 10 days to a state employee who holds an amateur radio station license issued by the Federal Communications Commission to participate in specialized disaster relief services. It also provides additional leave time for a member of a state or federally authorized urban search and rescue team for the time that the person is engaged in authorized training or duty ordered or authorized by proper authority for not more than 15 workdays in a federal fiscal year. SB 11 requires the Department of State Health Services (DSHS) to maintain a registry of persons who receive immunization and medication administered to prepare for a potential disaster or emergency. A health care provider who administers an immunization, antiviral, or other medication shall provide the data elements to DSHS at the request of a “first responder” or his/her immediate family member.

SB 11 expands the list of offenses for which interceptions may be authorized to include kidnapping, human trafficking, and money laundering.

SB 11 provides that institutions of higher education may use, for a fee, a plan developed by the Texas School Safety Center which serves as a resource for school safety training programs and multihazard emergency operations plans.

SB 11 adds a provision to the open-enrollment charter school statutes to state that open-enrollment charter schools are subject to any law (not just the Open Meetings or Public Information Acts) that concerns open meetings or the availability of information that applies to school districts, school district trustees, or students.

SB 11 provides additional exceptions to the Open Meetings Act provision that authorizes a governmental body to deliberate in closed meeting regarding security devices by authorizing closed deliberations regarding a security audit.

Impact: UT System law enforcement and health and safety offices should be aware of SB 11. UT System human resource offices should amend leave policies to reflect the additional leave benefits for amateur radio station license holders and urban search and rescue team members. UT System health care providers should be aware of the provisions of SB 11 regarding the reporting requirement associated with administering immunizations or antiviral or other medication to “first responders.” UT System institution charter schools should be aware of the provisions of the bill stating that open-enrollment charter schools are subject, in addition to the Open Meetings and Public Information Act, to any other law that concerns open meetings or the availability of information that applies to school districts, school district trustees, or students. The Office of the Board of Regents should be aware of the provisions of the bill that create

additional exceptions under the Open Meetings Act regarding security audit deliberations.

Effective: September 1, 2007, except Article 1 takes effect June 6, 2007

Priscilla A. Lozano

SB 112 by Carona, et al. and Corte, et al.

Relating to the confiscation of firearms and ammunition during a state of disaster.

SB 112 provides for an individual who is lawfully carrying or possessing a firearm or ammunition to be excepted from seizure or confiscation of the firearm or ammunition under the state statutory provisions of emergency management and state of emergency. Also, a peace officer who is acting in the lawful execution of his or her official duties during a state of disaster may disarm an individual if the officer reasonably believes that it is immediately necessary for the protection of the officer or another individual. Further, the officer shall return the firearm to the individual before ceasing to detain the individual unless the individual is arrested for engaging in criminal behavior or the firearm is seized as evidence in a criminal investigation.

Impact: SB 112 provides additional duties and responsibilities for police departments of UT System and its institutions.

Effective: April 27, 2007

Katherine A. Antwi

SB 563 by Ogden/Hinojosa and Madden

Relating to assistance by the attorney general in the prosecution of certain offenses involving the use, unlawful appropriation, or misapplication of state property or unlawful conduct in certain state-funded facilities or on other state property; providing unlawful appropriation or misapplication of state property or unlawful conduct in certain state funded facilities; providing a criminal penalty.

SB 563 gives concurrent jurisdiction, with the consent of the local prosecutor, to the attorney general with regard to any offense an element of which occurs on state property or any offense that involves the use, unlawful appropriation, or misapplication of state property, including state funds. SB 563 also increases the criminal penalties to a felony of the second degree if the offense is committed against a juvenile offender detained in or committed to a correctional facility, the operation of which is financed primarily with state funds. SB 563 began as another tool for the attorney general to prosecute Medicaid fraud, but was changed after the scandal involving the Texas Youth Commission.

Impact: SB 563 is aimed at the type of offense that occurred at the Texas Youth Commission. However, it is written so broadly that it could apply to UT System health institutions and could increase the criminal penalties if a juvenile offender is involved in an offense that occurs on the property of one of the institutions, such as sexual exploitation.

Effective: June 15, 2007

Brenda Strama

SB 1709 by Hegar and Turner

Relating to procedures to limit the carrying of handguns by persons other than peace officers on certain premises used for law enforcement.

SB 1709 provides that a peace officer who is acting within the scope of the officer's official duties may temporarily disarm a license holder when the individual enters a nonpublic, secure area of a law enforcement facility. When the individual leaves, the peace officer shall return the handgun. Notice of this provision must be given to individuals, and SB 1709 provides guidelines for the notice.

Impact: The police departments of UT System and its institutions should be made aware of this bill.

Effective: September 1, 2007

Katherine A. Antwi

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**The University of Texas System
Summary of House Bill 1, 80th Legislature
2008-09 General Appropriations Act
As Modified by Governor's Veto Proclamation
(HB 1 Higher Education Summary)**

General Revenue appropriations for all of higher education, including amounts estimated for employee benefits, total approximately \$12.4 billion for the 2008-09 biennium. This represents an increase of \$1.35 billion in General Revenue or 12 percent over the 2006-07 biennium.

For the University of Texas General Academic Institutions, Health-related Institutions, and System Administration, House Bill 1 includes \$3.21 billion in General Revenue appropriations for 2008-09, an increase of \$318.5 million compared to 2006-07. General Revenue appropriations total \$1.49 billion for the nine UT General Academic Institutions; \$1.70 billion for the six UT Health-related institutions; and \$14.64 million for the UT System Administration.

2008-09 General Revenue appropriations to the UT System represent a net increase of \$318.5 million compared to 2006-07. Of this amount, \$171.4 million or 6.23 percent is an increase in operating funds, and the balance is an increase to fund tuition revenue bond (TRB) debt service.

Included in the overall increase of \$318.5 million for the UT institutions are the following amounts:

- \$60.9 million in additional formula funding for the UT General Academic and Health-related Institutions
- \$12.7 million in formula hold harmless for the General Academic Institutions
- \$54.9 million in direct and rider¹ appropriations for new and increased Special Items for the General Academic and Health-related Institutions
- An increase of \$19.7 million for the Research Development Fund that benefits the General Academic Institutions (with the exception of UT Austin)
- \$39 million for the new Texas Competitive Knowledge Fund (offset by \$16.2 million of existing General Revenue appropriations) for UT Austin; and
- An increase of \$147.1 million for debt service on new and existing TRBs for the General Academic and Health-related Institutions and System Administration.

A reconciliation of the 2008-09 changes in General Revenue for the UT Institutions and System Administration by item of appropriation is provided at the end of this section in the spreadsheet

¹ Article III, Section 54, as modified by the Governor's Veto Proclamation, appropriates \$28.5 million in Special Items to the UT General Academic and Health-related Institutions.

titled *The University of Texas System, 2008-09 General Revenue Appropriations, HB 1 Reconciliation, As Modified by the Governor's Veto Proclamation.*

The operating fund increases (net of TRB debt service) of \$171.4 million include General Academic Institutions' increases totaling \$84 million, or 6.75 percent, and Health-related Institutions' increases totaling \$87.4 million, or 5.8 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, House Bill 1, 80th Legislature, 2008-09 General Appropriations Act* at the end of this section.

General Revenue appropriations for Higher Education Group Insurance (HEGI) contributions for the UT institutions total \$304.7 million for the biennium, an increase of \$18.2 million. 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, 80th Legislature, 2008-09 General Appropriations Act, Higher Education Group Insurance – 2006-07 Biennium vs. 2008-09 Biennium* at the end of this section.

Two additional spreadsheets provided at the end of this section present the General Revenue funding levels for all 35 General Academic Institutions and nine Health-related Institutions. These spreadsheets are titled *State of Texas General Academic Institutions* and *State of Texas Health-related Institutions, 2008-09 General Revenue Appropriations, House Bill 1 As Modified by the Governor's Veto Proclamation.*

GENERAL ACADEMIC INSTITUTIONS

Total General Revenue funding for the General Academic Institutions, System Offices, Two-year Lamar State Colleges, and Texas State Technical Colleges totals \$4.52 billion for 2008-09, an increase of \$402.5 million over 2006-07. Funding increases are made up primarily of formula funding, new or increased Special Items, the new Texas Competitive Knowledge Fund, an increase to the Research Development Fund, and increased funding for tuition revenue bond debt service.

Formula Funding

General Revenue funding for the General Academics, formulas totals \$3.01 billion for 2008-09, and includes the following increases:

- An increase of \$26.2 million to fund enrollment growth of 1.1 percent. Funds for enrollment growth are allocated only to the Instruction & Operations formula as has been done historically;
- An increase of \$66 million to enhance formula funding. This formula enhancement is allocated 83 percent to the Instruction & Operations formula and 17 percent to the Infrastructure formula; and

- Special item funding of \$6.8 million at Texas A&M – Galveston was transferred to formula funding.

The Instruction & Operations formula funds are allocated using the cost-based formula matrix at a 75 percent phase-in (with no hold harmless built into the matrix). Funds are allocated based on semester credit hours from the summer 2006, fall 2006, and spring 2007 semesters.

Six UT General Academic Institutions receive formula increases that total \$32.2 million, not including formula hold harmless funding:

- \$6.2 million, or 6 percent, for UT Dallas
- \$4.1 million, or 4.3 percent, for UT El Paso
- \$5.3 million, or 6.8 percent, for UT Pan American
- \$4.2 million, or 23.2 percent, for UT Brownsville
- \$1.3 million, or 8.9 percent, for UT Permian Basin
- \$11.1 million, or 9.5 percent, for UT San Antonio

Formula Hold Harmless

Institutions that were negatively impacted by the Instruction and Operation formula, either due to enrollment declines or changes in the formula funding matrix, are appropriated 100 percent formula hold harmless. Formula hold harmless in the amount of \$33.7 million is provided for all General Academic Institutions, except for UT Austin and one Texas State Technical College, to maintain formula funding at the 2006-07 levels.

Two UT institutions receive formula hold harmless appropriations for 2008-09. UT Arlington is appropriated \$12.5 million and UT Tyler is appropriated \$265,000 to maintain their formula funding at the 2006-07 level of General Revenue formula funding.

Although General Revenue formula appropriations for UT Austin decreased by \$9.9 million, or -2.2 percent, the institution did not receive formula hold harmless funding for 2008-09.

New or Additional Funding for Special Items

HB 1 adds \$18.9 million for new or increased Special Items for the UT General Academic Institutions. Special Items that were added in either the House or Senate version of HB 1 are appropriated to the institutions directly in their bill pattern. Special Items added by the Conference Committee are appropriated in Article III Special Provisions, Section 54.

Direct appropriations to UT General Academic Institutions for Special Items total \$13.4 million, including:

- An additional \$3 million to UT Austin for the McDonald Observatory
- An additional \$362,500 to UT Austin for the Garner Museum
- \$9 million to UT Permian Basin for Instruction Enhancement
- \$500,000 to UT Permian Basin in operating funds for the Performing Arts Center
- An additional \$533,182 to UT San Antonio for the Small Business Development Centers (SBDC). The SBDC is a revenue-neutral appropriation.

Special Items added by the Conference Committee are appropriated by rider in Article III Special Provisions, Section 54². A total of \$87.2 million for all of higher education is appropriated in Section 54 for new Special Items, including \$5.5 million for the following UT General Academic institutions:

- UT Austin \$2 million for the Marine Science Institute
- UT Dallas \$2 million for Science, Engineering & Math
- UT Tyler \$1.5 million for Institutional Enhancement

In addition to funding in Article III, funds appropriated to the Texas Department of Transportation include an amount not to exceed \$7.5 million for facility enhancements (to construct access roads and parking lots) at UT Permian Basin.

Texas Competitive Knowledge Fund

The Texas Competitive Knowledge Fund (TCKF) is a new fund that benefits four institutions: UT Austin, Texas A&M-College Station, the University of Houston, and Texas Tech University. These four institutions received Special Item funding in the 2006-07 biennium of \$66.2 million for faculty excellence and Institutional Enhancement.

For 2008-09, these amounts have been re-allocated through the TCKF along with increased General Revenue of \$27 million. The total amount of the TCKF is \$93.2 million for the 2008-09 biennium. The existing (2006-07) appropriations transferred to the TCKF and the new TCKF allocations for the four institutions are as follows:

² Article III, Section 54, as modified by the Governor's Veto Proclamation, appropriates \$28.5 million in Special Items to the UT General Academic and Health-related Institutions.

	2006-07	2008-09 TCKF
UT Austin	\$16.2 million, Institutional Enhancement	\$39.4 million
Texas A&M	\$40 million, Institutional Enhancement	\$40.5 million
Univ. of Houston	\$5 million, Faculty Excellence	\$ 8.2 million
Texas Tech	\$5 million, Faculty Excellence	\$ 5.1 million
Total	\$66.2 million	\$93.2 million

Funds are allocated from the TCKF to the four institutions based on 5 percent of the average of Total Research Expenditures as reported to the Texas Higher Education Coordinating Board (THECB) for fiscal years 2003, 2004, and 2005. A threshold of \$50 million in total research expenditures was established in order to participate in the TCKF for 2008-09.

Higher Education Incentive Funding

Higher Education Incentive Funding is outlined in Article III Special Provisions, Section 55, and includes the following four sections:

1. Appropriations for the Texas Competitive Knowledge Fund. The TCKF is appropriated to four institutions as a strategy in each institution's bill pattern:
 - UT Austin \$39.4 million
 - Texas A&M-College Station \$40.5 million
 - University of Houston \$8.2 million
 - Texas Tech University \$5.1 million

Of the amounts appropriated to the TCKF, \$15 million for the biennium is contingent upon the Comptroller's certification of available General Revenue above the January 2007 Biennial Revenue Estimate. In August 2007, the Comptroller certified that sufficient state revenue is available to fund the TCKF.

2. \$80,863,000 is appropriated for the RDF, an increase of \$38 million from 2006-07. UT institutions are appropriated \$33.9 million from the RDF for the 2008-09 biennium:
 - UT Arlington \$6.36 million, an increase of \$2.8 million
 - UT Dallas \$9.87 million, an increase of \$6.2 million
 - UT El Paso \$8.41 million, an increase of \$4.8 million
 - UT Pan Am \$1.31 million, an increase of \$877,000
 - UT Brownsville \$1.38 million, an increase of \$987,000
 - UT Permian Basin \$408,000, an increase of \$158,000
 - UT San Antonio \$5.96 million, an increase of \$3.8 million

- UT Tyler \$239,000, a decrease of \$10,800
3. Professional Nursing Shortage Reduction Program at the Texas Higher Education Coordinating Board is funded at \$14.7 million for the biennium and is outlined in THECB Rider 40.
 4. Higher Education Performance Incentive Initiative. \$100 million in additional General Revenue in FY 2009 is appropriated for the Higher Education Performance Initiative at the THECB. The THECB in conjunction with the Governor's Office will develop an incentive program for improvements in teaching and educational excellence at public general academic teaching institutions.

THECB will submit an initial proposal to the Legislative Budget Board and the Governor's Office for the Higher Education Performance Incentive Initiative Program by January 1, 2008. The THECB has announced that its board will consider the proposal at the October 2007 meeting.

These funds may also be used to provide scholarships for undergraduate students who have graduated with a grade point average in the top 10 percent of the student's high school graduating class from an accredited Texas high school.

Early indications are that the \$100 million will be divided 492 million for teaching and educational excellence and \$8 million for scholarships.

Tuition Revenue Bond Debt Service

HB 1 appropriates a total of \$685.4 million for all of higher education for tuition revenue bond (TRB) debt service for 2008-09, including \$492.1 million for the General Academic Institutions.

Of the total appropriation to all of higher education for TRBs, \$313.1 million is for debt service on new TRBs authorized by House Bill 153, 79th Legislature, Third Called Session, 2006 (HB 153).

Overall, the nine UT General Academic Institutions and UT System Administration are appropriated a total of \$176.7 million for the 2008-09 biennium for TRB debt service, of which \$111.8 million is for new TRB authorizations. The appropriation to UT System Administration is for debt service for the Natural Science and Engineering Research Building at UT Dallas.

TRB debt service appropriations for the Health-related Institutions are discussed in the TRB section for those institutions.

HEALTH-RELATED INSTITUTIONS

Total General Revenue funding for the nine public Health-related Institutions plus the Baylor College of Medicine is \$2.24 billion for the 2008-09 biennium, an increase of \$228.8 million

over 2006-07. Funding increases are made up primarily of formula funding, new or increased Special Items, and increased funding for TRB debt service.

Formula Funding

HB 1 includes the following formula funding increases for the Health-related Institutions:

- A \$22.3 million increase for Instruction & Operations to fund non-weighted student enrollment growth as has been done historically.
- An increase of \$34.4 million for formula enhancement. These funds are distributed \$25.9 million (75.3 percent) to Instruction & Operations, \$6.6 million (19.2 percent) to Infrastructure, and \$1.9 million (5.5 percent) to Research Enhancement. Included in the Infrastructure formula funding is an Infrastructure formula supplement of \$287,000 for the UT Health Center at Tyler.
- An increase of \$37.8 million for Graduate Medical Education (GME), including \$3 million transferred from THECB's GME Strategy to the GME formula.

GME appropriations for 2006-07 and 2008-09 are shown in the table below.

Graduate Medical Education	2006-07 Biennium \$ in Millions	2008-09 Biennium \$ in Millions	\$ Increase \$ in Millions	% Increase
UT Southwestern	\$5.82	\$13.24	\$7.42	127.7%
UT Medical Branch at Galveston	2.54	6.79	4.26	167.8%
UT Health Science Center (HSC) at Houston	3.53	8.63	5.1	144.4%
UT HSC at San Antonio	3.04	7.54	4.50	148.2%
UT M.D. Anderson Cancer Center	0.42	1.21	0.79	188.4%
UT Health Center at Tyler	0.11	0.27	0.16	144.7%
Texas A&M HSC	1.41	5.35	3.94	280.1%
University of North Texas HSC	0.62	1.59	0.97	156.3%
Texas Tech University HSC	2.32	5.33	3.01	129.6%
TOTAL, Health Related Institutions	\$19.8	\$49.95	\$30.15	152.3%
Baylor College of Medicine (BCM)	5.2	12.83	7.63	146.8%
Total, including BCM	\$25.0	\$62.79	\$37.79	151.1%
GME Annual Formula Rate (\$ per Resident):	\$2,403	\$5,634	\$3,231	134.5%

- Formula funding for the Baylor College of Medicine, including GME, is appropriated via funds trustee to the THECB.
- The pilot program for the mission-specific formula for UT MD Anderson is included in Article III Special Provisions, although no additional funds are provided in 2008-09 for this purpose. The rider specifies that growth in total funding for mission-specific support may not exceed the average growth of the Health-related Institutions' Instruction & Operations formula. In addition, the THECB will report on the validity of this formula methodology by December 1, 2008.

Several formula funding issues that were addressed in either the Legislative Budget Board, House, or Senate version of HB 1 ultimately were not funded in the Conference Committee Report, including:

- An additional request of \$34.5 million needed to fund enrollment growth based on weighted students, consistent with how enrollment growth is funded for the General Academic Institutions.
- An additional request of \$3 million to fund increase in the weight for the Graduate Nursing program.
- Separate funding weights for Biomedical Sciences and Health Informatics.

New or Additional Funding for Special Items

HB 1 includes \$36 million in increased funding for Special Items at the UT Health-related Institutions. Of this amount, \$13 million that was included in either the House or Senate version of HB 1 is directly appropriated to the institutions, and \$23 million added by the Conference Committee is appropriated by rider in Article III Special Provisions, Section 54.

Increased funding for Special Items appropriated directly to the institutions includes:

- \$1 million to UT Southwestern Medical Center at Dallas for the Center for Treatment on Sickle Cell Disease
- \$5 million to UT HSC San Antonio for the Regional Academic Health Center
- \$3 million to UT HSC San Antonio for the Laredo Campus Extension
- \$4 million to UT MD Anderson for the creation of the rare & aggressive breast cancer research program

As noted above, additional Special Items appropriated in Article III Special Provisions, Section 54 total \$23 million and include:

- \$18 million to UT Southwestern Medical Center at Dallas for the Center for Obesity, Diabetes, & Metabolism Research. \$8 million of this amount was contingent upon the Comptroller's certification of available General Revenue above the January 2007 Biennial Revenue Estimate. In August 2007, the Comptroller certified sufficient state revenue is available to fund this item.
- \$5 million to UT HSC Houston for World's Greatest Scientists (researchers at the Institute of Molecular Medicine)

Additional Operating Funds for Health-Related Institutions

Additional amounts appropriated for operations at the Health-related Institutions include:

- \$20 million in Interagency Contracts at UT Medical Branch Galveston to provide indigent care
- \$747.2 million appropriated to the Department of Criminal Justice for Correctional Managed Healthcare at UT Medical Branch Galveston and Texas Tech Health Sciences Center
- \$15.8 million appropriated to the Department of State Health Services for UT HSC Houston to operate the Harris County Psychiatric Center
- A new rider is included at the Health and Human Services Commission (HHSC) that would allow HHSC to contract with an academic health institution for \$1 million for the purpose of research on umbilical cord blood

Tuition Revenue Bond Debt Service

As mentioned in the section for the General Academic Institutions, HB 1 appropriates a total of \$685.4 million for TRB debt service for all of higher education, including \$161.7 million for the nine public Health-related Institutions.

Overall, the six UT Health-related institutions are appropriated a total of \$107.7 million for TRB debt service for the 2008-09 biennium, of which \$48.9 million is for new TRBs authorized by HB 153.

HIGHER EDUCATION FUND

Funding for the Higher Education Fund (HEF) increased by \$175 million in General Revenue Funds for a total of \$525 million for the biennium pursuant to Sec. 62.021, Education Code (HB 3001, 79th Legislature, Regular Session, 2005).

UT Brownsville and UT Pan American, the only two institutions within the UT System that are eligible for HEF appropriations, receive the following amounts:

- UT Pan American \$25.76 million, an increase of \$8.59 million
- UT Brownsville \$ 8.37 million, an increase of \$2.79 million

TEXAS HIGHER EDUCATION COORDINATING BOARD

HB 1 appropriates a total of \$1.18 billion in All Funds to the Texas Higher Education Coordinating Board, of which over 98 percent are trusteed funds for programs to Close the Gaps. The major funding increases to these trusteed programs at THECB are outlined below.

Of the total appropriation to THECB for 2008-09, \$931.1 million is General Revenue Funds, an increase of \$179.5 million compared to 2006-07.

Participation and Success

The College Readiness Initiative adopted by the 79th Legislature, Third Called Session, 2006, is appropriated a total of \$24.6 million for the 2008-09 biennium. This represents an increase of \$11.8 million over the previous biennium.

Affordability - Student Financial Aid

HB1 appropriates an additional \$140 million in General Revenue for the Student Financial Aid Strategy at THECB, for a total appropriation of \$747 million 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 34, Student Financial Aid Programs:

- An increase of \$93 million for TEXAS Grants, for a total appropriation of \$428 million for the biennium.
- An increase of \$37 million for the B-on-Time Student Loan Program, for a total appropriation of \$77 million for the biennium. This will allow the B-on-Time Program to maintain current enrollment.
- An increase of \$5 million for College Work Study, for a total appropriation of \$15 million for the biennium.
- An increase of \$5 million for Texas Educational Opportunity Grants, for a total appropriation of \$14 million for the biennium.
- Funding for Tuition Equalization Grants (TEG) is maintained at the 2006-07 level of \$211.7 million for the biennium. Amounts for TEGs are included in the Student Financial Aid strategy.

In addition to the five programs outlined above, additional financial aid programs receive increased appropriations as follows:

- An additional \$5 million in General Revenue appropriated for the Early High School Graduation Program, for a total appropriation of \$13.6 million for the 2008-09 biennium.
- \$937,000 appropriated for the Office of the Attorney General Loan Repayment Program, including \$700,000 in unexpended balances. This program is funded from General Revenue-dedicated tuition set-asides.
- An additional \$943,000 for the License Plate Scholarships Program funded from General Revenue-Dedicated funds.

Research Programs

The Advanced Research Program (ARP) is appropriated an additional \$8.3 million for the biennium, contingent upon the Comptroller's certification of additional General Revenue above the January 2007 Biennial Revenue Estimate. In August 2007, the Comptroller certified sufficient revenue is available to fund this program. The total ARP appropriation is \$16.7 million for the biennium.

THECB Rider 11 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 2008-09 biennium.

Health Programs

- An \$11.6 million increase for formula funding for Baylor College of Medicine, including an increase of \$7.63 million for GME. A total of \$90.4 million is appropriated to Baylor College of Medicine for the biennium.
- A \$2.3 million increase for the Joint Admission Medical Program, for a total of \$5.7 million for the biennium.
- A \$655,000 increase for the Physician's Education Loan Repayment Program, for a total appropriation of \$2.1 million for the biennium.
- An \$8.7 million increase for the Professional Nursing Shortage Reduction Program, for a total of \$14.7 million for the biennium. THECB Rider 40 outlines this program, which is also part of the new Higher Education Performance Incentive Initiative.
- A \$1.9 million increase for the Alzheimer's Disease Centers, for a total of \$3.9 million for the biennium.
- Rider 33, Cancer Registry, requires that by December 1, 2007, THECB shall collect, from each Health-related Institution including the Baylor College of Medicine and each General Academic Institution that conducts cancer-related research, a total of \$1,875,000. THECB shall develop a methodology to assess a proportional share of the cost for each institution.

Participation Programs

- A \$1.2 million increase for the Centers for Teacher Education, for a total appropriation of \$6.4 million for the biennium. THECB Rider 19 provides information on this program.
- A \$1 million decrease for Two-year Institutions' Dramatic Enrollment Growth.
- A decrease of \$1.3 million to transfer the appropriation for the Starlink/Virtual College of Texas program to the Community Colleges.

PUBLIC COMMUNITY AND JUNIOR COLLEGES

HB 1 appropriates \$1.72 billion in General Revenue Funds for the Public Community Colleges, an increase of \$91.2 million over the 2006-07 biennium.

Increased funding includes \$76.7 million in enhanced formula funding, \$10.2 million for formula hold harmless to maintain all community colleges at 100 percent of their 2006-07 formula funding levels, \$1.2 million in Small Institution Supplement funding for two colleges, and \$600,000 to initiate formula funding for Bachelor's of Applied Technology Programs appropriated in Article III Special Provisions, Section 54.

The Southwest Collegiate Institute for the Deaf receives \$1 million to help fund certain infrastructure-related projects. An additional \$50,000 for a Special Item at Blinn Community College, \$50,000 to Dallas Community College, and \$30,400 to Central Texas Colleges is also included for 2008-09.

Two programs previously funded at the THECB are transferred to Community Colleges. Dallas Community College is appropriated \$271,000 for the transfer of the Starlink Program and Austin Community College is appropriated \$1 million for the Virtual College of Texas Program, both from funds previously appropriated to the THECB.

TEXAS A&M SERVICE AGENCIES

The Texas A&M service agencies receive a \$6.6 million increase in formula funding to tie the Infrastructure rate to the rate paid to Texas A&M University in the General Academic Institutions' Infrastructure formula.

Article III Special Provisions, Section 54 appropriates \$4.85 million for the Texas Agriculture Extension Service and \$2 million for the Veterinary Medicine Diagnostic Lab.

HIGHER EDUCATION EMPLOYEES GROUP INSURANCE

Funding for Higher Education Employees Group Health Insurance (HEGI) decreased by \$85.2 million in General Revenue. This includes an increase of \$68.8 million for HEGI offset by the

reduction of \$154 million due to the Governor's veto of the FY 2009 appropriation for Community Colleges.

Total appropriations for HEGI are \$851.8 million for the 2008-09 biennium, after adjustment for the Governor's veto.

One significant decision that the 80th Legislature adopted is to increase the state's premium contribution rate for HEGI from the level of 87.7 percent at which it has been funded since 2003.

For the 2008-09 biennium, HEGI is funded at the following state contribution rates:

- 95 percent for institutions in The University of Texas System and Texas A&M University System.
 - A total of \$304.7 million is appropriated for HEGI contributions to the 15 UT institutions and System Administration (including UT Brownsville/Texas Southmost College). This represents an increase of \$18.2 million over the 2008-09 biennium.
- 97.5 percent 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).
- 90 percent 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 education³.

Unexpended balance authority for HEGI contributions is also restored for the 2008-09 biennium. This authority allows any unexpended balances remaining as of August 31, 2008, to be carried forward and used for the same purposes in fiscal year 2009.

TEACHERS RETIREMENT SYSTEM (TRS)

An additional \$310 million is provided to increase the state's contribution rate from 6 percent to 6.58 percent for public education and higher education retirees. \$122.3 million of the increase is for higher education retirees. The total TRS appropriation for higher education retirees is \$699.4 million for the 2008-09 biennium.

Legislation also provides for a supplemental payment (13th check) that would provide eligible annuitants an amount equal to their monthly benefit, but not in excess of \$2,400, to be paid in January 2008. The 13th check is contingent upon the fund being actuarially sound.

³ The Governor's Veto Proclamation vetoed \$154 million in HEGI General Revenue contributions to community Colleges.

OPTIONAL RETIREMENT PROGRAM

An additional \$47.2 million is provided to increase the state's contribution rate from 6 percent to 6.58 percent for the Optional Retirement Program, consistent with the TRS contribution rate. The total appropriation for ORP is \$300.8 million for the 2008-09 biennium.

ARTICLE IX

Article IX, Sec. 19.62 State Employee Pay Raise. This section does not apply to institutions of higher education except for employees of Texas A&M service agencies. State agency employees shall receive a 2 percent or \$50 minimum salary increase beginning September 1, 2007, and an additional 2 percent or \$50 minimum increase on September 1, 2008. \$243 million in General Revenue and \$390 million in All Funds is appropriated for the pay raise, contingent upon the Comptroller certifying that there is a sufficient increase in General Revenue in excess of the January 2007 Biennial Revenue Estimate. In July 2007, the Comptroller certified that sufficient state revenue of \$243 million will be available to fund the state employee pay raise.

Governor's Veto Proclamation on HB 1

The Governor's Veto Proclamation on HB 1 vetoes a total of \$570 million in All Funds, of which \$563 million is General Revenue, across all state agencies and institutions. One-third of this total, or \$193.1 million, is vetoed from amounts appropriated for higher education. This includes the following items:

- \$154 million from Community Colleges' Higher Education Employees Group Insurance Contributions.
- \$3.28 million from New Community College Campus funding at the Higher Education Coordinating Board.
- \$35.8 million from Special Items in Article III Special Provisions, Section 54:
 - \$13 million from The University of Texas System, including:
 - UTSA: \$3 million for the San Antonio Life Science Institute (SALSI)
 - UT HSC SA: \$3 million for SALSI
 - UTMB Galveston: \$2 million for the Stark Diabetes Center
 - UT HSC Houston: \$5 million for the School of Public Health expansion
 - \$15 million from Texas A&M University System
 - \$473,787 from the University of Houston System Administration

- \$1.6 million from the University of North Texas System Administration
- \$2 million from Texas State University System, including \$300,000 from Angelo State University and \$1.7 million from System Administration
- \$3.2 million from Texas Tech University System Administration
- \$500,000 at THECB for a Quantitative Study

In addition to amounts vetoed from higher education, the following amounts were vetoed from other areas:

- \$297.2 million was vetoed from the Health and Human Services Commission, Medicare Federal Give-Back to fund the state's contribution to the Medicare Part D benefit for recipients eligible for Medicaid and Medicare Services
- \$40.1 million from the Texas Department of Criminal Justice for contracted temporary capacity (\$29.2 million) and other support services (\$10.9 million)
- \$4.6 million from the Texas Building and Procurement Commission (Central Administration)
- \$80,000 from the Texas Commission on Jail Standards, and
- \$34.9 million in Article IX contingency appropriations for bills that did not pass.

Mirna Gonzalez

HB 15 Summary

HB 15, the supplemental appropriations bill, appropriates \$64.4 million for institutions of higher education. Included in this amount is \$13.1 million for business interruption losses at the UT Medical Branch at Galveston associated with Hurricane Rita.

Additional appropriations in HB 15 that will be directed to UT health-related institutions include:

- \$12.9 million to the Texas Department of Criminal Justice to cover shortfalls for Correctional Managed Care, of which \$5.1 million is intended for UTMB Galveston and the balance for Texas Tech HSC; and
- \$7 million to the Department of State Health Services for the UT Health Science Center Houston operation of the Harris County Psychiatric Center.

Mirna Gonzalez

UT System General Revenue Appropriations in HB 1 as Modified by Governor's Veto Proclamation

UT System

Higher Education Group Insurance

All General Academic Institutions

All Health-Related Institutions

**Summary of Rider Reporting Requirements in House Bill 1
For Institutions of Higher Education
(Summary of HB 1 Reporting Requirements)**

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
Office of the Attorney General				No reporting requirements that apply to higher education.				
Bond Review Board				No reporting requirements that apply to higher education.				
Texas Building and Procurement Commission (TBPC)	18. State Fleet Data Management System	I-19	State agencies that retain a fleet	The Commission shall implement and maintain a state fleet data management system for agencies to report fleet operating expenses and uses as required by Chapter 2171.101 Government Code. The system shall be accessible through web- based interface, provide forms for efficient entry, and allow agencies to batch load relevant data from internal legacy systems; provide fiscal and managerial reports for both direct asset management and oversight needs, and be flexible enough for future legislative needs.	Not specified	TBPC	Operations and Support Services	New

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
Comptroller of Public Accounts	15. Report on Use of GR- Dedicated Funds	I-26	Comptroller of Public Accounts	Out of the appropriation made to this Article for the Comptroller, the Comptroller shall expend funds to issue a report to be placed on the agency's website, itemized by General Revenue- Dedicated Fund, on the use of state taxes and fees for purposes other than the purpose for which the General Revenue- Dedicated Funds were expressly collected.	Annually	Comptroller of Public Accounts	Office of the Controller	New
Employee Retirement System				No reporting requirements that apply to higher education.				
Texas Ethics Commission				No reporting requirements that apply to higher education.				
Texas Public Finance Authority				No reporting requirements that apply to higher education.				
Office of the Governor				No reporting requirements that apply to higher education.				
Trusteed Programs Within the Office of the Governor				No reporting requirements that apply to higher education.				

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
Department of Information Resources				No reporting requirements that apply to higher education.				
Texas Education Agency (TEA)	77. Align Basic Adult Education and Postsecondary Education	III- 21	Texas Higher Education Coordinating Board	For purposes of this rider, THECB shall be the lead agency and shall report on the implementation of action plans to align adult basic education and post- secondary education. THECB, with assistance from TEA and TWC, shall assess and report on the demand for adult education in Texas, the programs and instructions necessary to serve adult learners, and the social and economic outcomes of providing adult education services. The report shall also include a comparative analysis of programs in other states and identify best practices in adult education. THECB and TEA shall provide a signed memorandum of understanding (MOU) to establish responsibilities and identify resources within each agency for the requirements of the MOU.	Sept. 1, 2008 (Report)	Legislative Budget Board (LBB), Governor, and TX Workforce Investment Council	Office of Academic Affairs	New
					Dec. 31, 2007 (MOU with TEA)	LBB and Governor		

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
TEA	79. Evaluations for General Revenue Programs	III-22	TEA	TEA shall conduct a performance evaluation of any General Revenue-funded program initiated by the 79 th or 80 th Legislature, and deliver a report to the Legislature in January of the 4 th fiscal year of the program's existence. The agency shall include the Student Success Initiative in the list of programs to be evaluated for a report to the Legislature in January 2009.	4 th fiscal year of the program's existence January 2009	Legislature and Governor	Institute for Public School Initiatives	New
Optional Retirement Program (ORP)	2 State Contribution to ORP	III-34	Institutions of Higher Education	Institutions of higher education are required to certify estimates of state contributions required for payment to the Comptroller, and the Comptroller shall allocate the state contributions to institutions pursuant to Government Code Sec. 830.202.	None specified	Comptroller of Public Accounts (Comptroller)	Office of the Controller	Existing
Higher Education Employees Group Insurance Contributions (HEGI)	2. The U.T. System group health insurance contributions	III-38	The University of Texas System	The U.T. System shall file a report detailing all group health insurance plans offered to system employees and retirees including the benefit schedule, premium amounts, and	September 15 of each year	LBB	Office of Employee Benefits	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
				employee/retiree contributions.				
HEGI	6. Appropriations Transfers	III-40	UT System	Funds appropriated to components of the U.T. System maybe transferred among components within the same system at the discretion of the chief administrative officer of the system. A report detailing any such transfers shall be filed by December 1 of each year with the LBB, Governor and Comptroller.	December 1 of each year	LBB, Governor, and Comptroller	Office of the Controller	Existing
Texas Higher Education Coordinating Board (THECB)	13. Annual Financial Aid Report	III-46	THECB	THECB shall present an annual report concerning student financial aid at Texas public and independent institutions of higher education.	September 1 of each calendar year	LBB	Office of Institutional Studies and Policy Analysis	Existing
THECB	18. Retention of Economically Disadvantaged Students	III-47	THECB	THECB shall include in the college comparison web profile the percentage of economically disadvantaged freshmen retained at public institutions of higher education as defined by the LBB and the Governor in consultation with the State Auditor's Office (SAO).	Not Specified	LBB	Office of Institutional Studies and Policy Analysis	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
THECB	20. Disparity Study for Institutions of Higher Education	III-47	THECB	Authorizes THECB to continue a disparity study pursuant to the study conducted in 1998-99. TEA and institutions of higher education may cooperate with THECB to provide data to continue the study.	Not specified	THECB	Office of Institutional Studies and Policy Analysis	Existing
THECB	26 Graduation and Persistence Rates	III-48	THECB	THECB shall report the graduation and persistence rates for each public general academic institution. For each institution the report shall include: a) Six-year graduation rate (same institution): Percent of first-time full-time students who earned a baccalaureate or higher degree at the same institution within 6 years of becoming a first-time entering full-time student. b) Six-year graduation rate (degree from another institution): Percent of first-time full-time students who earned a baccalaureate or higher degree within 6 years of becoming a first-time entering full-time student. c) Six year persistence rate: Percent of students who have not earned a	Sept. 1, 2008	Legislature and Governor	Office of Institutional Studies and Policy Analysis	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
				<p>baccalaureate or higher degree but are still enrolled in the same Texas public institution 6 years after becoming a full-time student.</p> <p>d) Six-year persistence rate: Same as C but they can be enrolled in a different institution.</p> <p>e) Composite graduation and persistence rate: Sum of the graduation and persistence rates in subsections A through D.</p>				
THECB	33. Cancer Registry	III-50	THECB	THECB shall collect a total of \$1,875,000 from each health-related institution and each general academic institution that conducts cancer-related research. THECB shall develop a methodology that assesses a proportional share of the costs for each institution.	Dec. 1, 2007	THECB	Office of Health Affairs	Existing
THECB	40 Professional Nursing Shortage Reduction Program	III-52	THECB	To facilitate data collection, THECB may require that institutions report preliminary nursing graduation data independent of the regular reporting cycle. For the purpose of allocating funds from the Professional Nursing Shortage Reduction Program.	As needed	not specified	Office of Institutional Studies and Policy Analysis	New

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
THECB	49. Review of State Financial Aid Programs	III- 54	THECB	THECB shall conduct a feasibility study of restructuring state financial aid programs. At a minimum, the feasibility study shall consist of: a. An analysis of the effects of requiring completion of the Free Application for Federal Student Aid as a condition of enrollment in a Texas public higher education institution. b. A proposal for converting the TEXAS Grant program into a direct student grant program based on a uniform assessment of financial need, including an estimate of changes in statewide facility use as a result of changes in student enrollment patterns. c. An analysis of the effects of using tuition deregulation and Texas Public Education Grants (TPEG) state tuition set-asides as an additional funding source for TEXAS Grants and a projection of the number of additional TEXAS Grants that could be offered with the additional funds. d. A proposal to convert the index used to establish the	July 1, 2008	LBB and Governor	Office of Academic Affairs	New

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
				<p>value of TEXAS Grants from statewide average tuition and fees to statewide average room and board and to determine the cost of providing tuition waivers for students at institutions with tuition and fees above the state average.</p> <p>e. A proposal or proposals for delivering TEXAS Grants as a stipend-based award that would allow students to access higher education tax credits through the federal tax system.</p>				
THECB	50. Align Adult Basic Education and Postsecondary Education	III-54	THECB	<p>For purposes of this rider, THECB shall be the lead agency and shall report on the implementation of action plans to align adult basic education and post-secondary education.</p> <p>THECB, with assistance from TEA and TWC, shall assess and report on the demand for adult education in Texas, the programs and instructions necessary to serve adult learners, and the social and economic outcomes of providing adult education services. The report shall also include a comparative</p>	Sept. 1, 2008 (Report)	LBB, Governor, and TX Workforce Investment Council	Office of Academic Affairs	New

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
				analysis of programs in other states and identify best practices in adult education.				
				THECB and TEA shall provide a signed memorandum of understanding (MOU) to establish responsibilities and identify resources within each agency for the requirements of the MOU.	Dec. 31, 2007 (MOU with TEA)	LBB and Governor		
The University of Texas System Administration	3. Governing Board	III- 57	U.T. System Administration	Requires that a separate record of the governing board's expenditures for travel, entertainment, and lodging, be kept and retained in the same manner as the fiscal records of the institutions the board governs.	Ongoing	Not specified	Office of the Controller	Existing
Available University Fund (AUF)	4. Reporting	III- 58	UT System	a. The UT System shall report the uses of the AUF for each system component and for the system office operations for the two previous years, the current year, and two future years. Each report shall contain detailed information on the following: 1. debt service allocations, by component; 2. bond proceeds allocations, by component;	Not later than December 1 of each year	LBB and Governor	Office of the Controller	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
				<p>3. excellence allocations, by component or system office, and their purposes;</p> <p>4. AUF income, interest, beginning- and end-of-year balances; and</p> <p>5. the rationale used by the respective boards to distribute AUF funds.</p>			<p>Office of the Controller and UTIMCO</p>	
				<p>b. In addition, authorized managers of permanent funds and endowments whose earnings are appropriated above shall submit an annual financial report which shall include, at a minimum, an income statement and balance sheet and a summary of the investment return of the fund during the preceding fiscal year. The report shall also contain:</p> <p>1. a summary of all gains, losses, and income from investments and an itemized list of all securities held for the fund on August 31; and</p> <p>2. any other information needed by the Governor or the LBB to clearly indicate the nature and extent of investments made of the fund and all income realized from the components of the fund.</p>				

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
UT Austin	5. University Interscholastic League (UIL) Financial Reporting	III-63	UT Austin (UIL)	As part of the financial report required in Sec. 33.083, Education Code, UIL shall provide the following information in the specified order for the preceding two fiscal years for all UIL funds by all budget groups: 1) Total revenues; 2) Total expenditures; 3) Excess (Deficit) of revenue over expenditures; 4) Total fund balance; 5) Total interest income earned on fund balances belonging to UIL that are deposited with UT Austin for the benefit of the league; 6) Total member school district earnings from event rebates and other sources; 7) Total UIL earnings from gate receipts, administrative charges, retained excess revenues from UIL managed events and other sources; 8) Total UT Austin earnings levied on all UIL expenditures and total expenses incurred by UT Austin in providing administrative services for UIL. UIL shall contract annually with an independent CPA	Before November 20 of each year	Governor, presiding officer of each house of the legislature, and the LBB.	UT Austin and Office of Academic Affairs	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
				to audit this financial report, or at the discretion of the State Auditor, the SAO may conduct the audit. The report shall be posted on the UIL website and provided on request to members of the legislature.				
Special Provisions Relating Only to State Agencies of Higher Education	4.	III-214	The University of Texas System	<p>Sec. 4-1. Allows for intercomponent transfers with certain restrictions as specified in the rider.</p> <p>Sec. 4-2. Health to academic intercomponent transfers may be made with prior approval of LBB and Governor. The System shall furnish any documents that may be required by LBB and Governor.</p> <p>Sec. 4-3: The System shall give 30 days notice prior to transferring funds from any System Hospital.</p> <p>Sec. 4-4: Any transfers made pursuant to subsections 1, 2, or 3, whether GR or Local Funds in nature, shall be reported in the Legislative Appropriations Request (LAR).</p>		Governor and LBB	Office of the Controller	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
Special Provisions Relating Only to State Agencies of Higher Education	Sec. 5-8. Salary and Benefits Provisions, Administrative Accountability	III-215	Higher Education Institutions and System Offices	<p>Institution of higher education and System offices may not spend funds appropriated by this Act unless, not later than December 1, the institution submits to the LBB, the chair of House Appropriations Committee, and the chair of the Senate Finance Committee, a report that includes the total number of persons holding high-ranking administrative positions at the institution. The report must:</p> <ol style="list-style-type: none"> 1. Be in a form prescribed by the LBB; 2. Include the name, salary, and total value of non-salary benefits for each person holding a high administrative position at the institution; and 3. The percentage salary increase for each person who occupies the same position during the current fiscal year as during the preceding fiscal year. <p>Not later than seven days after the report is submitted, a copy of it shall be made available for public inspection in the library of the institution.</p>	December 1 of each fiscal year	LBB, the chair of House Appropriations Committee, and the chair of the Senate Finance Committee.	Office of the Controller	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
Special Provisions Relating Only to State Agencies of Higher Education	Sect. 6-1. Expenditure Provisions, Annual Operating Budgets Required.	III-216	Governing Board	By September 1 of each fiscal year, the governing board shall approve an itemized budget for each institution which provides budget amounts and method of finance for each informational item in the General Appropriations Act (Act). A copy of the budget and subsequent amendments shall be filed with the Legislative Reference Library and the institution's library to be available for public inspection. By December 1 of each fiscal year, a copy of the budget shall be filed with the LBB, Governor, and THECB.	Approved by September 1 of each fiscal year. Budget report filed by December 1 of each fiscal year.	Governor, LBB, THECB, Legislative Reference Library, and the institution's library.	Office of the Controller	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
Special Provisions Relating Only to State Agencies of Higher Education	Sec. 6-5. Investment Reports.	III-217	Governing Board	<p>The governing board shall file an annual report of all investment transactions involving endowment funds, short-term and long-term investment funds, and all other securities transactions, in a method prescribed by the SAO. Copies shall be made available for public inspection.</p> <p>In addition the institution shall publish on its website quarterly investment reports in any format it deems appropriate.</p> <p>B.) The governing board shall adopt formal investment policies. Each governing board shall submit to the LBB and SAO a copy of their investment policy by December 31 of each year.</p>	December 31 of each year	LBB, SAO, and Comptroller	UTIMCO	Existing
Special Provisions Relating Only to State Agencies of Higher Education	Sec. 11-1 and 11-2. Method of Financing Scholarships	III-219	Governing Board	The governing board may allocate and expend the actual receipts in Other Educational and General Income for student scholarships pursuant to the provisions of Education Code 56.031 to 56.039 (Texas Public Education Grants).	As needed	THECB and CPA	Office of Academic Affairs and Office of Health Affairs	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
				Copies of such approved allocations together with copies of rules and regulations adopted by the governing board concerning the award of the scholarships shall be filed prior to disbursement of any moneys for scholarships. Copies of any changes in such allocations or rules shall be similarly filed.				
Special Provisions Relating Only to State Agencies of Higher Education	Sec. 15. Medical School Enrollment	III-220	Health-related Institutions	None of the funds appropriated above to the University of Texas system medical colleges may be used for the education of first year medical students unless the first year class enrollment of undergraduate medical students in the fiscal years ending August 31, 2008 and August 31, 2009, is no less than 200 students. In the event that the school falls below the required first year class enrollment of undergraduate medical students by more than 5 percent for fiscal year 2008 and 2009 the school shall report the reasons for failing to meet the required	As needed	LBB	Office of Health Affairs	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
				enrollment. This information should be taken into account when preparing the appropriation recommendations for the 81st legislature.				
Special Provisions Relating Only to State Agencies of Higher Education	Sec. 18. Formula Variables – Education and General Income Audits	III-221	SAO	All variables used to arrive at formula appropriations are subject to audit by the SAO. The SAO shall report any differences in data to THECB. Each institution is allowed an error rate of up to 2 percent.	Not specified	LBB, Governor, THECB	Office of Institutional Studies and Policy Analysis	Existing
Special Provisions Relating Only to State Agencies of Higher Education	Sec. 20. Annual Report on HRI Practice Plans	III-221	Health-related Institutions	As a limitation and restriction upon appropriations made by this act, all agencies that have a public health related institution covered under Article III shall not expend funds after a period of 120 days following the close of the fiscal year, unless there has been filed with the Governor, State Auditor, the LBB, the Legislative Reference Library, and the Comptroller of Public Accounts an annual report as of August 31 of the preceding fiscal year showing the use of practice plan funds. The report shall conform to a uniform reporting system developed	August 31 of preceding year	Governor, SAO, LBB, Legislative Reference Library, and Comptroller	Office of the Controller	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
				by the SAO for all financial data concerning health related institutions practice plans.				
Special Provisions Relating Only to State Agencies of Higher Education	Sec. 22. Un-sponsored Charity Care Reporting	III-221	All public health-related institutions	Public health-related institutions shall include in their LARs the actual amount of Un-sponsored Charity Care (UCC) provided through each institution's practice plan and hospital or clinic, if applicable, using the definition for UCC set forth in this section.	LAR due date (August 2008)	LBB, Governor, and additional distribution list in LAR	Office of Health Affairs	Existing
Special Provisions Relating Only to State Agencies of Higher Education	Sec. 23-2. County Indigent Care Contracts	III-222	UT Medical Branch at Galveston, UT MD Anderson Cancer Center, UT Health Center Tyler	Each institution specified shall submit a list of counties whose indigent residents have been served by each respective institution; the total amount of reimbursement received by each institution from each county pursuant to the Indigent Health Care and Treatment Act; and the total cost, by county, of services provided by each institution for which counties are liable pursuant to the Indigent Health Care and Treatment Act. In addition, each institution shall report annually on the status of contract	August 31 of each fiscal year	LBB, Governor	Office of Health Affairs	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
				agreements or negotiations with each county whose indigent residents have been served by the institution.				
Special Provisions Relating Only to State Agencies of Higher Education	Sec. 27. Post Tenure Review	III-223	Governing Board	None of the funds appropriated by this Act may be expended by an institution of higher education until it has filed policies and procedures regarding post tenure review which have been adopted by the board of regents. Policies shall include review procedures to determine that a tenured faculty member is performing consistently at an acceptable, professional level and a mechanism whereby a faculty member is informed of any deficiencies and provided opportunities to effectively improve his or her performance.	As needed	THECB	Office of Academic Affairs and Office of Health Affairs	Existing
Special Provisions Relating Only to State Agencies of Higher Education	Sec. 28. General Academic Funding	III-223	THECB	General Academic institutions formulas and supplemental items shall be reviewed and updated by a study committee appointed by THECB, and recommendations should be forwarded to the	June 1, 2008	Legislature, LBB, Governor	Office of Academic Affairs	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
				Legislature, LBB, and Governor.				
Special Provisions Relating Only to State Agencies of Higher Education	Sec. 29. Health Related Institutions Funding	III-224	THECB	Health related institutions formula s and supplemental items shall be reviewed and updated by a study committee appointed by THECB, and recommendations should be forwarded to the Legislature, LBB, and Governor.	June 1, 2008	Legislature, LBB, Governor	Office of Health Affairs	Existing
Special Provisions Relating Only to State Agencies of Higher Education	Sec. 29-8. Mission Specific Support	III-226	THECB	THECB shall monitor and report on the validity in funding UT MD Anderson through the Mission Specific Support formula.	Dec. 1, 2008	Legislature, LBB, and Governor	UT MD Anderson and Office of Health Affairs	New
Special Provisions Relating Only to State Agencies of Higher Education	Sec. 29-8. Mission Specific Support	III-226	UT MD Anderson Cancer Center and UT Health Center at Tyler	Institutions shall submit a copy of the appropriate reports and supporting documentation which provides the necessary information to calculate the formula allocations for the Mission Specific Support formulas.	As requested	LBB, Governor, THECB	Office of Health Affairs	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
Special Provisions Relating Only to State Agencies of Higher Education	Sec. 32. Fire Safety Projects at Institutions of Higher Education	III-226	State Fire Marshall	Provides legislative intent that institutions that have major fire safety projects identified by the Fire Marshall's Office as not meeting requirements of the National Fire Protection Association, <i>Life Safety Code 101, 2006 edition</i> , remedy the fire safety issues and complete construction and renovation projects as soon as practical. Institutions shall consult with the State Fire Marshall's Office and develop a time line for completion of projects. The institutions shall implement the interim safety precautions recommended by the State Fire Marshall's Office. The State Fire Marshall shall submit periodic reports on the progress of institutions remedying the fire safety issues. The institutions shall also notify parents of students living in dorms identified by the State Fire Marshall's Office about actions needed to rectify non-compliance and the timeframe to make improvements.	As needed	House Appropriations Committee and Senate Finance Committee	Office of Facilities Planning and Construction	Existing
Special	Sec. 34. Faculty	III-	THECB	THECB shall report the	January 31 of	LBB and	Office of	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
Provisions Relating Only to State Agencies of Higher Education	Salary Increase Report	226		average salary increase provided to faculty at each general academic institution in a form prescribed by the Texas Higher Education Coordinating Board.	each fiscal year	Governor	Institutional Studies and Policy Analysis	
Special Provisions Relating Only to State Agencies of Higher Education	Sec. 36. Nursing School Enrollment	III-227	Institutions with Professional Nursing Programs	Institutions with students enrolled in programs that are preparing them for licensure as registered nurses for fiscal years ending August 31, 2008 and 2009 should not drop student full-time equivalent enrollment below fiscal year 2007 levels. Institutions with enrollment that falls below the August 31, 2007, student full-time equivalent level in professional nursing programs by more than 5 percent for the fiscal year ending in 2008 or 2009 shall report the reasons for failing to meet the required enrollment.	As required	LBB, THECB	Office of Academic Affairs and Office of Health Affairs	Existing
Special Provisions Relating Only to State Agencies of Higher Education	Sec. 37. Endowed Programs	III-227	State Universities	State universities shall notify donors in accordance with donor agreements if, within five years of the donation, the university diminishes funding support from local funds for	As required	Donor	Office of External Relations	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
				programs created or endowed by donor.				
Special Provisions Relating Only to State Agencies of Higher Education	Sec. 45. Report on Real Property	III- 228	Institutions of Higher Education	<p>Institutions shall use appropriations in this Act to submit the following information to the General Land Office (GLO) as it may require in accordance with general law:</p> <ol style="list-style-type: none"> 1) a description of each item of property by reference to a volume number and page or image number(s) of the official public records of real property in a particular county, or if not applicable, by a legal description; 2) the date of purchase of property, if applicable; 3) purchase price of property, if applicable; 4) name of the institution holding title to the property for the state; 5) a description of the current uses of the property and the projected uses of the property during the next 15 years; and 6) a description of each building or other improvement located on the property. 7) If the description of real property required by this section is excessively 	Not specified	Asset Manager Division in the General Land Office	Office of Real Estate	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
				<p>voluminous, as in the case of parkland, the division may direct the institution to furnish the description only in summary form, as agreed to by the division and institution involved.</p> <p>8) If the institution has done an appraisal on the property, the date of the appraisal, and the value broken out by land improvements should be submitted.</p>				
Special Provisions Relating Only to State Agencies of Higher Education	Sec. 46. Limitation on Use of Funds	III-229	Institutions that are appropriated funds from the receipts from the Comprehensive Tobacco Settlement Agreement	<p>1. Institutions shall submit a budget each year that describes the purposes and amounts for which such funds will be expended by the institution. No funds described in this budget may be expended by the institution until the LBB and Governor receive the budget.</p> <p>2. Authorized managers of permanent funds and endowments whose earnings are appropriated in Article III shall provide a copy of year end financial reports. These reports should include, at a minimum, an income statement and balance sheet for each fund, and a summary of the investment</p>	November 1 of each year of the biennium	LBB, Governor	UTIMCO and Office of the Controller	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
				return of the fund during the preceding fiscal year.				
Special Provisions Relating Only to State Agencies of Higher Education	Sec. 47. Financial Information Reporting Requirement	III-229	Each University System, General Academic Institution, and Health-related Institution	In addition to the financial information required to be reported by Sec. 2101.011 of the Government Code, each institution and system office receiving appropriations in this Act shall continue to provide financial data related to operation of each system office and institution as was reported in the 2001 annual fiscal report. Each system office and institution of higher education shall provide the report using the specific content and format prescribed by THECB.	January 1 of each year	THECB	Office of the Controller	Existing
Special Provisions Relating Only to State Agencies of higher Education	Sec. 52. Report Concerning Designated Tuition	III-230	Governing Board	A. The governing board shall use the appropriations in this Act to report to the legislature, for the 2006-2007 and 2007-2008 academic years: 1. the amount the institution has collected in designated tuition; 2. the purpose for which the institution spent the designated tuition, and the amount that was spent for each purpose; and 3. the amount set aside from designated tuition for	Jan. 1, 2008	Lieutenant Governor, Speaker of the House, Chair of the Senate Finance Committee, chair of the House Appropriations Committee, and members of the Legislative Oversight Committee on	Office of the Controller	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
				<p>resident undergraduate and graduate student assistance under Sec. 56.011 and 56.012, Education Code.</p> <p>B. The governing board shall report the total academic cost for resident undergraduates enrolled for 15 semester credit hours (SCH). The information reported shall be derived from actual fee bills for the 2005 fall semester and the 2004 spring and fall semesters, and must reflect the actual charges, before any adjustments or discounts are applied for waivers, exemptions, or other discounts in the following categories:</p> <ol style="list-style-type: none"> 1. statutory tuition; 2. designated tuition; 3. mandatory fees; and 4. average college and course fees, which must include all academic related fees and charges not reported under 1, 2, or 3, such as lab fees, field trips, multimedia equipment replacement, and instructional technology, but should not include charges for voluntary services ("optional fees"). 		Higher Education		

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
Special Provisions Relating Only to State Agencies of Higher Education	Sec. 55-4. Higher Education Incentive Funding	III-234	THECB	THECB in conjunction with the Governor's Office shall develop an incentive program for the improvement in teaching and educational excellence at Texas public general academic teaching institutions.	Jan. 1, 2008 (initial proposal)	LBB, Governor's Office	Office of Academic Affairs	New
Texas Department of Criminal Justice (TDCJ)	46. Managed Health Care – Reporting Requirements	V-20	TDCJ	<p>The Correctional Managed Health Care (CMHC) Committee is required to submit a report detailing:</p> <ul style="list-style-type: none"> a. CMHC actual and projected expenditures for on-site, off-site, and pharmaceutical costs. b. Healthcare costs for inmates over age 55, including utilization data c. Other healthcare information determined by the Governor and LBB <p>All monies held in reserve by the CMHC Committee for CMHC by UTMB Galveston and Texas Tech Health Sciences Center.</p>	Quarterly	Not specified	UTMB Galveston and Office of Health Affairs	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
TDCJ	87. Correctional Health and Mental Health Care Staffing	V-27	TDCJ	TDCJ shall submit a report detailing the number of medical and behavioral health personnel providing services at each facility in the Correctional Institution Division, the methodology used to determine staffing analysis for each facility, and other information as required by the Governor and LBB.	Dec. 1, 2008	LBB, Governor	UTMB Galveston and Office of Health Affairs	Existing
Article IX, General Limitations on Expenditures	Sec. 5.08. Limitation on Travel Expenditures	IX-28	Institutions of Higher Education	Each institution must submit a report on all foreign travel, with the required approvals by the governing board, to the Governor and LBB.	October 1 of each year	Governor and LBB	Office of the Controller	Existing
Article IX, General Limitations on Expenditures	Sec. 6.08. Benefits Paid Proportional by Fund	IX-30	Institutions of Higher Education	Each institution shall file a report demonstrating proportionality by November 20th following the close of the fiscal year for the salaries, wages, and benefits of the preceding year ended August 31. The report shall be in a format prescribed by the Comptroller in collaboration with LBB and SAO. The State Auditor shall at least biennially review agency and institution compliance with the requirements of this section.	November, 20th of each year	Comptroller, SAO	Office of the Controller	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
				The Comptroller, upon notification from the SAO of amounts disproportionately paid from General Revenue (GR), shall reduce current year GR appropriations until such amounts are repaid from other revenue sources.				
Art. IX. General Limitations on Expenditures	6.10. Limitation on State Employment Levels	IX- 31	Each institution requesting to exceed or reduce the FTE limitations on state employment levels	Without written approval of the Governor and the LBB, an institution of higher education may not use funds appropriated by this Act to pay all or part of the salaries or benefits of a number of employees which would cause the number of full-time equivalent employees (FTEs) paid from appropriated funds for a fiscal quarter to exceed the figure indicated by this Act. A request by an institution of higher education to exceed or reduce the FTE limitations must be submitted by the governing board and must include at a minimum: 1. the date on which the board approved the request 2. a statement justifying the	As necessary	Governor, LBB	Office of the Controller	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
				<p>need to exceed or reduce the limitations;</p> <p>3. source of funds to be used to pay any additional salaries;</p> <p>and</p> <p>4. an explanation as to why the functions of any proposed additional FTE's cannot be preformed within current staffing levels.</p>				
				<p>The FTE limitation does not apply to employment of FTEs, including temporary or contract workers, directly associated with events declared disasters by the Governor. Institutions shall provide notification annually as needed of FTEs exempt under this section.</p>	<p>Annually, as necessary</p>	<p>LBB, Governor, Comptroller, SAO</p>		
				<p>Each institution shall provide notification of FTEs exempt under subsection (g), which states that the FTE limitation does not apply if the FTEs are associated with an unanticipated new or expanded project that is 100 percent federally funded.</p>	<p>As necessary</p>	<p>LBB, Governor, SAO, Comptroller</p>		

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
Art. IX. General Limitations on Expenditures	6.15. Performance Rewards and Penalties	IX-34	Institutions of Higher Education	Classified employees at agency or institution are eligible for enhanced compensation not to exceed 6.8 percent of their annual base pay. Institutions must file a report describing the success of a program and criteria used to assess improvements.	As necessary	LBB, Governor, Comptroller, Senate Finance Committee, and House Appropriations Committee	Office of Academic Affairs and Office of Health Affairs	Existing
Art. IX General Limitations on Expenditures	6.22. Use of Appropriations to Contract for Audits	IX-35	Institutions of Higher Education	An institution may use funds appropriated in this Act to: <ol style="list-style-type: none"> 1. Enter into an interagency contract with the SAO to provide audit services; or 2. Enter into a contract with an independent audit entity for audit services pursuant to Sec. 321.020, Government Code, if the SAO has reviewed the scope of the audit and issued a written approval for the scope of the audit and the SAO has delegated the authority to enter into the proposed audit, in the event the institution does not have specific statutory authority to 	Not specified	SAO	Office of the Controller	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
				enter into a contract for audit services.				
Art. IX. Reporting Requirements	7.01. Budgeting and Reporting	IX-38	Institutions of Higher Education	As a limitation and restriction upon appropriations made by this act, institutions appropriated funds by this Act may expend funds only if they are in compliance with the following provisions: 1. On or before December 1 of each fiscal year, an itemized budget covering the operation of that fiscal year shall be filed in a specified format from the LBB and Governor. 2. All subsequent amendments to the original budget shall be filed with the Governor and LBB within 30 days of approval unless such reporting requirement is waived.	December 1 of each fiscal year	Governor, LBB, Comptroller, Legislative Reference Library	Office of the Controller	Existing
Art. IX Reporting Requirements	7.04. Contract Notification: Amounts Greater than \$50,000	IX-39	Institutions of Higher Education	Before October 1 of each fiscal year, a state agency or institution of higher education shall report to the LBB in the manner prescribed by the LBB all contracts to which the agency or institution was a	Before October 1 or each fiscal year	LBB	Operations and Support Services (Accounting and Purchasing Services)	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
				<p>party during the prior fiscal period.</p> <p>In this section “contract” includes: a contract, agreement, or other written expression of terms of agreement or amendment, modification, renewal, or extension of such for the purchase or sale of goods or services that was entered to or paid for, whether in whole or in any part, by an institution of higher education. It does not include:</p> <ol style="list-style-type: none"> 1. a contract that has been reported to the LBB under Sec. 2054.008, 2166.2551, 2254.006 or 2254.0301, Government Code; 2. a purchase order; 3. an interagency contract 4. an interlocal agreement 5. a contract less than or equal to \$50,000; or 6. contracts paid only with funds not appropriated by this Act. 				
Art. IX. Reporting Requirements	7.05. Contract Notification: Amounts Greater than \$500,000	IX- 40	Institutions of Higher Education	Before October 1 of each fiscal year, an institution shall report to the LBB in the manner prescribed by the LBB all contracts to which the agency or institution was a party	On or before October 1 or each fiscal year	LBB	Operations and Support Services (Accounting and Purchasing Services)	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
				during the prior fiscal period.				
				<p>In this section “contract” includes: a contract, agreement, or other written expression of terms of agreement or amendment, modification, renewal, or extension of such for the purchase or sale of goods or services that was entered to or paid for, either in whole or in any part, by an institution of higher education, with a value of greater than \$500,000. It does not include:</p> <p>1. a contract that has been reported to the LBB under Sec. 2054.008, 2166.2551, 2254.006 or 2254.0301, Government Code, or Sec. 7.04 of this Article (see Sec. 7.04 above).</p>				
Art. IX. Reporting Requirements	7.06. Reports and References	IX- 40	Institutions of Higher Education	An institution shall submit to the Governor’s office all reports, approval processes, notifications, filings, documentation of expenditures, plans, addendums, or updates submitted to the LBB, under provisions contained in this Act.	As required	Governor’s office	As required	Existing

Agency Bill Pattern	Rider No. and Name	Page No.	State Agency Responsible for Report	Reporting Requirement	Due Date	Due to Whom	U. T. System Office or Institution Responsible	New or Existing Reporting Requirement
Art. IX. Reporting Requirements	7.08. Reporting Fees, Fines, and Penalties	IX-41	Institutions of Higher Education	Each institution shall report to the LBB in the manner prescribed by the LBB all fees, fines, and penalties assessed and all fees, fines, and penalties assessed but not collected by the institution during the prior fiscal year. Each report made under this section shall detail the effort made by the reporting institution to collect fees, fines and penalties that are more than ninety days past due.	Before November 1 of each fiscal year	LBB	Office of the Controller	Existing
Art. IX. Reporting Requirements	7.09. Reporting of Federal Homeland Security Funding	IX-41	Institutions of Higher Education	Each institution shall include in their operating budget reports to the LBB: 1. an estimated amount of federal homeland security funding received by the institution and used for the operation and administration of state homeland security programs; and 2. the amount of federal homeland security funding received by the institution and passed through to other agencies, institutions, or local units of government. Information provided in this subsection shall be used for informational purposes only, and reported	With yearly operating budget	LBB	Office of the Controller	Existing

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				to the Legislature by the LBB at the end of each fiscal year.				
Art. IX. Information Resources Provisions	9.03. Biennial Operating Plan and Information Resources Strategic Plan Approval	IX- 45	Institutions of Higher Education	Expresses legislative intent that agencies and institutions receiving appropriated funds for the acquisition of information technology must have a current Information Resources Strategic Plan and Biennial Operating Plan including amendments approved by the LBB prior to expending any funds for information technology. LBB may direct the Comptroller to deny access to information technology appropriations for non-compliance.	Not specified	LBB	Office of System-wide Information Services	Existing
Art. IX, Provisions Related to Real Property	11.02. Statewide Capital Planning	IX- 51	Institutions of Higher Education and the Bond Review Board	An institution of higher education that is appropriated funds by this Act shall supply capital planning information relating to projects subject to this section and financing options for the 2010-2011 fiscal biennium in a format and according to guidelines developed by the Bond Review Board. The information should include:	Not specified	Bond Review Board	Office of Finance and Office of Facilities Planning and Construction	Existing

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1. a description of the project or acquisition;
2. the cost of the project;
3. the anticipated useful life of the project;
4. the timing of the capital need;
5. a proposed source of funds (method of financing);
6. a proposed type of financing; and
7. any additional related information requested by the Bond Review Board (BRB).

The BRB shall compile a statewide capital expenditure plan for 2010-2011 from the information submitted by agencies and institutions in accordance with capital planning guidelines. Copies of the guidelines shall be filed with the Governor and LBB no later than December 31, 2007.

Dec. 31, 2007

The BRB shall file copies of the capital expenditure plan for the period beginning September 1, 2009, with the Governor and LBB no later than September 1, 2008.

Sept. 1, 2008

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Art. IX. Provisions Related to Property	12.04. Lost Property	IX-55	Institutions of Higher Education	<p>An institution of higher education must annually report to LBB and Comptroller the value of property lost or missing from the possession of the institution. The LBB and the Comptroller may prescribe forms and dates for reporting.</p> <p>The Comptroller shall withhold GR, GR-dedicated, or Other Funds appropriated by this Act in an amount equal to 50 percent of the value of the lost property originally purchased with those funds provided that the loss falls outside the standards of the American Society for Testing and Materials. If an institution subsequently recover or accounts for the lost property to the satisfaction of the Comptroller, the Comptroller shall release a proportional amount of the previously withheld funds.</p> <p>This section applies to all state agencies and institutions of higher education without regard to the source of funds or</p>	As prescribed by Comptroller and LBB	Comptroller and LBB	Operations and Support Services (Accounting and Purchasing Services)	Existing

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				classification of funds to acquire the property.				
Art. IX. Provisions Related to Property	12.06. Vehicle Fleet Management	IX-56	Institutions of Higher Education	Expresses legislative intent that all state agencies and institutions shall adopt rules or policies to implement the State Vehicle Fleet Management Plan issued by the Office of Vehicle Fleet Management of TBPC. All state agencies and institutions must maintain detailed supporting documentation on their vehicle fleets and shall submit fleet data to the Office of Vehicle Fleet Management.	Not specified	TBPC Office of Vehicle Fleet Management	Operations and Support Services	Existing
Art. IX. Agency Non-Discretionary Transfer Provisions	15.01. Reimbursement for Unemployment Benefits	IX-65	Texas Workforce Commission	At the close of each calendar the Texas Workforce Commission shall prepare a statement reflecting the amount of unemployment benefits paid to all former state employees based on wages earned from state employment and present it to the Comptroller.	Quarterly	Texas Workforce Commission	Office of Risk Management	Existing
Additional Contingency and Other Provisions	19.68. Review of Background Check Procedures	IX-91	All state agencies currently conducting background checks	Shall submit to the State Auditor's Office (SAO), The Texas Department of Licensing and Regulation (TDLR) the DPS, and the	Nov. 1,-2007	SAO, TDLR, DPS, LBB	Office of Employee Services	New

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LBB a report on their background check procedures. The SAO shall determine the form in which to submit the reports.