

Topics for the 80th Legislature

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The Texas Legislature will consider a variety of issues when it convenes in regular session on January 9, 2007. Proposals to curb rising property appraisals and revise the business tax enacted in 2006 by the 79th Legislature are expected to feature prominently in the legislative agenda. Possible changes to laws that govern how the state deals with illegal immigrants and sex offenders also are matters that promise to command the attention of lawmakers. Also, 23 state agencies, including those dealing with the criminal justice system and the regulation of alcoholic beverages, will be subject to review under the Sunset process.

This report highlights many, although by no means all, of the issues that the 80th Legislature may consider during its 2007 regular session. The House Research Organization has addressed a number of these topics in Focus Reports and *Interim News* articles issued since the end of the regular session of the 79th Legislature in 2005.

Appropriations and spending

The current state fiscal outlook entering 2007 is that larger-than-expected sales tax receipts are projected to generate a significant budget surplus in the coming fiscal biennium and boost revenues for fiscal 2008-09. However, property tax reduction measures and increased funding for public education adopted in the third called session of the 79th Legislature resulted in significant state spending increases. The state leadership called upon state agencies to prioritize their fiscal 2008-09 spending requests by showing a 10 percent reduction from their 2006-07 budgets, minus an amount equal to the 3 percent/\$50 dollar employee pay raise adopted in 2007. Exceptions to this requirement were amounts necessary to maintain public education funding based on legislative action, satisfy debt service requirements for existing bond obligations, maintain caseloads for federal entitlement services, and maintain adult prison populations. If a substantial

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surplus is available, lawmakers may have to decide whether to spend the surplus on state services, provide tax relief, or leave the surplus on the table and possibly replenish the “rainy day” fund.

Spending caps. The cost of the 2007 property tax reduction may force the Legislature to confront constitutional limits on discretionary state spending. The state spending cap prohibits the increase of spending from undedicated tax revenue from exceeding the limit established by the Legislative Budget Board (LBB) based on its official estimate of the growth rate of the state’s economy. A majority vote of the members of each house may override the limit.

Concerns that expenditures for property tax relief, increases in public education expenditures, health care, and other obligations might exceed the economy’s anticipated growth rate could lead lawmakers to suspend the limit or adjust it in statute. Lawmakers may seek to use more of the additional revenue generated by the new business tax to fund state programs, instead of dedicating it primarily to property tax relief. Some may recommend adopting a state budget that does not include funding for local school property tax relief, then proposing separate legislation to provide this tax relief and authorizing the Legislature to exceed the constitutional limit only for that purpose. Finally, proposals may emerge to enact a “Taxpayers Bill of Rights” that further would restrict spending by linking it to population growth and inflation, including more types of spending under the limit, and making the limit harder to suspend.

Taxes and revenue

Business tax. Legislators likely will pay significant attention to the business margins tax enacted by the 79th Legislature in 2006 to replace the former franchise tax. Before the new tax takes effect on January 1, 2008, lawmakers are expected to propose revisions and technical corrections to the tax, and some policy issues surrounding the tax also may be addressed. Proposals along these lines may include the following:

- adjusting the tax rate, which is currently 0.5 percent of the taxable margin of an entity in the wholesale or retail trade and 1 percent of the margin of other taxable entities;

- expanding the cost-of-goods-sold exemption to include certain industry-specific costs that were not included in the tax as it was enacted;
- changes to the compensation exemption, such as raising or lowering the \$300,000 limit on the amount of compensation that can be deducted from a company’s total revenue or including payments to independent contractors as an eligible compensation deduction; and
- lowering the upper limit of 70 percent of a business’s total revenue that is allowed to be taxed.

To assist lawmakers in their deliberations, the Comptroller’s Office is expected by April 1 to deliver a report to the Legislature documenting the amount of revenue the state would have collected from some of its largest business entities if the tax had been in effect for 2007.

Property tax. In August 2006, Gov. Rick Perry empaneled a Task Force on Appraisal Reform charged with finding ways to modify the appraisal of property and assessment of property taxes in light of rising appraisals and taxes in parts of Texas. The task force is expected to report its results prior to the beginning of the regular session in January.

Among possible task force recommendations that legislators might consider is a reduction in the state’s current appraisal cap. Under the Constitution, the maximum average annual percentage increase in the appraised value of a residence homestead for property taxation cannot exceed 10 percent. Lawmakers could consider a variety of constitutional amendments to reduce the cap to as low as 3 percent and determine whether a statewide cap should remain or if local taxing entities should be allowed to set their own lower caps by local option. Additionally, the Legislature could consider further limiting how much a local taxing entity can increase its tax rate on an annual basis before triggering an automatic or petitioned rollback election.

Legislators could increase the county homestead exemption from its current rate of \$15,000. They also may consider a “circuit-breaker” measure that would freeze property taxes once they reach a certain percentage of a household’s income. Legislation also has been proposed to extend the school property tax cuts to elderly and disabled homeowners whose taxes already are frozen.

The Legislature could pursue other property tax relief measures, including mandatory disclosure of real estate sales prices to assist appraisers in more accurately determining a property's value. Lawmakers also might consider reconfiguring appraisal district boundaries along county lines as well as changes in appraisal board selection, composition, and administration.

Sales tax. Proposals may emerge to raise the state sales-and-use tax rate, currently set at 6.25 percent, and apply increased revenues toward tax reduction or funding additional state services. The Legislature also may allow local taxing entities to increase local-option sales taxes, currently capped at 2 percent, by one-half cent and dedicate additional revenues to property tax relief or other purposes.

Business and economic development

Eminent domain. In 2005, the 79th Legislature enacted SB 7 by Janek, which restricted the use of eminent domain for economic development purposes. This topic, which was studied by a joint interim committee, likely will yield several proposals in the coming session, including some that would place restrictions on eminent domain in the Texas Constitution.

Lawmakers may seek to amend definitions placed in Texas law last session, including conditions under which the use of eminent domain is permitted. Legislators also could debate how to define what constitutes public use, including issues of ownership and the use and transfers of property after it has been taken. The use of eminent domain to remedy blighted properties and blighted areas and the definitions of these terms also could be debated.

Some proposals could deal with the issue of compensation for property owners, including whether the compensation should have to be "just," whether compensation greater than market value should be required, and under what circumstances property should be offered back to its original owner. Other proposals could focus on how courts consider presumptions of public use by entities seeking to take property, and the process entities must follow before exercising the power of eminent domain, such as public notice, public hearings, and approval by elected governing bodies.

Gambling. The Legislature may consider authorizing video lottery terminals at pari-mutuel racetracks, Native American gaming facilities, or other locations. Proposals also could be made to authorize full-scale casinos or legalize casino-type gambling centers run by Texas' Native American tribes. Another proposal would authorize gambling at charity poker games.

The laws governing electronic gaming machines, often called "eight-liners," could be amended to outlaw them or to regulate them more strictly. One proposal would set a \$50-limit on the value of a prize won from a gaming machine and place the burden of proof upon a defendant at trial to show that such machines were not being operated illegally. The establishment of a gaming commission to oversee all gambling in Texas also may be proposed.

Lawmakers may seek to allow the sale of lottery tickets at additional locations, such as gas pumps, bars, and restaurants, and authorize the game of keno, usually played in bars and restaurants with lottery terminals and television monitors. The Legislature also may consider granting the Lottery Commission legal authority to run the lottery itself instead of hiring an outside contractor.

Several proposals could emerge on the subject of charity bingo in Texas, such as authorizing electronic pull-tab bingo. The licensing process for organizations that conduct bingo could be examined and proposals made to streamline the procedure. In addition, lawmakers may seek to amend the definition of which expenses a charity can claim and examine the relationship among manufacturers, distributors, and bingo organizations. Another proposal would legalize progressive bingo, in which jackpots are allowed to grow and transfer to subsequent games if no player wins within the drawing of a specified number of balls.

Telecommunications. Changes to the collection and distribution of amounts from the Texas Universal Service Fund (TUSF) are possible. The TUSF is a fund managed by the Public Utility Commission (PUC) that is generated by a charge on the phone bills of Texas consumers and distributed to telecommunications service providers to compensate companies for the requirement that every Texas resident have access to affordable phone service. Early in the coming session, lawmakers will receive a PUC study containing recommendations about how TUSF funds should be collected, how money should be disbursed, the purposes for which money from the fund should be used, and how to ensure accountability for its use.

The Legislature also may consider issues surrounding the use of public rights-of-way by telecommunications service providers. Specifically, lawmakers may examine municipal compensation for the use of public rights-of-way by telecommunications companies and address disputes between municipalities and utility companies over cables buried underground.

Pensions and investments. Lawmakers may consider increasing the state's contribution to the Employees Retirement System (ERS) and the Teacher Retirement System (TRS) to better ensure that the pension funds will be able to meet current and future payout obligations. Benefit design changes to the retiree health insurance plan, such as adding a third tier to the provider network from which employees and retirees select coverage, may be considered. Proposals may arise requiring the state to offer its employees the option of selecting a health savings account in lieu of traditional health insurance coverage. Some may propose restoring and enhancing TRS benefits that were reduced or eliminated in 2005. Proposals may emerge to provide an automatic cost of living benefit for TRS and ERS retirees.

Insurance. Lawmakers may consider whether the Texas Windstorm Insurance Association (TWIA), the state association that provides insurance of last resort for hurricane and wind damage, is sufficiently funded should the state experience major damages from hurricanes and other weather events. Proposals may emerge to authorize TWIA to issue bonds and give the association more flexibility in setting rates to generate additional funding. Other proposals could require insurers to pay temporary living expenses for disaster victims who temporarily are displaced from their homes.

Lawmakers may propose mandating a comprehensive market-wide review of Texas homeowners insurance rates by the Texas Department of Insurance. An insurer found to be overcharging would be subject to financial penalties and required to refund the overcharges to policyholders. Other proposals may seek to prohibit or further limit the use of credit scoring in the insurance industry.

Workers' compensation. Following the extensive changes made to the workers' compensation program in HB 7 by Solomons during the 2005 regular session, lawmakers in 2007 might consider further revisions in this area. Additional changes could include adding more provider networks to the system and expediting the certification process for those networks. Lawmakers also could refine

the laws governing who can conduct various medical examinations. Finally, the outcome of an ongoing legal challenge to the system's new dispute resolution process might require additional changes.

Other issues. Following the lead of legislative bodies in other states, Texas lawmakers may consider raising the state minimum wage above the federally required rate of \$5.15 per hour. The Texas Enterprise Fund and Emerging Technology Fund, accounts from which the governor may reward grants for economic development and research and development programs, may receive additional funding.

Illegal immigration

The 80th Legislature is expected to consider numerous proposals on how Texas should deal with illegal immigrants, including laws concerned with:

- workplace requirements;
- access to public benefits;
- voting requirements;
- college tuition;
- identification; and
- enhancing the role of state and local law enforcement agencies in enforcing federal immigration laws.

Lawmakers may propose denying state contracts to employers who violate federal immigration law, revoking licenses of employers who hire workers illegally, and imposing state fines and sanctions on such employers.

Other proposals might require proof of citizenship from persons who seek to receive public benefits, register to vote, or obtain a driver's license or other professional and occupational licenses issued by the state. In addition, proposals may emerge specifically to allow or prohibit the use of certain documents issued by foreign countries, including the Mexican-issued *matricula consular*, as proof of identity to obtain a Texas driver's license or for other official purposes. Some lawmakers may support a prohibition on state employment, services, and licenses to the Texas-born children of illegal immigrants.

Legislators could require state agencies to gather statistics on the cost of services and benefits provided to illegal immigrants or authorize the state to sue the federal government to recover costs that stem from illegal

immigration. Other proposals would impose a fee on international transfers of money that originate in Texas and possibly apply the fee toward the cost of providing indigent health care. Lawmakers also may amend current law allowing undocumented immigrants to pay in-state college tuition at public institutions in Texas, and other proposals may seek to prohibit universities from enrolling undocumented immigrants.

For more information about proposals to deal with illegal immigration in Texas, [click here](#) to see *The Role of States in Immigration Enforcement*, HRO Focus Report Number 79-12, February 24, 2006.

Criminal justice and public safety

Sex offenders. Numerous proposals are expected in the coming session to increase supervision of sex offenders and toughen penalties for sex crimes, especially those involving child victims. These proposals could include the following:

- expanding child safety zones;
- lifetime electronic monitoring of some sex offenders;
- long mandatory minimum sentences for violent sex offenses;
- making a second conviction for a serious sex crime against a child eligible for the death penalty;
- eliminating parole for some sex offenders;
- creating a new criminal offense that allows multiple incidents of sexual abuse or isolated incidents with multiple children to be considered a single crime;
- increasing the penalty for indecency with a child involving contact from a second-degree felony to a first-degree felony;
- extending the statute of limitations for the prosecution of some sex crimes; and
- when a child tells an adult about a possible sex crime, facilitating the admission of that adult's testimony into evidence at trial.

Another proposal would allocate more state money for the civil commitment of sex offenders, which involves the commitment through the civil courts of certain sex offenders to outpatient treatment and supervision following their release from prison.

To comply with new federal laws, the Legislature likely will consider changes to the state's sex offender registry, including:

- adding to the list some offenses that require registration;
- designating additional offenses for lifetime registration and increasing the registration periods of other offenses from 10 years to 15 years or 25 years; and
- instituting different deadlines for offenders to verify periodically their addresses and other information.

For more information about proposals to punish and supervise sex offenders in Texas, [click here](#) to see *Should Texas Change Its Laws Dealing With Sex Offenders?*, HRO Focus Report Number 79-16, October 18, 2006.

Corrections and state prison capacity.

Legislators likely will debate several proposals to increase prison capacity or divert more offenders from the prison system and address the state's projected need for additional prison beds. According to the Texas Department of Criminal Justice (TDCJ), the operating capacity of state prisons and other facilities was about 152,700 as of October 2006, which included about 1,930 beds on lease from counties. The state will need about 7,300 additional beds by fiscal 2009 and 11,200 additional beds by 2011, according to a June 2006 report from the LBB. Proposals to increase the number of state correctional beds include building state prisons and leasing more private correctional beds or county jail beds.

Other proposals could affect the correctional capacity needs of the state. One that could be debated in the appropriations process would increase funding for offender treatment and rehabilitation programs in an effort to reduce recidivism among released prisoners and offenders on probation or parole. Some may seek to provide alternatives to incarceration for nonviolent, low-level offenders and probationers, especially low-level drug offenders who could be diverted to drug courts and mandatory inpatient or outpatient treatment. Proposals also may emerge to raise the threshold for the amount of drugs that can result in long prison terms and to reduce some low-level drug offenses from felonies to misdemeanors. Some of these proposals could surface in the Sunset bill to continue the Texas Department of Criminal Justice (TDCJ), which undergoes Sunset review in 2007.

Probation. In 2005, the 79th Legislature approved, but the governor vetoed, HB 2193 by Madden, which would have revised the state’s community supervision (probation) system. Several proposals in that bill could be revived this session, especially those that could affect prison capacity by reducing the number of offenders who go to prison because their probation is revoked. Other proposals could include reducing the length of probation terms, allowing or mandating the early termination of probation terms, increasing judicial involvement in probation terms, and increasing the use of drug courts. Several changes to the funding of local probation departments could be debated, including proposals to minimize the financial loss to local departments from the early termination of probation terms. In 2005, the Legislature provided additional funds for local probation departments that adopted progressive sanction models for probation violators, and the 80th Legislature may consider proposals to increase the use of such models.

Parole. The Board of Pardons and Paroles is under Sunset review this session. A proposal may emerge to make the parole board an agency separate from TDCJ. Legislators could debate several proposals dealing with the way the board members utilize parole guidelines, which are objective criteria developed to help board members reach decisions and to make those decisions more consistent. Proposals may include requiring the board to report to the Legislature on its efforts to meet the guidelines, to review and update the guidelines, and, when the board deviates from the guidelines in reaching a decision, to explain why.

Legislators could consider several proposals dealing with the parole of adult offenders, including making state-jail felons eligible for parole, which could free additional state correctional beds for more dangerous offenders. One proposal would make state-jail felons eligible for the state’s Medically Recommended Intensive Supervision program, which authorizes the early release of nonviolent offenders who do not present a risk due to their medical conditions. Another would require TDCJ to identify low-risk parolees and establish a system to release them early from parole or mandatory supervision.

Criminal procedure. Lawmakers may consider a number of proposals in the area of criminal procedure, including:

- changing the procedures currently used when a criminal defendant requests post-conviction DNA testing;

- changing the procedures used by police officers to obtain confessions and requiring confessions to be videotaped;
- changing procedures used to obtain the identification of suspects by eyewitnesses;
- amending current law so that prosecutors can designate a representative to be present in a trial when other witnesses have been excluded; and
- removing the ability of juries to grant probation for certain violent felonies.

Debate may occur over whether to change the legal definition of insanity used when a criminal defendant employs that defense and whether to inform juries of the consequences for a defendant who is found not guilty by reason of insanity.

Legislators may consider creating an “innocence commission” to review the handling of cases in which wrongfully convicted individuals have been exonerated. Proposals to change the laws governing state compensation to persons who have been wrongly convicted may include increasing the amount of compensation the state can pay and allowing the issuance of payments to a person wrongly imprisoned for one crime even if he or she is serving a sentence for another crime.

Other legislation may focus on the state’s system for handling *habeas corpus* appeals in death penalty cases. One proposal would move the responsibility for appointing attorneys to handle writs of *habeas corpus* from the Court of Criminal Appeals to a different state agency. Another would increase or eliminate the \$25,000 cap on the amount the state pays attorneys who are appointed to handle these appeals. Lawmakers also may debate whether to implement standard procedures for when courts must consider these appeals.

Indigent defense. Among the proposals that may emerge to revise the laws dealing with criminal indigent defense are:

- establishing separate requirements for attorneys appointed for trial and for appeals in death penalty cases;
- streamlining state law or providing financial assistance to help counties establish public defender systems;

- eliminating the \$25,000 cap per fiscal biennium on fees for court-appointed lawyers who represent TDCJ inmates accused of committing crimes while in prison; and
- continuing to allow the \$65 annual fee paid by State Bar members to help fund the state's criminal indigent defense system and civil legal services to the poor instead of sunseting this program in September 2007.

Alcohol, drugs, and firearms. The Texas Alcoholic Beverage Commission will undergo Sunset review during the 80th Legislature. In the process, proposals may emerge to amend the three-tiered system that currently requires retailers to purchase alcohol from distributors, rather than directly from producers.

Proposals to change the way the state deals with persons convicted of driving while intoxicated could include granting parole to more offenders or placing them in special housing or treatment arrangements. Legislators may propose creating a criminal penalty for drivers who, under some circumstances, refuse to take alcohol breath or blood tests when they are stopped by law enforcement officers. Other proposals may authorize the establishment of

sobriety check points, which are legal in 39 states, at which law enforcement officers could check motorists for signs of intoxication.

Juvenile justice and school safety. Legislation may focus on the safety of juveniles and staff at Texas Youth Commission (TYC) facilities. Proposals could include setting statutory staff-to-offender ratios at TYC facilities, mandating minimum training for TYC guards, and establishing an office of inspector general to investigate allegations of abuse and neglect in these facilities. Legislators also may debate the handling of juvenile offenders who are on parole and attending public schools, including the information school officials should be told about the youths and when they should receive it.

Legislators could debate several proposals dealing with students sent to Disciplinary Alternative Education Programs (DAEPs) or a Juvenile Justice Alternative Education Programs (JJAEPs) as a result of violating a code of conduct or breaking a law. Proposals could include establishing specific criteria – including the seriousness of the offense but without regard for whether it occurred on or off campus – for determining which setting would be most appropriate for each student. Some proposals may

Sunset Review

The 23 agencies or programs reviewed by the Sunset Advisory Commission for the 2006-07 biennium are:

- Correctional Managed Health Care Committee
- Higher Education Savings Plan
- Historical Representation Advisory Committee
- Board of Nurse Examiners
- Board of Pardons and Paroles
- Prepaid Higher Education Tuition Board
- Risk Management Board
- Office of Rural Community Affairs
- Office of State-Federal Relations
- Study of Court Costs and Fees
- Study of Health Benefit Plan Coverage for Brain Injury
- Board of Trustees of the Teacher Retirement System
- Texas Alcoholic Beverage Commission
- Texas Animal Health Commission
- Texas Board and Department of Criminal Justice
- Texas Commission on the Arts
- Texas Historical Commission
- Texas Real Estate Commission
- Texas State Library and Archives Commission
- Texas Structural Pest Control Board
- Texas Veterans Commission
- Veterans' Land Board
- Texas Veterinary Medical Diagnostic Laboratory

address standards for referring students who qualify for special education services to DAEPs and JJAEPs. Others might require more counties to operate JJAEPs and establish standards and accountability measures for DAEPs. Still others could require school districts to place students who are registered sex offenders in DAEP schools.

Lawmakers may seek to restrict or eliminate the ability of school districts to create class C misdemeanors and examine their ability to enact zero-tolerance policies for possession of weapons or drugs.

Emergency preparedness. Following the recommendations from the governor’s Task Force on Evacuation, Transportation, and Logistics, the Legislature could consider several options to improve emergency response during hurricanes or other disasters. Legislators may explore funding the Disaster Contingency Fund to support state and local agencies’ planning and execution of evacuation procedures. They also may consider ways to reimburse local governments that spend money to evacuate their communities but are not eligible for federal assistance because their areas were not deemed federal disaster areas.

The 79th Legislature authorized county judges and mayors to order mandatory evacuations. In the upcoming session, legislators may opt to grant the governor this same authority – currently the governor can only *recommend* evacuation. Other proposals may include the development of plans to evacuate and track special-needs residents and the pets of evacuees.

Judiciary. Legislators may consider several proposals dealing with courthouse security including:

- the use of local funds to protect unelected associate judges and accountability for the use of those funds;
- the uniform reporting of courthouse security incidents; and
- the protection of the personal information of judges and their families.

In 2005, the 79th Legislature raised judicial salaries, and the issue of judicial compensation may arise again in 2007 in the form of bills proposing a system of judicial longevity pay and raising the compensation of county court-at-law judges. Proposals may emerge that seek to delay the retirement of experienced judges, and legislators may examine the jurisdiction of statutory county courts.

Legislators may propose to eliminate partisan elections as the way to choose judges in Texas in favor of a nonpartisan system or one in which the governor would appoint judges and citizens would vote periodically on whether to keep them.

Other issues. Lawmakers could consider a proposal to establish a criminal justice legislative oversight committee to provide research, analysis, and recommendations on state criminal justice policies.

Several proposals may emerge to change the laws dealing with court-ordered offender restitution, including one to increase the number of restitution centers where inmates on probation can live while being allowed to work in the community to reimburse their victims. Other proposals might allow victims a role in plea bargaining and institute a statewide victim-offender mediation program.

Lawmakers may propose legislation to meet the mental health needs of offenders in local jails and state prisons and to make HIV testing for all persons entering the state’s prison system mandatory rather than optional. Counties also could seek changes in current law to make it easier to house jail inmates in tents.

Proposals considered last regular session to increase the penalty for burglary of a vehicle from a class A misdemeanor to a state-jail felony or to increase the penalty to a felony for repeat offenses may emerge again in 2007. Legislators also may propose strengthening the “stand your ground” law to grant more leeway to persons who claim self-defense in using deadly force against assailants outside their homes.

Proposals may emerge to enact a journalist shield law that would protect reporters from being forced to disclose anonymous sources.

The Legislature likely will address implementation and funding issues regarding the federal Real ID Act driver’s license standards with which Texas must comply by May 2008.

The Legislature could consider the additional regulation of fireworks, specifically addressing their use during droughts and setting age limits for firework purchase and sales.

Health and human services

Public benefits and the uninsured. The Legislature is likely to address problems in the eligibility determination system for public benefits. In 2003, as part of a major reorganization of the intake and delivery system for Medicaid and the Children's Health Insurance Program (CHIP), the state committed to transferring Medicaid intakes from in-person interviews by state employees to a privatized call-center system. Problems have plagued the new call-center system, and its rollout currently is on-hold indefinitely. Proposals may be made to commit additional resources and staff to the current intake-and-delivery system and ensure a smooth transition to the new system.

Access to health care and the high rate of uninsured Texans likely will be two drivers in the discussions related to state programs. Proposals may emerge to aggressively seek federal matching money that can be used to fund Medicaid and CHIP and reduce the burden of providing care to the uninsured. Such efforts could include assessing a 3 percent quality assurance fee on hospitals and other facilities that could be used to draw matching funds to assist facilities in defraying the cost of indigent care and upgrading to electronic medical records, among other initiatives. Another proposal would impose a fee on international money transfers and apply the revenue toward the cost of providing indigent health care.

Some lawmakers may advocate increasing the rate at which physicians are compensated for seeing Medicaid and CHIP patients. In addition, some may seek to completely restore cuts to the CHIP program that were not restored in 2005, including:

- returning to 12-month continuous eligibility;
- removing asset tests in eligibility determination; and
- allowing for income deductions, such as child-care costs.

Under Article 2, riders 60 and 61 of the general appropriations act for fiscal 2006-07, the 79th Legislature directed the Health and Human Services Commission (HHSC) to study and report on hospitals' uncompensated care costs and Medicaid reimbursement methodology. Proposals may emerge in the 80th Legislature to increase the simplicity and transparency of hospital financing methods to demonstrate how much hospitals spend on uncompensated care and how much should be reimbursed by Medicaid.

Legislators also may debate whether to enact statutory changes in the state's work exemption policies for the Temporary Assistance for Needy Families (TANF) program.

End-of-life issues. Legislators are expected to address issues such as advanced directives for end-of-life care. Some will seek to clarify whether the doctor or a patient's family has the right to make end-of-life decisions if hospital care has been determined to be futile and a family does not find an alternative to hospital care within 10 calendar days.

Scope of practice. A number of proposals are likely to address scope-of-practice issues for non-physician health care providers, such as whether optometrists and podiatrists, for example, should be allowed to perform certain types of surgery and other procedures that currently are the exclusive province of medical doctors.

Electronic medical records. Information technology likely will be an issue for medical providers in response to funding cutbacks and other pressures from the federal government to switch to the use of electronic medical records and other information technology. Such proposals may apply only to public programs, such as Medicaid, or to the private sector as well. Medical professionals are likely to seek relief from the cost of making the transition to the use of electronic medical records.

Managed care. Lawmakers may seek to limit or prohibit the practice of "balance billing," in which a patient obtaining care at a facility within a managed care network may be charged additional fees by a non-network practitioner who treats patients there. Proposals could require health plans to disclose information to patients about non-network providers they may encounter in the course of seeking care and the financial obligations patients might incur as a result. Other managed care proposals may include the extent to which insurers and other businesses should be permitted to make medical decisions about patient care.

Physician-owned health care facilities. Legislators may address issues related to physician-owned specialty hospitals and other physician-owned care facilities. Some proposals may seek to enhance the ability of physicians to own equipment and facilities, while others may address potential conflicts when a physician owns the equipment used to conduct tests and procedures, and others may examine the level of health care these facilities provide

for low-income residents. In a related issue, lawmakers may debate the corporate practice of medicine – whether hospitals should be allowed to directly employ physicians.

Stem-cell research. Efforts may be made to restrict state funding for stem-cell research to adult stem cells and to prohibit research by state-funded institutions involving embryonic stem cells, while others may seek to promote state-funded research in this area.

Abortion. Lawmakers may propose “trigger” legislation to establish state law banning abortions in the event that constitutional rights as currently established in *Roe v. Wade* are overturned by the U.S. Supreme Court. Some proposals would create exemptions from the 24-hour waiting period and other consent requirements for abortions for victims of incest or sexual assault and situations in which a severe and irreversible abnormality in the fetus has been detected. Others would require facilities that provide abortions to meet more rigorous inspection requirements that would be similar to requirements for hospitals and other large health care facilities.

Proposals to focus on pregnancy prevention likely will be considered, including efforts to revisit health education textbook requirements that stress abstinence as a form of pregnancy prevention.

Faith-based health initiatives. Legislators may consider proposals to encourage and strengthen partnerships between state agencies and community and faith-based organizations in the delivery of charitable and social services by appointing state employees from certain agencies to serve as liaisons to these organizations and by establishing a center within HHSC.

Public health and wellness. Lawmakers may seek to invest in worksite wellness efforts at state agencies to increase healthy behaviors, such as smoking cessation and exercise, in an effort to improve employee health and achieve savings in state insurance costs. Another proposal would establish an incentive program for Medicaid recipients to lead healthier lifestyles.

Mental health services. The reorganization of Health and Human Services in 2003 included a change in the state’s delivery of mental health services to a disease-

management model, operated under the Resiliency and Disease Management (RDM) program. Legislators may seek to expand the program and also may consider a proposal to redesign crisis mental health services in Texas, a topic that was covered in a report issued by the Texas Department of State Health Services in September 2006. Proposals also may emerge to ensure “parity” in the coverage of mental health services along the lines of health coverage for other illnesses.

Lawmakers could debate a proposal to establish a deadline for the state to accept persons who have been committed through criminal or civil proceedings to a mental health facility, similar to the deadline under which the state’s criminal justice agency must move convicted felons from local to state facilities within 45 days of the offenders’ paperwork being completed. Another proposal would develop and strengthen the tools and resources used to identify persons with intellectual and developmental disabilities in the criminal justice system and provide support and services to them. Debate also may occur on ways to divert juveniles with mental health issues from the criminal justice system and provide treatment to them.

Lawmakers may introduce proposals to reduce waiting lists for Medicaid waiver programs that help mentally retarded Texans obtain services.

Protective services. Legislators may debate revisions to the 2005 law that reorganized the state’s child and adult protective services systems. For example, the state’s efforts at privatization of foster care for children could be reexamined. Proposals may include implementing a pilot project for privatization before moving forward with the current plan that calls for implementing statewide privatization by 2011, establishing tougher standards for foster parents and private agencies that place foster children, and improving and increasing state oversight of foster care contractors.

The House Human Services Committee has been studying the ways foster care prepares children to live as adults, and legislators may consider proposals to expand or revise the Preparation for Adult Living (PAL) Program operated by the Department of Family and Protective Services.

Transportation

Rail. In 2005, voters approved Proposition 1, a constitutional amendment creating the Texas Rail Relocation and Improvement Fund to finance or partially fund the relocation and improvement of privately and publicly owned passenger and freight rail facilities. Legislators may decide to allocate money for the fund through a direct appropriation or rededication to the fund of the business and sales taxes the railroad industry currently pays. In addition, lawmakers may amend state law to allow the issuance of low-interest loans to rail companies seeking to borrow money for rail improvements.

CDAs. Lawmakers may consider expanding beyond toll projects the use of comprehensive development agreements (CDAs), in which a single company or consortium is responsible for all phases of highway-project development and construction. The Legislature also may consider repealing the 2011 Sunset provision for all CDAs and removing the statutory cap on the length of the agreements and the amount of state highway funds and Texas mobility funds the Texas Department of Transportation (TxDOT) can spend on CDAs.

Enforcement tools. Lawmakers may amend the Transportation Code to grant explicit authority to use red-light cameras for traffic offenses to the Department of Public Safety and local municipalities or may seek to restrict or prohibit use of such cameras. Proposals could address limits on fines that can be assessed for red-light runners, how the money generated from the cameras must be spent, and whether the state should receive a percentage of the revenue. Legislators also may consider increased penalties for drivers who run toll booths and do not pay their fines, including driver's license suspension and denial of vehicle registration renewal. The Legislature also may consider allowing TxDOT to create an electronic database to protect against fraud when temporary license plates are stolen.

Environmental review. In an effort to expedite the environmental review process, Congress recently authorized the Federal Highway Administration to establish a pilot program that would allow selected states, including Texas, to conduct their own environmental studies on transportation projects in lieu of federal studies. Lawmakers may consider giving additional responsibilities to TxDOT in order to perform these new tasks and providing a limited waiver of

sovereign immunity so that new actions undertaken by the agency through this process could be challenged in federal court.

Right-of-way acquisition. Legislators may consider modifying advance acquisition of highway right-of-way authority by allowing TxDOT to acquire land from willing sellers before completion of the environmental clearance process.

Highway finance. Proposals may emerge to change funding mechanisms to ensure transportation-related fees and money set aside for transportation projects are not diverted to other non-transportation projects. The Legislature also could explore technical changes to the fuel tax, specifically looking at earlier transfers into the transportation fund to accrue more interest and changes in the administrative fees the state pays fuel distributors and importers. Legislators also may seek to change laws governing Regional Tollway Authorities and Regional Mobility Authorities to allow for more flexibility in how the entities interact with local government. Some may propose granting TxDOT explicit authority to acquire county toll projects and regional tollway authority projects.

Lawmakers also may seek to amend the Transportation Code to remove the requirement that the state pay the costs of relocating a utility on an interstate highway. The Legislature also may change the law governing the relocation of roadside billboards by allowing TxDOT to place the advertisements in areas where they are banned unless the municipality pays the fair market value of the structure. Additionally, proposals may emerge to authorize the Texas Transportation Commission to designate exclusive truck lanes on state roads without requiring adjacent lanes for passenger vehicles.

Public education

Distribution formulas. HB 1 by Chisum, the omnibus school finance bill enacted in May 2006, mandated a one-third reduction in school district maintenance and operations (M&O) taxes by 2007. The bill provided that in future years school districts would be guaranteed a level of "hold harmless" funding to ensure they did not receive less money than they would have received under one of three calculations based on 2005-06 school year funding levels. Lawmakers in the 80th Legislature may examine

how this “hold harmless” provision affects equity in funding provided by weights and adjustments to state aid distribution formulas. Some may propose increasing the amount of state aid for bilingual education and other “weighted” programs to account for the higher cost of educating students with particular needs, as well as increases to the cost of education index and other adjustments.

Facilities. Lawmakers may introduce proposals to increase equity in the funding of school facilities, which currently are financed primarily through local property tax collections, short- and long-term debt, and two state assistance programs. Legislators may consider merging these two programs – the Existing Debt Allotment (EDA), which provides assistance with existing debt for school facilities, and the Instructional Facilities Allotment (IFA), a grant program to provide facilities assistance. Some may propose automatically rolling forward the state’s current allotment to help pay local debt for school facilities, rather than leaving those funds contingent on the biennial appropriations process, and increasing funding distributed through the IFA. Other proposals may seek to expand the state’s capacity to issue bonds.

Accountability. Legislators may introduce proposals to replace the TAKS exit test for high school students with end-of-course exams in core high school subjects. Other proposals may limit the number of tests that can be administered or give individual teachers discretion to determine the level of test preparation activities that is appropriate for their students. School districts may be required to report progress made in standardized test results from year to year as part of a movement toward “value-added” accountability. Legislators also may consider requiring all high school students to take the SAT, ACT, or another nationally norm-referenced college entrance exam. Some may propose changing academic and financial accountability systems to better reflect student demographics, “best practices,” and other factors.

Teachers. Some lawmakers may propose basing state incentive pay programs for teachers and other educators on factors other than student performance on standardized tests. Other proposals may expand state programs to emphasize performance over seniority in determining teacher salaries. Legislators also may address the process for terminating teachers and other public education employees. Proposals to improve teacher training and professional development also may be considered.

Textbooks and technology. The system of selecting and purchasing textbooks for schools through “proclamations” likely will be reviewed. Lawmakers may consider transferring authority for selecting textbooks and other instructional materials from the state to school districts. Proposals to expand the use of online textbooks and courses, as well as legislation to fund “virtual charter schools,” which rely heavily on online education programs, may be introduced. Some may seek to enhance the role of the State Board of Education in reviewing and approving textbook content.

Charter schools. Proposals to establish a new licensing system for open-enrollment charter schools that would require all existing charter holders to meet more stringent licensing standards may be considered. Legislation may be introduced to provide facilities funding for high-performing charter schools.

Vouchers. Proposals are likely to include a program to allow students in low-performing schools in large districts to use tax money to attend private schools of their choice. Other voucher programs for students with disabilities, including students with autism, may be considered. Some may propose increased flexibility for students wishing to transfer from one public school to another.

Early childhood education. Lawmakers may consider expanding access to pre-K programs to special populations, such as children in foster care, and extending elementary school class-size limits to students in public school pre-K programs.

Other issues. Other legislation related to public education may include:

- requiring automatic defibrillators at high school athletic events;
- improving campus security to prevent attacks on students and school personnel by outsiders;
- encouraging consolidation of school districts or school services;
- preventing conflicts of interest by school superintendents who accept outside employment;
- improving the state’s methods for electronic reporting and data management through the Public Education Information Management System (PEIMS) and reforming the system for maintaining electronic school district records; and

- requiring random screenings or mandatory testing for steroids and other performance-enhancing drugs for high school athletes.

Higher education

Top Ten Percent Law. In order to address the capacity and flexibility of admissions at Texas universities, some lawmakers may propose amending the Top Ten Percent Law by capping the number of automatic admissions in each entering freshman class. Others may propose a moratorium on the admissions requirement for a few years to allow universities to demonstrate that they can build a diverse student body without it. Still others may propose repealing the law altogether.

Financial aid. The Legislature likely will consider proposals to streamline and enhance financial aid programs, including increasing funding to the major state financial aid programs – TEXAS Grant Program, Texas B-On-Time Loan Program, and the Texas College Work-Study Program. Lawmakers also may consider consolidating TEXAS Grants and B-On-Time programs into one program, which would award eligible students grant money for the first two years of college and convert the amount to a loan for the final two years. If a student satisfied the performance criteria, the loan then would revert to a grant and would not have to be repaid.

Formula funding. The Legislature may consider increasing funding for all sectors of higher education but particularly for community colleges, which are expected to provide an avenue to higher education for increasing numbers of students in the coming years.

Capital project funding. Lawmakers may examine capital funding for institutions, including the current practice of issuing tuition revenue bonds to pay for construction and renovation projects, as well as other long-term planning strategies.

The Legislature also could grant \$15 million in tuition revenue bonds to the University of North Texas System to establish a law school in Dallas, putting it on schedule to open in the fall of 2009.

Tuition. Legislators may review tuition deregulation and debate whether to continue allowing institutions to set their own designated tuition rates.

Lawmakers also may propose clarifying current law to specify that veterans whose “home of record” was Texas when they joined the military would be eligible for higher education tuition exemptions under the Hazlewood Act. In addition, proposals may emerge to extend Hazlewood Act tuition exemptions to the dependent children of totally disabled Texas veterans.

Environment

Energy. Proposals to meet the state’s growing need for energy likely will be debated in the 80th Legislature. Some may propose construction of additional power generation capacity and new power plants across the state that may be fueled by coal, nuclear energy, or renewable sources such as wind or hydroelectric power. Gov. Perry’s 2005 executive order establishing an expedited permitting process for several new coal-fired power plants may be reviewed, with some parties seeking to change the public review process authorizing these plants and others recommending a temporary moratorium on new coal-fired plants.

Some lawmakers may advocate energy efficiency and conservation measures as ways to meet demand for energy resources and to mitigate the effects of global warming and climate change. Others may propose the adoption of a “carbon tax” on toxic emissions to create a disincentive toward activities that create pollution or the establishment of a “cap-and-trade” system to reduce the production of greenhouse gas emissions. Lawmakers may consider adopting “clean car” pollution standards along the lines of a program in California that imposes heightened emissions restrictions on new automobiles.

In addition to energy production, energy costs to residential and commercial customers may receive scrutiny in the 80th Legislature, with lawmakers potentially proposing changes in the way electric rates are established. Further, with the full implementation of electric deregulation in 2007, legislators likely will consider its effect on consumers, workers, and the utility industry. Some lawmakers also may propose fully funding electric and telecommunications discounts to low-income Texans under initiatives funded through System Benefit Fund programs.

Radioactive waste. The Legislature may examine the regulation of uranium mining and radioactive waste storage and may consider reorganizing administrative oversight of those regulatory programs.

Parks. Funding for the Texas Parks and Wildlife Department and the state parks system likely will be addressed during the budget process. Advocates argue that the state parks system is underfunded and in need of repairs and improvements. Some will argue that all revenues from the existing tax on sporting goods sales be dedicated to state parks and appropriated for that purpose. In addition, some may push for restoration of state grants to local political subdivisions under the local parks grants program.

Water. In early 2007, the Texas Water Development Board will release the second edition of the State Water Plan, which is the result of the regional planning process enacted by the 75th Legislature in 1997 through SB 1 by Brown. Recommendations included in the plan likely will serve as the starting point for the consideration of several changes to water policy in Texas, particularly regarding funding of the state's water infrastructure needs. Lawmakers could consider designating new sites for the creation of reservoirs to increase the state's supply of surface water or designate for preservation segments of streams determined to be of unique ecological value. The adoption and funding of expanded water conservation strategies also is expected to receive attention. Some lawmakers may propose amending the laws governing inter-basin transfers, such as the junior water rights provision. The Legislature also may consider changes to the groundwater planning process and allowing for expedited amendments to regional water plans.

In addition, the Legislature likely will reconsider recommendations from the Environmental Flows Advisory Committee explicitly to integrate environmental needs for surface water and bays and estuaries into the state's water rights allocation system. Further, revisions to state law governing the indirect reuse of effluent water may be considered, specifically to address the question of whether a new water permit is required by a municipality to reuse treated water that has been discharged into a stream, river, or other watercourse.

Government organization

Campaign finance and ethics. Proposals to amend Texas campaign finance laws may include limiting the size of contributions to state candidates, officeholders, and political committees to a particular dollar amount and an aggregate annual total. State law regulating personal

financial disclosures for public officials may be tightened to require more specific gift disclosure rules, including what constitutes a gift and its monetary value.

Legislators may amend state law to clarify when a political committee can use corporate funds to pay for its administrative expenses. Other proposals may seek to prohibit the use of political contributions to rent property from family members and certain businesses in which the candidate or officeholder has an interest.

Elections. Proposals may emerge to require proof of U.S. citizenship before a person can register to vote or cast a ballot in an election. Legislators also may consider requiring all voters to present photo identification at the polling place prior to voting. Other proposals may seek to amend early voting-by-mail regulations to clarify that certain types of voting assistance are allowable. The establishment of same-day voter registration at the polling place also may be considered, and lawmakers may propose establishing a pilot program to provide balloting materials by electronic mail to overseas military personnel. Another proposal could require a paper printout or other mandatory standards for electronic voting machines.

Defense and veterans affairs. The Legislature could consider changing the formula for the property tax exemption for disabled veterans to tie the rate of relief to the severity of the veteran's disability. Lawmakers also may institute an appeals process for veterans who feel they have been denied the hiring preferences guaranteed them by law. Proposals may emerge to seek funding for the Defense Economic Adjustment Assistance Grant Program aimed at helping communities adversely affected by base closure or realignment.

Sunset issues. The Texas Veterans Commission (TVC), Veterans' Land Board (VLB), the State Office of Risk Management (SORM) and the Office of State-Federal Relations will be up for Sunset review in 2007. Lawmakers may consider whether to abolish the Office of State-Federal Relations as an independent agency and restructure it within the Governor's Office.

Homebuilder regulation. Lawmakers may consider changing the rules governing the Texas Residential Construction Commission to give the agency more authority over contractors and revise the dispute resolution process

for consumers through such options as eliminating fees for homeowners who file a complaint or request through the agency.

Legislature. Some legislators may propose that all votes on legislation be recorded and available to the public.

Redistricting. Lawmakers may propose limiting the redrawing of elective district boundaries to once every 10 years following each federal census or delegating the drawing of legislative or congressional boundaries to an independent commission. The Legislature may consider redrawing the district boundaries of the state appellate courts or modifying those of district and county attorneys.

Open records. The Legislature may consider changing open-meetings and records laws so that public bodies can discuss homeland security issues in closed session.

Family law

Child support. Lawmakers may consider revising child support guidelines and formulas and the penalties assessed against those who owe child support. Some proposals may deal specifically with support for children's educational expenses, while others may seek to stay child support payments while an obligor is incarcerated. Penalties for violating orders dealing with the possession of children and access to them could be revised, and legislators also could examine the issue of paternity fraud and the statutes governing presumption of parentage.

Legislators could consider proposals to revise court oversight of court-appointed fiduciaries, such as guardians who make financial and personal decisions for wards and those appointed to administer an estate or trust.

Financial institutions

Loans and credit. Lawmakers may consider placing restrictions on predatory lending practices, such as so-called "payday loans" in which borrowers use their paychecks as collateral for short-term, high-interest cash loans. Proposals also may seek to prevent credit card companies from targeting high-school- age children and college students with offers for easy-to-obtain credit cards.

Mortgage fraud. Texas is ranked in the top ten nationally for home foreclosures. To address this problem, lawmakers may consider examining financial lending in non-traditional mortgage products, including sub-prime and interest-only loans. Lawmakers also may revisit the state's home equity laws and require additional consumer and financing information for prospective home buyers.

Local government

Unfunded mandates. Some lawmakers may support a constitutional amendment preventing the Legislature from enacting new unfunded mandates. Additionally, legislators might consider financially assisting local governments to help them meet new unfunded mandates from the federal government.

Property ownership. Legislators may seek to amend laws governing homeowners associations with respect to dues collection, enforcement of rules, and other restrictions they can impose on their members. The Legislature also could pursue changes to "contract-for-deed" and "rent-to-own" procedures to protect home buyers' rights.

Agriculture and rural affairs

Animal identification. Several proposals could emerge to revise the law enacted by the 79th Legislature in 2005 authorizing the Texas Animal Health Commission (TAHC) to require the use of official animal identification numbers as part of the federal National Animal Identification System. Such legislation might include restricting the state's animal identification system to a purely voluntary program or abolishing it altogether and removing the criminal penalty for noncompliance.

Sunset. TAHC and the Office of Rural and Community Affairs (ORCA) will undergo Sunset review during the 80th Legislature. Lawmakers may propose expanding TAHC's statutory authority to respond to emergencies and clarify its authority to control diseases that affect livestock and fowl. The Sunset Advisory Commission is reviewing ORCA's ability to effectively advocate for rural Texas and has recommended abolishing the agency and transferring its functions to the Texas Department of Agriculture.

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