**HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES**
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# HOUSE RESEARCH ORGANIZATION

## daily floor report

Wednesday, April 26, 2023
88th Legislature, Number 50
The House convenes at 10 a.m.
Part One

Five bills are on the Major State Calendar, three resolutions are on the Constitutional Amendments Calendar, and 52 bills are on the General State Calendar for second reading consideration today. The table of contents for Part One of today's *Daily Floor Report* appears on the following page.

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Alma Allen
Chairman
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# HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Wednesday, April 26, 2023
88th Legislature, Number 50
Part 1

SUBJECT: Ratifying and adopting voting districts

COMMITTEE: Redistricting — favorable, without amendment

VOTE: 9 ayes — Darby, Cunningham, Goldman, Jetton, Landgraf, Lozano, Morrison, Murr, Schofield

4 nays — Turner, Anchía, Moody, Rose

2 absent — Campos, S. Thompson

WITNESSES: For — None

Against — Susana Carranza; Tim Dowling; Miguel Rivera (*Registered, but did not testify*: Arnetta Murray)

BACKGROUND: During the 87th Legislature, 3rd Called Session, lawmakers adopted maps for the Texas Senate and House of Representatives, U.S. Congress, and the State Board of Education. The 88th Legislature, Regular Session, is the first regular session following the publication of the 2020 federal census.

DIGEST: HB 1000 would ratify and adopt the districts established by the 87th Legislature and used to elect members of the Texas House of Representatives in 2022, beginning with the primary and general elections of 2024 for members of the 89th Legislature. The bill would not affect the membership or districts of the 88th Texas Legislature.

HB 1000 would establish that the purpose of the bill was to ensure the Legislature fulfilled its duty to apportion the state into representative districts at its first regular session after the publication of the Twenty-fourth Decennial Census of the United States, as provided by the Texas Constitution.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023.

SUBJECT: Updating population-based descriptions of political subdivisions

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 12 ayes — Hunter, Hernandez, Anchía, Geren, Guillen, Metcalf, Raymond, Slawson, Smithee, Spiller, S. Thompson, Turner

0 nays

1 absent — Dean

WITNESSES: For — (*Registered, but did not testify*: Garrett Coppedge, Texas Hotel and Lodging Association; Monty Wynn, Texas Municipal League)

Against — None

On — (*Registered, but did not testify*: Jeff Guidry, Texas Legislative Council)

DIGEST: HB 4559 would amend various state codes and provisions in Vernon's Texas Civil Statutes to revise the population-based descriptions of certain political subdivisions so that the applicable laws continued to apply to those subdivisions.

The bill would specify that it was not intended to revive a law that was impliedly repealed by a law enacted by a previous legislature, including the 87th. To the extent that a law enacted by the 88th Legislature, Regular Session, conflicted with HB 4559, the other law would prevail.

The bill would take effect September 1, 2023.

SUPPORTERS SAY: HB 4559 would ensure that current Texas laws continued to apply to particular political subdivisions as intended by revising statutory population brackets based on updated data from the 2020 federal census.

CRITICS SAY: No concerns identified.

SUBJECT: Establishing the broadband infrastructure fund

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 12 ayes — Hunter, Hernandez, Anchía, Geren, Guillen, Metcalf, Raymond, Slawson, Smithee, Spiller, S. Thompson, Turner

0 nays

1 absent — Dean

WITNESSES: For — David Tate, AT&T; Trey Mendez, City of Brownsville; Scott McGriff, Community Internet Providers LLC; Scott Calderwood, El Paso County 911 District; Mitrah Avini, Texas 2036; Megan Mauro, Texas Association of Business; Jon Hockenyos, Texas Broadband Now; Walt Baum, Texas Cable Association; Julia Harvey, Texas Electric Cooperatives; Monica Andry, Texas Hispanic Chamber Coalition; Daniel Gibson, Texas Statewide Telephone Cooperatives, Inc; Russell (Rusty) Moore, Texas Telephone Association / Big Bend Telephone Co.; Joseph McGrath, Texoma Communications, LLC dba TekWav; Mike Hunsucker, Windstream (*Registered, but did not testify*: Tim Morstad, AARP; Sharon Mayer, Allen Fairview Chamber of Commerce; Jim Bellina, AMA Communications; J Lawrence Collins, Amerigroup Texas; Tricia Cave, Association of Texas Professional Educators (ATPE); John T. Montford, AT&T; Denise Davis, Austin Chamber of Commerce; Martha Landwehr, BASF Corporation; Ginger Averitt, Bexar County Education Coalition; Lauren Fairbanks, Brazoria Telephone, Southwest Texas Communications; Rebecca Montgomery, Center for Transforming Lives; Todd Baxter, Charter Communications; Guadalupe Cuellar, City of El Paso; TJ Patterson, City of Fort Worth; Cynthia Garza Reyes, Michael Vargas, City of Pharr; Nadia Islam, City of San Antonio; Rebecca Young Montgomery, Coalition of East Tarrant Chambers; Dennis Borel, Coalition of Texans with Disabilities; Velma Cruz, Comcast; Adam Haynes, Conference of Urban Counties; Kari Gibson, ConocoPhillips; Janis Carter, Dallas Citizens Council; Matthew Garcia, Dallas Regional Chamber; Larry Gonzales, Dell Technologies; Michael Dole, Driscoll Health System; Wes Robinson, Eastex Telephone Cooperative, Inc; David

Stout, Elisa Tamayo, El Paso County; Cary Roberts, Etex Communications LLC; Rebecca Montgomery, Frisco Chamber of Commerce; Jennifer Carter, Goodwill Central Texas; Christian Bionat, Greater Houston Partnership; Stephen Scurlock, Independent Bankers Association of Texas; Ron Simmons, Invest Texas Council; Sarah Floerke, Lower Colorado River Authority; Christine Yanas, Methodist Healthcare Ministries; Andrea Shepard, Montgomery County Emergency Communication District; Hannah Gill, NAMI Texas; Gilbert Gonzalez, NCIC Phone Systems; Nicholas Tuccio, Nextlink Internet; Annie Spilman, NFIB; Cary Roberts, Nortex Communications; Patrick Brophey, North Texas Commission; Michael D. Lozano, Permian Basin Petroleum Association; Cary Roberts, Poka Lambro Telephone Cooperative Inc.; John Pitts, Jr, Project Lead the Way; Timothy Ottinger, St. Luke's Health; Todd Morgan, T-Mobile; Jessica Schleifer, Teaching Hospitals of Texas; Servando Esparza, TechNet; Lauren Fairbanks, Texas 9-1-1 Alliance; Kyle Jackson, Texas Apartment Association; Gabriella McDonald, Texas Appleseed; Lori Henning, Texas Association of Goodwills; Jason Baxter, Texas Association of Health Plans; Fred Shannon, Texas Association of Manufacturers; Ruben Longoria, Texas Association of School Boards; Tricia Stinson, Texas Broadband Now; Matthew Russell, Texas Computer Education Association; Leela Rice, Texas Council of Community Centers; Nora Belcher, Texas e-Health Alliance; Charlie Leal, Texas Farm Bureau; Marcus Mitias, Texas Health Resources; Sara Gonzalez, Texas Hospital Association; Michelle Romero, Texas Medical Association; Monty Wynn, Texas Municipal League; Suzi Kennon, Texas PTA; Julia Parenteau, Texas Realtors; Heather Sheffield, Texas Rural Broadband Coalition (TRBC); Kelty Garbee, Texas Rural Funders; Jennifer Emerson, Texas Rural Water Association; John Hubbard, Ian Randolph, Mark Seale, Texas Telephone Association; Jennifer Prather, Totelcom Communications; Julie Wheeler, Travis County Commissioners Court; Kenneth Sumberlin, TSAEW/IBEW; Ashley Harris, United Ways of Texas; Elisa Hernandez, University Medical Center of El Paso; Richard Lawson, Verizon; John Pitts, Jr, Western Governors University - Texas; David Zumwalt, WISPA | Broadband Without Boundaries; Diego Gonzalez; Shahmeen Khan; Thomas Parkinson; Bill Paxton; Susan Stewart)

Against — None

On — Harrison Hiner, Communications Workers of America; Glenn Hegar, Comptroller of Public Accounts (*Registered, but did not testify*: Kelli Merriweather, Commission on State Emergency Communications; David Cruz, Greg Conte, Comptroller of Public Accounts; Thomas Gleeson, Public Utility Commission)

DIGEST:

CSHB 9 would establish the broadband infrastructure fund as a special fund in the state treasury outside the general revenue fund, consisting of:

- appropriations from the Legislature;
- money transferred or deposited to the credit of the fund by the constitution or general law;
- revenue that the Legislature by general law dedicated to the fund;
- investment earnings and interest earned on money in the fund; and
- gifts, grants, and donations.

The funds would be administered by the comptroller and used only for:

- purposes of the Broadband Development Office;
- providing funding to the Texas universal service fund (TUSF);
- providing funding for 9-1-1 and next-generation 9-1-1 services;
- supporting the deployment of next-generation 9-1-1;
- supporting the Texas Broadband Pole Replacement Program;
- providing matching funds for federal money through the Broadband Equity, Access, and Deployment Program (BEAD);
- supporting increased connectivity needs for qualifying schools under the federal Schools and Libraries Program (E-rate) or similar legislation;
- improving public safety telecommunications connectivity; and
- administering and enforcing the fund's establishing statute.

The bill would require the Texas Treasury Safekeeping Trust Company to hold and invest the fund on behalf of the comptroller. It also would provide for the overall investment objective of the fund and establish the powers of the trust company.

The trust company would have to provide an annual written report on investments of the fund to the comptroller and prepare and submit to the comptroller's investment advisory board a written investment policy. The advisory board would have to submit recommendations on the policy to the trust company. The comptroller would have to provide an annual forecast of fund cash flows and appropriate updates to the trust company.

CSHB 9 would require the comptroller to make the following transfers from the fund by September 15 each year:

- to the TUSF, an amount necessary to provide the services of the fund;
- to the next-generation 9-1-1 service fund, an amount equal to the difference between fees collected for the preceding fiscal year under the fund, and the amount that would have been collected if the fee were 85 cents;
- to the commissioner of education, an amount necessary to provide matching funds to schools under the federal Schools and Libraries Program (E-rate) or similar legislation.

The bill also would authorize the comptroller to transfer additional amounts as available from the broadband infrastructure fund to the pole replacement fund and the next-generation 9-1-1 service fund.

Provisions of the Utilities Code establishing the current funding mechanism for the TUSF would be repealed.

CSHB 9 would direct the comptroller to make one-time transfers from the broadband infrastructure fund of:

- $1 billion from the broadband development account under the Broadband Development Office; and
- $75 million to the broadband pole replacement fund.

The transfers would have to be made no later than 30 days after the bill's effective date.

The bill would take effect January 1, 2024, but only if the constitutional amendment proposed by HJR 125 by Ashby, creating the broadband infrastructure fund, was approved by voters.

SUPPORTERS SAY:

CSHB 9, along with CSHJR 125, would increase broadband access and affordability across Texas by enabling the state to make major investments in broadband and telecommunications infrastructure in coordination with federal funding programs. The bill also would make crucial investments in emergency response technology and connectivity in schools.

Millions of Texans currently lack broadband internet, limiting their access to education, telehealth, and employment opportunities online. Lack of access disproportionally affects rural communities, people of color, and low-income families. The fund established by CSHB 9 would provide resources to close this digital divide, which in turn would improve quality of life and spur significant economic growth, including higher personal incomes, job creation, and increased state revenue.

At a time when the state has the advantage of a budget surplus, supporting broadband expansion would be a sound investment. While substantial federal funds for broadband expansion are available, many communities that are in need of reliable, affordable internet will struggle to meet federal fund matching requirements or attract private investment. Cost-sharing at the state level would ensure that Texas received the maximum benefit from these funding opportunities.

CSHB 9 would ensure the continuation of state support for vital telecommunications and broadband services in high-cost areas and reduce the financial burden on consumers by replacing TUSF's current funding mechanism based on utility charges with money from the broadband infrastructure fund. By allocating money from the fund to support 9-1-1 services, including the deployment of next-generation 9-1-1 technology, the bill also would help first responders provide better 9-1-1 service and cover increased costs related to technological changes and population growth.

All available tools, including both fiber and wireless technology, are needed to close the digital divide across Texas. Each technology has advantages and disadvantages, but efforts to support the growth of broadband should retain the flexibility needed to determine which technologies and investments are feasible for different areas of the state depending on topography, population density, and other factors. The bill's holistic approach would promote competition and maximize efficiency.

Including a specific statutory provision on labor standards is unnecessary because federal regulations already require states to include fair labor practices in their broadband development programs, and the federal Broadband Equity, Access, and Deployment (BEAD) program also requires states to develop a plan aimed at achieving a diverse and sufficiently skilled workforce to build and maintain broadband infrastructure.

CRITICS SAY:

CSHB 9 should require the broadband infrastructure fund to prioritize projects that develop fiber optic broadband infrastructure, as fiber may be faster, safer, and more durable and reliable than wireless broadband.

OTHER CRITICS SAY:

In order to ensure that broadband investment in Texas is successfully implemented by a skilled and properly trained workforce, CSHB 9 should incorporate federally recommended labor standards for broadband projects that call for a directly employed, rather than subcontracted, workforce. Subcontracting can create problems for quality of service and accountability. The state should include fair labor standards, including robust in-house training requirements, in the criteria for awarding grants.

NOTES:

CSHB 9 is the enabling legislation for CSHJR 125 by Ashby, which would create the broadband infrastructure fund. CSHJR 125 is set for second reading consideration today.

According to the Legislative Budget Board, CSHJR 125 and CSHB 9 would have an estimated negative impact to general revenue related funds of $436,285,000 through fiscal 2024-2035, with a negative impact of about $4.8 billion through the following biennium.

SUBJECT: Establishing programs, funding, and provisions for certifying educators

COMMITTEE: Public Education — committee substitute recommended

VOTE: 10 ayes — Buckley, Cunningham, Dutton, Cody Harris, Harrison, Hefner, K. King, Longoria, Schaefer, Talarico

2 nays — Allen, Hinojosa

1 present not voting — Allison

WITNESSES: For —Scott Muri, Ector County ISD; Ryan Franklin, Educate Texas; Darryl Henson, Marlin ISD; Jean Mayer, Pflugerville ISD; Gabe Grantham, Texas 2036; Cecilia Herrera; Josue Tamarez Torres (*Registered, but did not testify*: Rebecca Young Montgomery, Coalition East Tarrant Chambers; Matthew Garcia, Dallas Regional Chamber; Garry Jones, DFER; Frank Corte, International Leadership of Texas; Adam Jones, Iteach Texas; Christine Yanas, Methodist Healthcare Ministries; Marc Rodriguez, North Texas Commission; Stacy Schmitt, Gilbert Zavala, Opportunity Austin; Rebekah Calahan, Philanthropy Advocates; Harold Oliver, Shulman Lopez Hoffer Adelstein; Stephanie Matthews, Texas Association of Business; Raif Calvert, Texas Association of School Boards; Justin Yancy, Texas Business Leadership Council; Bryce Adams, Texas Public Charter Schools Association; Erin Walter, Texas Unitarian Universalist Justice Ministry; Kate Hoffman, The Commit Partnership; Jonathan Feinstein, The Education Trust; Travis Krogman, The Greater Austin Chamber of Commerce; and six individuals)

Against — Dwight Harris (*Registered, but did not testify*: Jaime Clark, Lewisville ISD; Delaina Bishop; Kathryn Kizer; Susan Stewart)

On — Monty Exter, Association of Texas Professional Educators; Kathy Rollo, Lubbock ISD; Paige Williams, Texas Classroom Teachers Association; Kelvey Oeser, Texas Education Agency; Carrie Griffith, Texas State Teachers Association; Clifton Tanabe, The University of Texas at El Paso (*Registered, but did not testify*: Steven Aleman, Disability Rights Texas; Maximiliano Rombado, Raise Your Hand Texas;

Kelsey Kling, Texas American Federation of Teachers; Barry Haenisch, Texas Association of Community Schools; Jodi Duron, Texas Association of Midsize Schools; Elizabeth Ward, Texas Coalition for Educator Preparation; Andrea Chevalier, Texas Council of Administrators of Special Education; Von Byer, Andrew Hodge, Matthew Holzgrafe, Eric Marin, Jessica McLoughlin, Texas Education Agency; Mark Terry, Texas Elementary Principals and Supervisors Association; Dee Carney, Texas School Alliance; Daphne Hoffacker)

DIGEST:

CSHB 11 would amend or establish provisions regarding educator certification, such as local optional teacher designation systems and the Texas Teacher Residency Partnership Program.

**Local optional teacher designation systems.** CSHB 11 would expand the categories under which a school district or open-enrollment charter school could designate a classroom teacher to include "acknowledged teacher." The designation under which a classroom teacher holding a National Board Certification would be categorized would be amended from "recognized" to "nationally board certified." The bill also would add to the technical assistance required to be developed and provided by the Texas Education Agency (TEA) for districts and charter schools that requested assistance in implementing a local optional teacher designation system. Under the bill, such assistance would include:

- providing examples of local optional teacher designation systems;
- applying the performance and validity standards established by the commissioner of education;
- providing centralized support for the analysis of the results of assessment instruments administered to district or school students; and
- facilitating effective communication on and promotion of local optional teacher designation systems.

*Local optional teacher designation system grant program.* The bill would require TEA to use appropriated or available funds to establish and administer a grant program for the purposes of expanding implementation of local optional teacher designation systems and increasing the number of classroom teachers eligible for a designation under such a system. The bill

would require a grant awarded under the program to meet the needs of individual districts and enable regional leadership capacity.

**Teacher quality assistance.** The bill would require TEA to use appropriated or available funds to develop training for and provide technical assistance to district and open-enrollment charter schools regarding:

- strategic compensation, staffing, and scheduling efforts that would improve professional growth, teacher leadership opportunities, and staff retention;
- programs that would encourage high school students or community members served by the district to become teachers; and
- programs or strategies that school leaders could use to establish clear and attainable behavior expectations while proactively supporting students.

TEA would be required to use appropriated or available funds to provide grants to district and charter schools to implement initiatives developed under these provisions.

**Teacher time study.** The bill would require TEA to use appropriated or available funds to develop and maintain a technical assistance program to support districts and schools in:

- studying how the district's or school's staff and student schedules, required noninstructional duties for teachers, and professional development requirements for educators affected the amount of time classroom teachers worked each week; and
- refining the schedules for students or staff to ensure teachers would have sufficient time during normal work hours to fulfill all job duties.

The bill would require TEA to periodically make findings and recommendations for best practices publicly available using information from participating districts and schools.

**Texas Teacher Residency Partnership Program.** CSHB 11 would require the commissioner of education to establish the Texas Teacher Residency Partnership Program to enable qualified educator preparation programs to form partnerships with school districts or open-enrollment charter schools in order to provide residency positions to partnership residents at the district or school. The partnership program would be designed to allow partnership residents to receive field-based experience working with cooperating teachers in prekindergarten through twelfth grade classrooms and to gradually increase the amount of time a partnership resident would spend engaging in instructional responsibilities.

The State Board for Educator Certification would be required to propose rules specifying the requirements for board approval of an educator preparation program as a qualified educator preparation program. The rules would have to require such a program to:

- use research-based practices for recruiting and admitting candidates into the program to participate in the partnership program;
- integrate curriculum, classroom practice, and formal observation and feedback;
- use multiple assessments to measure a partnership resident's progress in the partnership program; and
- partner with a district or school.

The bill would require a school district or charter school participating in the partnership program to enter into a written agreement with a qualified educator preparation program to provide a partnership resident with at least one school year of clinical teaching in a residency position at the district or school in the subject area and grade level for which the resident would seek certification and pair the partnership resident with a cooperating teacher. A school district or charter school would be required to only use the money received to implement the partnership program, provide compensation to partnership residents and cooperating teachers, and provide funding to the qualified educator preparation program that partnered with the district or school. The bill would require the relevant school district or charter school to pay at least 50 percent of the compensation paid to partnership residents using money other than money

received under the residency partnership allotment. The school district or charter school would be required to provide any information required by TEA regarding the district's or school's implementation of the partnership program.

A district or charter school could only pair a partnership resident with a cooperating teacher who agreed to participate in the role in a partnership program. A partnership resident would be prohibited from serving as a teacher of record.

The State Board for Educator Certification would be required to propose rules specifying the requirements for the issuance of a residency educator certificate to a candidate who had successfully completed a qualified educator preparation program. Such rules could not require the resident to pass a pedagogy examination unless the examination tested subject-specific content appropriate for the grade and subject area for which the candidate sought certification.

The bill would require TEA to provide technical assistance, planning, and support to school districts, charter schools, and qualified educator preparation programs. The support provided by TEA would include providing model forms and agreements that a district, school, or educator preparation program could use and support for district and school strategic staffing and compensation models to incentivize participation in a partnership program.

The commissioner could solicit and accept gifts, grants, and donations from public and private entities for the purposes of the partnership program.

The State Board of Educator Certification would be required, in using negotiated rulemaking procedures, to appoint to the negotiated rulemaking committee persons representing higher education institutions. The bill would require the commissioner to adopt rules as necessary to implement these provisions after considering the recommendations of the negotiated rulemaking committee.

**Allotments.** The bill would amend or establish provisions for certain allotments.

*Teacher Incentive Allotment (TIA).* The bill would amend the base and increased amount allotments for teachers with designations under TIA. The allotments under the bill would include:

- an increased amount not to exceed to $36,000 for each master teacher, a raise from $32,000;
- a base allotment of $9,000, or an increased amount not to exceed $25,000 for each exemplary teacher, a raise from $6,000 and $18,000, respectively; and
- a base allotment of $5,000, or an increased amount not to exceed $15,000 for each recognized teacher, a raise from $3,000 and $9,000, respectively.

The bill would include $3,000, or an increased amount not to exceed $9,000 for each acknowledged teacher or teacher designated as nationally board certified.

The bill would amend the applicable amounts used to determine the high needs and rural factor for each teacher designation. The applicable amounts under the bill would include:

- $6,000 for each master teacher, increased from $5,000;
- $4,000 for each exemplary teacher, increased from $3,000;
- $2,500 for each recognized teacher, increased from $1,500; and
- $1,500 for each acknowledged teacher or teacher designated as nationally board certified.

*Mentor program allotment.* The bill would amend the provisions regarding mentor program allotments, removing the provision requiring a school district to implement a mentoring program for classroom teachers who had less than two years of experience before the district could be entitled for an allotment. The bill would entitle a district to an allotment to fund a mentoring program and to provide stipends for mentor teachers if the district implemented such a program and the mentor teachers assigned

under that program completed a training program required or developed by TEA for mentor teachers.

The bill would entitle a district to an allotment of $2,000 for each classroom teacher with less than 2 years of experience who participated in a mentoring program. A district could receive such an allotment for no more than 40 teachers during a school year unless an appropriation was made for the purposes of providing more allotments per district.

*Residency partnership allotment.* The bill would establish the residency partnership allotment. For each partnership resident employed by a district in a residency position, the district would be entitled to an allotment equal to a base amount of $22,000, which could be increased by the high needs and rural factor to an amount not to exceed $42,000. The high needs and rural factor would be determined by multiplying $5,000 by the lesser of the average of the point value assigned to each student at a district campus or 4.0.

The bill would entitle a district that qualified for an allotment to an additional $2,000 for each partnership resident employed in a district residency position who was a candidate for special education or bilingual education certification. The Texas School for the Deaf and the Texas School for the Blind and Visually Impaired would be entitled to an allotment under these provisions. If the commissioner of education determined that assigning point values to students of either of these schools was impractical, the commissioner could use the average point value assigned for those students' home districts. The bill would require TEA to provide 10 percent of the amount of funds for a partnership resident to the resident's partnership education preparation program to support operating costs of the residency program.

**Employed retiree teacher reimbursement grant program.** The bill would require the commissioner to use appropriated or available funds to establish and administer a grant program to award funds to reimburse a district or school hiring a teacher who retired before September 1, 2022, for the increased contributions to the Teacher Retirement System of Texas (TRS) associated with hiring the retired teacher. The Legislature, in

appropriating money for such grants, could provide for, modify, or limit amounts appropriated in the General Appropriation Act by:

- providing a date or date range other than September 1, 2022, before which a teacher would be required to have been retired for a district or school that hired the teacher to be eligible; or
- limiting eligibility to a district or school that hired a retired teacher who held a certain certification, to teach a certain subject or grade, in a certain geographical area, or to provide instruction to certain students.

The bill would require the commissioner to proportionally reduce the amount of funds awarded to districts or schools if the number of grant applications by eligible districts or schools exceeded the number of grants the commissioner could award with appropriated or available money. A school district or charter school could use grant funds to make certain required payments.

**Resignations under certain contracts.** The bill would prohibit the State Board for Educator Certification from imposing a sanction against a teacher who improperly relinquished a position under a probationary contract, a continuing contract, or a term contract and left the employment of the district after the 45$^{th}$ day before the first day of instruction for the upcoming school year and without the consent of the board of trustees if the relinquishment was due to:

- the teacher, or a close family member, developing a serious illness or experiencing a significant change in health condition;
- the teacher relocating because the teacher’s spouse or partner changed employers;
- the needs of the teacher's family changing significantly in a manner that required the teacher to relocate or forgo employment during a period of required employment under the teacher’s contract; or
- the teacher reasonably believing that the teacher received written permission from the district to resign.

**Other provisions**. CSHB 11 would address various other areas of the education system, such as requirements related to teacher certification and education model for kindergarten classes in Texas.

*State Board for Educator Certification rulemaking***.** The bill would require the State Board for Educator Certification to use negotiated rulemaking procedures before proposing a rule. For a proposed rule, the board would determine if it was necessary to appoint to the negotiated rulemaking committee a person to represent the persons affected by the proposed rule.

*Waiver or payment of certain fees.* The bill would require the State Board for Educator Certification, for a teaching certification applicant, to waive a certification examination fee imposed by the board for the first administration of the applicant's examination and the application fee for certification. The board would pay to a vendor that administered a certification examination a fee assessed by that vendor for the examination of an applicant for the first administration of the examination.

*Teacher position data collection.* CSHB 11 would require TEA to collect data from school districts and charter schools for the recruitment and retention of classroom teachers, including the classification, grade level, subject area, duration, and other relevant information regarding vacant teaching positions. The data could be collected using the Public Education Information Management System or another reporting mechanism specified by TEA.

*Three-cueing model prohibition.* CSHB 11 would prohibit a school district, charter school, or educator preparation program from including any instruction that incorporated a three-cueing education model in the foundational skills reading curriculum for kindergarten through third grade.

*Free prekindergarten for certain children.* The bill would expand the list of children eligible for tuition-free prekindergarten classes offered by a district to include the child of a person employed as a classroom teacher at a public primary or secondary school in the district that offered such prekindergarten classes.

*Repealed provisions.* CSHB 11 would repeal certain provisions from the Education Code, including subch. Q, ch. 21 which established the Texas Teacher Residency Program, and sec. 21.042 which established the State Board of Educators veto over the State Board of Educator Certification rules.

Immediately following the effective date of the bill, a district or school would be required to redesignate a teacher who held a designation made under a local optional teacher designation system to reflect the teacher's designation under the provisions of the bill. Funding provided to a district or school for such a teacher would be increased to reflect the teacher's redesignation.

Until the State Board of Educator Certification adopted the necessary rules, the commissioner of education could approve a program as a qualified educator preparation program if the commissioner determined that the program met the necessary requirements. A program's designation as a qualified educator preparation program by the commissioner would remain effective until the first anniversary of the board adopting rules.

This bill, except for certain provisions regarding allotments, would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023. The provisions regarding the Teacher Incentive Allotment, the mentor program allotment, and the residency partnership allotment would take effect September 1, 2023.

SUPPORTERS SAY:

CSHB 11 would prioritize the recruitment and retention of high-quality teachers by allocating significant funding to new programs and allotments. The residency and mentor allotments, along with certification fee waivers, would help aspiring teachers receive high quality training and help alleviate the financial burden many new teachers face. The bill also would benefit National Board certified teachers by recognizing their certification within the TIA designation system. The bill would clarify the circumstances under which certified teachers could abandon certain contracts, which would prevent teachers with good reasons to resign from being sanctioned.

CSHB 11 also would provide additional technical assistance to support teacher quality in districts. This assistance would include improving support to implement positive behavior expectations, expanding grow-your-own programs for high school students and community members, and improving approaches to compensation, staffing, and scheduling efforts in ways that would improve the professional growth, leadership skills, and retention of teachers and staff.

CRITICS SAY:

CSHB 11 should provide a higher TIA designation for National Board certified teachers. This certification is very rigorous and is attained only by the highest quality teachers, but these teachers would be qualified for the lowest TIA amounts under the bill. Additionally, the bill should not repeal Education Code sec. 21.042, which authorizes a veto for the State Board of Educators over State Board of Educator Certification rules. The repeal of the veto would limit the measures by which the State Board of Educator Certification can be held accountable.

NOTES:

According to the Legislative Budget Board, the cost to the state of the bill for the biennium would be $503,916,011. No significant impact on equalized funding requirements and policies affecting public education would be anticipated from any provisions of the bill. The actuarial analysis estimated that the bill would not have a fiscal impact on the Teacher Retirement System since it is changing the source of funding rather than the amount.

SUBJECT: Establishing provisions for educator compensation and school finance

COMMITTEE: Public Education — committee substitute recommended

VOTE: 10 ayes — Buckley, Allison, Cunningham, Cody Harris, Hefner, Hinojosa, K. King, Longoria, Schaefer, Talarico

1 nay — Allen

1 absent — Dutton

1 present not voting — Harrison

WITNESSES: For —Ana Rush, Del Valle ISD; Greg Smith, Fast Growth School Coalition; Jean Mayer, Pflugerville ISD; Sharon McKinney, Port Aransas ISD and the Texas Association of School Administrators; Bob Popinski, Raise Your Hand Texas; Ellen Williams, Texas Association of School Boards; Andrea Chevalier, Texas Council of Administrators of Special Education; Chris Smith, Texas School Alliance and Katy ISD; Christy Rome, Texas School Coalition; Matthew Balter; Latoya Jackson (*Registered, but did not testify*: Julia Grizzard, Bexar County Education Coalition; Kyle Frazier, Fredericksburg Education Alliance; Frank Corte, International Leadership of Texas; Darryl Henson, Marlin ISD; Christine Yanas, Methodist Healthcare Ministries; Marc Rodriguez, North Texas Commission; Amanda List, Schulman, Lopez, Hoffer & Adelstein, LLP; Harold Oliver, Shulman Lopez Hoffer Adelstein; Mary Lynn Pruneda, Texas 2036; Stephanie Matthews, Texas Association of Business; Barry Haenisch, Texas Association of Community Schools; Raif Calvert, Texas Association of School Boards; John Litzler, Texas Baptists Christian Life Commission; Mark Terry, Texas Elementary Principals and Supervisors Association; Julia Grizzard, Texas Music Educators Association, Texas Arts Education Campaign; Suzi Kennon, Texas PTA; Bryce Adams, Texas Public Charter Schools Association; Dee Carney, Texas School Alliance; Erin Walter, Texas Unitarian Universalist Justice Ministry; Tiffany Patterson, United Ways of Texas; Amy Bruno, Upbring, and nine individuals)

Against — Monty Exter, Association of Texas Professional Educators (*Registered, but did not testify*: Jaime Clark, Lewisville ISD; Delaina Bishop; Lin Foster; Linda Guy; Kathryn Kizer; Susan Stewart)

On —Ray Pieniazek, Agriculture Teachers Association of Texas; Adrian Bustillos, Aldine ISD; Lynn Boswell, Austin ISD Board of Trustees; Mark Bosher, Career & Technical Association of Texas; Josh Sanderson, Equity Center; Chandra Villanueva, Every Texan; Kimberly Smith, Frisco ISD; Laura Yeager, Just Fund It TX; Leo Lopez, MoakCasey; Kelsey Kling, Texas American Federation of Teachers; Kayne Smith, Texas Association for Pupil Transportation; Paige Williams, Texas Classroom Teachers Association; Jonathan Feinstein, The Education Trust; Paul Colbert; Krystina Symington (*Registered, but did not testify*: Steven Aleman, Disability Rights Texas; Danny Stockton, Frisco ISD; Diana Long, Intercultural Development Research Association; Jodi Duron, Texas Association of Midsize Schools; Michael Lee, Texas Association Rural Schools; Von Byer, Matthew Holzgrafe, Eric Marin, Alastair Mckenzie, Jessica McLoughlin, Mike Meyer, Kelvey Oeser, James Terry, Texas Education Agency; Carrie Griffith, Texas State Teachers Association; Kate Hoffman, The Commit Partnership; Zenobia Joseph)

BACKGROUND:

Education Code sec. 13.054 allows for a district that annexed an adjoining, poor-performance district to receive additional funding under certain circumstances.

Sec. 48.051 defines the basic allotment for school districts based on the average daily attendance students. The formula for the allotment is "A = $6,160 x TR/MCR", with:

- "A" representing the allotment;
- "TR" representing the district's tier one maintenance and operations tax rate; and
- "MCR" representing the district's maximum compressed tax rate.

DIGEST:

CSHB 100 would establish or amend provisions in the Education and Tax Codes that pertain to educator compensation and school finance.

**Article 1 – Changes effective for 2023-2024 school year**

**Highest annual salary.** The bill, regardless of the passage of HB 11 or another bill passed by the 88th Legislature, would amend Education Code sec. 21.402(a) by removing the equation used to calculate the minimum monthly salary of a district employee. The bill would amend the section by replacing the "minimum monthly salary" with the "highest annual minimum salary." The highest annual minimum salary would be based on a schedule applicable to the employee's certification and years of experience. The highest annual minimum salary would be:

- $35,000 for an employee with less than five years of experience who held no certification;
- $37,000 for an employee with less than five years of experience who held a teacher intern, teacher trainee, or probationary certificate;
- $40,000 for an employee with less than five years of experience who held another base certificate required for employment in the employee's position;
- $43,000 for an employee with less than five years of experience who held a designation under a local optional teacher designation system;
- $43,000 for an employee with less than five years of experience who held a residency educator certificate or had successfully completed a residency partnership program;
- $45,000 for an employee with at least five years of experience who held no certification;
- $47,000 for an employee with at least five years of experience who held a teacher intern, teacher trainee, or probationary certificate;
- $50,000 for an employee with at least five years of experience who held another base certificate required for employment in the employee's position;
- $53,000 for an employee with at least five years of experience who held a designation under a local optional teacher designation system;
- $55,000 for an employee with at least 10 years of experience who held no certification;
- $57,000 for an employee with at least 10 years of experience who held a teacher intern, teacher trainee, or probationary certificate;

- $60,000 for an employee with at least 10 years of experience who held another base certificate required for employment in the employee's position; or
- $63,000 for an employee with at least 10 years of experience who held a designation under a local optional teacher designation system.

**School staff compensation.** A district would not be required to pay an employee who was employed as a classroom teacher, full-time librarian, full-time school counselor, or full-time school nurse the required minimum salary for the school year following a school year during which the district reviewed the employee's performance and found the employee's performance unsatisfactory.

The bill would remove the profession of speech pathologist from the commissioner rules specifying certain credentials for the purposes of minimum salary payment.

The bill would require a district to use at least 50 percent of the difference between what the district would have paid for salaries on January 1, 2023, and what the district would pay for salaries after September 1, 2023, to increase the average total compensation per district employee employed as a classroom teacher, full-time librarian, full-time counselor, or full-time nurse. In calculating average total compensation per district employee, a district could not include compensation paid to such an employee in a position added by the district for the current school year that increased the ratio of those employees to enrolled students for the preceding year. This provision would expire September 1, 2025.

A district that increased employee compensation in the 2023-2024 school year to comply with the provisions of the bill would be considered to be providing compensation for services rendered independently of an existing employment contract applicable to that year and was not in violation of the Texas Constitution. A district that did not meet the requirement of the bill in the 2023-2024 school year could satisfy the requirements of this provision by providing an employee a one-time bonus payment during the 2024-2025 school year in an amount equal to the difference between the compensation earned by the employee during the

2023-2024 school year and the compensation the employee should have received during that school year if the district had complied with the requirements of the bill. This provision would expire September 1, 2025.

Notwithstanding the bill's minimum salary schedule, a district that increased the amount such employees were compensated during the 2023-2024 school year by at least $8,000 more than the amount the employee was compensated during the 2022-2023 school year would be considered to have complied with the requirements of the bill for the 2023-2024 school year. This provision would expire September 1, 2025.

**Rural Pathway Excellence Partnership program.** CSHB 100 would require the commissioner of education to establish and administer the Rural Pathway Excellence Partnership (R-PEP) program to incentivize and support rural college and career pathway partnerships that would be multidistrict, cross-sector, and that would expand opportunities for underserved students to succeed in school and life while promoting economic development in rural areas. The program would enable an eligible district that lacked an economy of scale, as determined by commissioner rule, to partner with a least one other district to offer a broader array of robust college and career pathways. Each partnership would be required to offer college and career pathways that aligned with regional labor market projections for high-wage, high-demand careers and be managed by a coordinating entity that:

- had or would have had the capacity to effectively coordinate the partnership at the time students were served under the partnership;
- had entered into a performance agreement approved by the board of trustees of each partnering district that conferred to the coordinating entity the same authority as provided to an entity that contracted to operate a district campus;
- was eligible to be awarded a charter;
- had been granted a charter by each partnering district; and
- had on the entity’s governing board, as either voting or ex officio members representatives of each partnering district and members of regional higher education and workforce organizations.

A performance agreement would be required to:

- include ambitious and measurable performance goals and progress measures tied to current college, career, and military readiness outcomes and longitudinal postsecondary completion and employment-related outcomes;
- allocate responsibilities for accessing and managing progress and outcome information and annually publishing that information on the website of each partnering district and the coordinating entity;
- authorize the coordinating entity to optimize the value of each college and career pathway offered through the partnership; and
- provide that any eligible student residing in a partnering district could participate in a college or career pathway offered through the partnership.

A coordinating entity employee that managed a partnership would be eligible for membership in and benefits from the Teacher Retirement System (TRS) if the employee would be eligible for membership and benefits by holding the same position at a partnering school district.

For accountability purposes, a student enrolled in a college or career pathway would not be considered to have dropped out of high school or failed to complete the curriculum requirements for high school graduation until the sixth anniversary of the student's first day in high school.

A district that proposed to enter into a performance agreement would be required to notify the commissioner of education of the district's intent to enter into the agreement. The commissioner would establish procedures for a district to notify the commissioner. The commissioner would notify the district whether the proposed agreement was approved or denied not later than the 60$^{th}$ day after the date the commissioner received the notification of the proposed agreement and all other required information. If the commissioner failed to notify the district within the prescribed period, the proposed agreement would be considered approved.

From money appropriated for that purpose, the bill would require the commissioner to establish a grant program to assist in the planning and implementation of a partnership under the program. The commissioner could award a grant only to a coordinating entity that had entered into an

approved performance agreement. The commissioner could use no more than 15 percent of the money appropriated for the grant program to cover the cost of administering the grant program and to provide technical assistance and support to partnerships.

The commissioner would be required to adopt necessary rules to implement the R-PEP program, including rules establishing:

- requirements for a coordinating entity and a performance agreement with the entity;
- the period for which a partnership could operate after commissioner approval before renewal of approval was required; and
- standards for renewal of approval for a partnership.

The bill would not prohibit an agreement between a school district and another entity for the provision of services at a district campus. The commissioner could accept gifts, grants, and donations from any source for the program. A private or nonprofit organization that contributed to the program could receive the Employers for Education Excellence Award.

**Allotments.** CSHB 100 would establish or amend provisions for various education-related allotments.

*Basic Allotment.* CSHB 100 would amend the basic allotment formula for the per student in average daily attendance allotment. The bill would replace $6,160 in the formula with the variable "B." "B" would be the base amount, which would be equal to the greater of $6,250, an amount equal to the district's base amount for the preceding school year, or the appropriated amount.

The bill would revise the method of calculating the allotment. Under the provisions of the bill, during any year for which the value of "A" or the sum of the value of "A" and the small and mid-sized district allotment to which the district was entitled was greater than the value of "A" or the sum of the value of "A" and the small and mid-sized allotment for the preceding school year, a district would be required to use at least 50 percent of the amount that equaled the product of the average daily

attendance of the district multiplied by the amount of the difference between the district's funding per student in average daily attendance for the current school year and the preceding school year to increase the average total compensation per relevant district employee. In calculating average total compensation per employee, a district could not consider compensation paid to a district employee employed in a position added by the district for the current school year that increased the ratio of those employees to the students compared to the preceding school year. The bill would remove the funding percentages that were required to be used to increase compensation to certain employees.

If a district increased employee compensation in a school year to comply with the provisions of the bill, the district would be considered to be providing compensation for services rendered independently of an existing employment contract applicable to that year and would not be a violation of the Texas Constitution. A district that did not meet the requirements of the bill during a school year could satisfy the requirements by providing an employee a one-time bonus payment during the following school year in an amount equal to the difference between the compensation earned by the employee and compensation the employee would have otherwise received if the district had been compliant.

*Fine arts allotment.* For each student in average daily attendance in a fine arts education course approved by the Texas Education Agency (TEA) in grades 6 through 12, the bill would entitle a district to an annual allotment equal to the basic allotment, or the sum of the basic allotment and the small and mid-sized district allotment, multiplied by 0.008. TEA would approve fine arts education courses that qualify for the allotment. The approved courses would be required to include fine arts education courses that:

- were authorized by the State Board of Education;
- provided students with the knowledge and skills necessary for success in fine arts; and
- required a student in full-time attendance to receive no less than 225 minutes of fine arts instruction per week.

TEA would annually publish a list of approved courses.

*R-PEP allotment and outcome bonus.* For each full-time equivalent student in average daily attendance in grades 9 through 12 in a college or career pathway offered through a partnership under the R-PEP program, the bill would entitle a district to an allotment equal to the basic allotment, or the sum of the basic allotment and the small and mid-sized district allotment, multiplied by:

- 1.15 if the student was educationally disadvantaged; or
- 1.11 if the student was not educationally disadvantaged.

Each year, the commissioner of education would determine for each district the minimum number of annual graduates of a college or career pathway who would be required to demonstrate college, career, or military readiness for the district to qualify for an outcomes bonus. In addition to the allotment per graduate who demonstrated college, career, or military readiness, a district would be entitled to an annual outcomes bonus of:

- $2,000 if the annual graduate was educationally disadvantaged;
- $1,000 if the annual graduate was not educationally disadvantaged; and
- $2,000 if the annual graduate was enrolled in a special education program.

The bill would entitle a district to each outcomes bonus for which an annual graduate qualified. A district could receive funding for a student for this allotment or any other allotment for which the student qualified.

*Transportation allotment.* The bill would amend the provisions regarding eligibility for districts and counties for a transportation allotment. The bill would include the entitlement for each district or county operating a regular transportation system to an allotment based on a rate of $1.54 per mile per regular eligible student or a greater rate set in the General Appropriations Act. The bill would entitle a district or county that provided special transportation service for special education students to a state allocation at a rate of $1.28 per mile or a greater appropriated amount. The bill would remove the requirement for such an allotment to be paid on a previous year’s cost-per mile basis and the requirement for

the rate per mile to be set by appropriation based on data gathered from the first year of each preceding biennium.

*Allotment for advanced mathematics pathways and certain programs of study.* A district would be eligible to receive an allotment if the district offered through in-person instruction, remote instruction, or a hybrid of both:

- an advanced mathematics pathway that began with Algebra I in grade eight and continued through more advanced courses from grade nine through 12;
- a program of study in cyber security or computer programming and software development; and
- a program of study in a specialized skilled trade, such as plumbing, welding, and aviation maintenance, among others.

Notwithstanding the prior allotment, a district would be eligible for the allotment for students of a high school that did not offer an eligible program of study if:

- high school students who resided in the attendance zone of the high school could participate in the program of study by enrolling in another school that provided transportation and was in the district or a neighboring district, was assigned the same or a better campus overall performance rating as the student's original high school, offered the program of study; or
- students enrolled in the high school were offered instruction for the program of study at another location and received transportation to and from the location.

An eligible district would be entitled to an annual allotment of $10 for each student enrolled at a district high school that offered a pathway or program of study in advanced mathematics, cybersecurity or computer programming and software development, and a specialized skilled trade if:

- each student enrolled at the school took a progressively more advanced mathematics course each year; and

- for each of those pathways or programs of study, at least one student enrolled at the school completed a course in the pathway or program.

A district that received such an allotment and a small and mid-sized district allotment would be entitled to receive an additional allotment in an amount equal to the product of 0.1 and the district's allotment for each student for which the district received a pathway or program allotment. A charter school would not be eligible for such an additional allotment. TEA could reduce the amount of a district's allotment if TEA determined that the district had not complied with any provision.

*Tier two allotment.* The bill would amend the tier two allotment calculation method by removing references to the existing basic allotment formula and replacing such references with the basic allotment formula as established by the bill.

*Salary transition allotment.* In the 2023-2024, 2024-2025, and 2025-2026 school years, a district would be entitled to receive an annual salary transition allotment equal to the difference between the amounts calculated in the following subsections: (b) and (c).

For subsection (b), TEA would calculate a district's value by determining the difference in the amount the district would be required to pay in compensation to employees on the minimum salary schedule, as amended by the bill, from the amount paid in compensation to employees on the minimum salary schedule as effective in the 2022-2023 school year, less the difference between:

- the amount of employer contributions the district paid in the 2022-2023 school year for employees on the minimum salary schedule; and
- the amount the district would have paid in employer contributions in the 2022-2023 school year for employees on the minimum salary schedule if the changes made by the bill had been in effect.

For subsection (c), TEA also would calculate a district's value by determining the total maintenance and operations (M&O) revenue for the

current school year less the total M&O revenue that would have been available to the district using the basic allotment formula and the small and mid-sized allotment formulas as each allotment formula existed on January 1, 2023.

Before making a final determination of the amount of an allotment to which a district was entitled, TEA would be required to ensure each district had an opportunity to review and submit revised information to TEA for the purposes of calculating the aforementioned values.

A district would be entitled to an allotment in an amount equal to:

- two-thirds of the value determined under the previous annual salary transition allotments for the 2026-2027 school year; and
- one-third of the value determined under the previous annual salary transition allotments for the 2027-2028 school year.

A district would not be entitled to such an allotment in the 2028-2029 school year or a later school year. The salary transition allotment provisions would expire September 1, 2029.

*Charter school allotment amendment*. The bill would amend the calculation of a per student in average daily attendance allotment for open-enrollment charter schools. The calculation of such an allotment would be an amount equal to the difference between the:

- product of the quotient of certain funding and student attendance numbers; and
- $500, raised from $125 by the bill.

**Additional funding for districts that annexed adjoining districts.** The bill would amend provision related to funding for districts that annexed adjoining districts by requiring the commissioner of education to provide the funds appropriated by the bill to such annexing districts. A determination by the commissioner would be final and could not be appealed.

The bill would entitle a district to such additional funding for an annexation that occurred on or after June 1, 2013.

For each district entitled to this funding that, as of September 1, 2023, had not received the full amount of funding to which the district would have been entitled if the bill had been in effect since June 1, 2013, the commissioner would:

- determine the difference between the amount of funding to which the district would have been entitled and the amount of funding the district had already received; and
- provide the amount determined to the district in the form of a lump sum or equal annual installments over a period not to exceed three years.

In addition to the above provided funding to a district, the commissioner could allocate money to the district from funds appropriated for purposes of the Foundation School Program to pay for facilities improvements determined necessary as a result of the annexation. Each district that received funding for any year would be required to submit to the commissioner a report on the district's use of the funding for that year in the form and manner provided by commissioner rule.

These provisions would expire September 1, 2027.

The bill would include such additional funding with Foundation School Program funds as being allowed to offset the amount by which a district would be required to reduce the district's revenue level.

**District taxes for certain schools.** For the purposes of supporting the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf with taxes from other districts, the bill would allow the commissioner to reduce the dollar amount of maintenance and debt service taxes imposed by a district for a year by the amount by which the district was required to reduce the district's local revenue level for the year.

**Enrollment-based funding.** The bill would require the commissioner by rule to establish the method for determining average enrollment for purposes of funding provided based on average enrollment.

**Special education full individual and initial evaluation.** CSHB 100 would require that for each student for whom a district conducted a full individual and initial evaluation, the district would be entitled to an allotment of $500 or a greater appropriated amount.

**Formula transition grant date revisions.** A district or school would not be entitled to an allotment under the formula transition grant beginning with the 2029-2030 school year. This would amend the previous limitation beginning with the 2024-2025 school year. The bill would move the expiration date for the grant from September 1, 2025, to September 1, 2030.

**Determination of years of experience.** The bill would amend Education Code sec. 21.403 to be retitled as “Determination of years of experience” from “Placement on minimum salary schedule” and would remove the specification of "salary step" as the credit that certain teachers would be entitled to.

**District voter-approval tax rate revision.** The bill would amend Tax Code sec. 26.08(n) regarding the voter-approval tax rate of a district. Such a tax rate would be the sum of certain rates, including the rate of $0.06 per $100 of taxable value, under certain circumstances. This would be an increase compared to current law rate of $0.05 per $100 of taxable value in such circumstances.

**Conforming changes.** The bill would make various conforming language changes throughout. These would include removing the use of “monthly” or adding “per month” in reference to school staff salaries.

**Repeals.** The bill would repeal certain provisions of the Education Code pertaining to the fast growth allotment and school staff minimum salary calculation and schedules.

If the bill and HB 11 both would be enacted, the bill would prevail over HB 11 without regard to the date of enactment of the bill or HB 11.

**Article 2 – Changes effective for 2024-2025 school year**

**Special education allotment weights.** CSHB 100 would revise the provisions of Education Code sec. 48.102 regarding special education allotment weights. For each student in average daily attendance in a special education program, the bill would entitle a district to an annual allotment equal to the basic allotment, or the sum of the basic allotment and the district's allotment, multiplied by, as included by the bill, a weight in an amount set by the Legislature in the General Appropriations Act for the highest tier of intensity of service for which the student qualified. For the 2024-2025 and 2025-2026 school years, the amount of an allotment would be determined in accordance with special education transition funding. This requirement would expire September 1, 2026.

The commissioner of education by rule would define seven tiers of intensity of service for use in determining funding. The commissioner would be required to include one tier specifically addressing students receiving special education services in residential placement. The bill would amend the requirement for TEA to ensure, rather than encourage, the placement of students in special education programs. The allotment for each student in average daily attendance for certain districts that provide an extended year program would be multiplied by the amount designated for the highest tier of intensity of service for which the student qualified, as included by the bill. The commissioner would be required, no later than December 1 of each even-numbered year, to submit to the Legislative Budget Board proposed weights for the tiers of intensity of service for the next fiscal biennium.

The bill would remove the definition of full-time equivalent student, provisions relating to weights for full-time equivalent students in special education programs, provisions relating to special instructional arrangements for students with disabilities, and the requirement for the Legislature to provide by appropriation for the state's share of the cost of residential placements of special education students.

The bill would amend the basic allotment for a student enrolled in a district that provided education solely to students confined to or educated in hospitals. The bill would amend the allotment by requiring it to be adjusted by the tier of intensity of service defined in accordance with the special education allotment and designated by commissioner of education rule. The bill would remove the adjustment of the allotment by the weight for a homebound student.

**Special education service group allotment.** For each six-week period in which a student in a special education program received eligible special education services, a district would be entitled to an allotment in an amount set by the Legislature in the General Appropriations Act for the service group for which the student was eligible. For the 2024-2025 and 2025-2026 school years, the amount of such an allotment would be determined in accordance with special education transition funding. This requirement would expire September 1, 2026.

The commissioner of education by rule would establish four service groups for use in determining funding. In establishing the groups, the commissioner would consider the level of services, equipment, and technology required to meet the needs of students who received special education services. A district would be entitled to receive such an allotment for each service group for which a student was eligible. A district would be entitled to the full amount of an allotment for a student who received eligible special education services during any part of a six-week period. The bill would require at least 55 percent of allocated funds to be used for a special education program.

The commissioner would be required, no later than December 1 of each even-numbered year, to submit to the Legislative Budget Board proposed amounts of funding for the service groups for the next fiscal biennium.

The bill would amend the core services of regional education service centers to include special education service group allotments with other allotments that certain programs could qualify for to receive training and assistance from such centers.

The bill would include the special education service group allotment to the provisions of the Education Code pertaining to the maintenance of state financial support for special education. The bill would allow the commissioner of education to distribute certain funds to the allotment for to proportionately increase its funding.

**Special education transition funding.** For the 2024-2025 and 2025-2026 school years, the commissioner of education could adjust weight or amounts as necessary to ensure compliance with requirements regarding maintenance of state financial support and maintenance of local financial support under applicable federal law. For those school years, the commissioner would determine the formulas through which districts receive funding. In determining the formulas, the commissioner could combine certain funding methods. For the 2026-2027 school year, the commissioner could adjust the weights or amounts by the Legislature in the General Appropriations Act. Before making an adjustment, the commissioner would be required to notify and receive approval from the Legislative Budget Board.

The sum of funding for the 2024-2025 or the 2025-2026 school year as adjusted could not exceed the sum of funding that would have been provided on January 1, 2023, and the amount set by the Legislature in the General Appropriations Act.

Each district and school would be required to report to TEA information necessary to implement the funding established by the bill. TEA would provide technical assistance to districts and schools to ensure a successful transition in funding formulas for special education.

The above provisions of the bill regarding special education transition funding would expire September 1, 2028.

The bill would allow a district to receive funding for a student under each provision that the student qualified. The bill would remove the condition that such funding could only be awarded if the student satisfied the requirements of botj provisions.

**Special education grant expiration date.** The bill would set an expiration date for provisions regarding special education grants as September 1, 2026.

**Basic allotment formula and other formula revisions.** The bill would revise the basic allotment formula by replacing $6,160 in the formula with the variable "B." "B" would be the base amount, which would be equal the greater of $6,300, an amount equal to the district's base amount for the preceding school year, or the appropriated amount. For the second year of each fiscal biennium, the commissioner of education would adjust the value of "B" for the preceding fiscal year by a factor equal to the average annual percentage increase in the Texas Consumer Price Index for the preceding 10 years. This requirement for the commissioner would expire September 1, 2025.

The bill would replace the average daily attendance variable with average enrollment in the formulas for the school facilities allotment and the allotment for paying existing district debt.

**Book safety allotment.** For each student in average enrollment, the bill would entitle a district to an annual allotment of $3 or a greater appropriated amount. Allocated funds could be used only to ensure that school library books and related materials met the necessary standards. TEA would adopt a list of approved vendors at which a district could spend allocated funds to ensure library books and materials met the necessary standards.

**Allotment weight revisions.** The bill would revise the compensatory education allotment weights assigned for each student who did not have a disability and resided in certain residential placement facilities. Any weight of 0.275 would be increased to 0.2755, any weight of 0.225 would be increased to 0.2255, the weight of 0.2375 would be increased to 0.238, the weight of 0.25 would be increased to 0.2505, and the weight of 0.2625 would be increased to 0.263.

The bill would revise the allotment weights assigned to students in certain career and technology education courses. The weight of 1.1 would be

decreased to 0.1, the weight of 1.28 would be reduced to 0.28, and the weight of 1.47 would be reduced to 0.47.

**Joint report on language acquisition of deaf children.** The bill would amend the joint reporting requirements for TEA, the Educational Resource Center on Deafness at the Texas School for the Deaf, and the Division for Early Childhood Intervention Services of the Health and Human Services Commission. The bill would remove certain special education-related language from the joint report. The bill would include, for the portion of the report on the state of each child, language regarding the percentage of the instructional day spent on average in a general education setting.

**Local revenue level in excess of entitlement.** This provision of the bill would apply to a school district that received a formula transition grant allotment for the 2023-2024 school year, and that adopted a M&O tax rate for the 2022-2023 school year equal to or greater than the sum of the district's maximum compressed tax and five cents. If, after reducing the tier one revenue level of such a district, the M&O revenue per student in average daily attendance available to the district for a school year would be less than the M&O revenue per student in average daily attendance available to the district for the 2023-2024 school year, TEA would adjust the amount of the reduction required in the district's tier one revenue level up to the amount of local funds necessary to provide the district with the amount of M&O revenue per student in average daily attendance available to the district for the 2023-2024 school year.

**Definitions.** The bill would align the definitions for "special education" and "related services" with the definitions for those terms in 20 U.S.C. sec. 1401.

The bill would define "special education classroom or other special education setting" as a classroom or setting primarily used for delivering special education services to students who spent on average less than 40 percent of an instructional day in a general education classroom or setting.

The bill would remove the definition for "self-contained classroom" from the Education Code. The bill would replace references to a "self-contained" classroom with references to a "special education" classroom.

**Conforming changes.** The bill would make conforming language changes throughout the bill. These would include replacing references to "average daily attendance" with references to "average enrollment."

**Repeals.** The bill would repeal sec. 48.106(b)(2), Education Code which defines "full-time equivalent student" as 30 hours of contact a week between a student and career and technology education program personnel.

**Effective dates**

Article 1 of the bill, except for certain provisions, would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023. The provisions regarding Education Code sec. 12.106(a-2), 13.054, 30.003, 48.051, 48.111, 48.151(c) and (g), 48.202(a-1), 48.257(c), and 48.277(d) and (e), and Tax Code sec. 26.08(n), as amended by the bill, and Education Code sec. 48.0055, 48.1022, 48.116, 48.118, 48.160, and 48.280, as added by the bill, would take effect September 1, 2023.

Article 2 of the bill would take effect September 1, 2024.

SUPPORTERS SAY:

CSHB 100 would make substantial and necessary increases to education funding in Texas to ensure better teacher pay and greater stability in school district budgets. The bill would substantially increase the basic allotment, which would in turn help to significantly increase teacher pay. The bill also would establish new programs and allotments to promote academic success for underserved students, as well as changing foundation school program funding to be enrollment-based instead of based on average daily attendance. New allotments created under the bill would include the new Advanced Course Allotment, Fine Arts Allotment, and Book Safety Allotment, and the bill would provide funding for partnerships to assist small, rural school districts with offering more college and career readiness pathways.

The bill also would revise special education funding to an intensity of services model. The bill would increase the weights used for the calculation of certain allotments, which would in turn increase funding for the recipients of those allotments. The minimum salary schedule in the bill would set a new minimum amount for districts to pay their teachers and would not prohibit them from paying over that amount.

CRITICS SAY:

CSHB 100 should make a larger increase to the basic allotment. The altered minimum salary schedule laid out in the bill would not have enough steps per year and could disincentivize school districts from paying raises to teachers.

NOTES:

According to the Legislative Budget Board, the cost to the state of the bill for the biennium would be $4,357,311,114. The total fiscal impact of the bill could not be determined because certain provisions of the bill related to special education funding did not have known tiers and weights required for funding determinations.

The actuarial analysis stated that the bill would be expected to increase total payroll of TRS by approximately $1.5 billion the first year and approximately $2 billion per year after five years. This would be estimated to increase the unfunded actuarial accrued liability by $1.8 billion.

SUBJECT: Proposing the creation of a broadband infrastructure fund

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 12 ayes — Hunter, Hernandez, Anchía, Geren, Guillen, Metcalf, Raymond, Slawson, Smithee, Spiller, S. Thompson, Turner

0 nays

1 absent — Dean

WITNESSES: For — (*Registered but did not testify*: Tim Morstad, AARP; J Lawrence Collins, Amerigroup Texas; John T. Montford, David Tate, AT&T; Tricia Cave, Association of Texas Professional Educators; Russel (Rusty) Moore, Big Bend Telephone Co.; Rebecca Montgomery, Center for Transforming Lives and Frisco Chamber of Commerce; Todd Baxter, Charter Communications; Angela Hale, City of McKinney; Nadia Islam, City of San Antonio; Rebecca Young Montgomery, Coalition of East Tarrant Chambers; Velma Cruz, Comcast; Scott McGriff, Community Internet Providers LLC; Kari Gibson, ConocoPhillips; Matthew Garcia, Dallas Regional Chamber; Michael Dole, Driscoll Health System; Cary Roberts, Etex Communications LLC; Jennifer Carter, Goodwill Central Texas; Christian Bionat, Greater Houston Partnership; Stephen Scurlock, Independent Bankers Association of Texas; Sarah Floerke, Lower Colorado River Authority; Angela Hale, McKinney Chamber of Commerce; Christine Yanas, Methodist Healthcare Ministries; Nicholas Tuccio, Nextlink Internet; Cary Roberts, Nortex Communications; Patrick Brophey, North Texas Commission; Cary Roberts, Poka Lambro Telephone Cooperative Inc.; John Pitts Jr., Project Lead the Way; Jessica Schleifer, Teaching Hospitals of Texas; Mitrah Avini, Texas 2036; Megan Mauro, Texas Association of Business; Lori Henning, Texas Association of Goodwills; Fred Shannon, Texas Association of Manufacturers; Ruben Longoria, Texas Association of School Boards; Tricia Stinson, Texas Broadband Now; Walt Baum, Texas Cable Association; Leela Rice, Texas Council of Community Centers; Nora Belcher, Texas e-Health Alliance; Julia Harvey, Texas Electric Cooperatives; Charlie Leal, Texas Farm Bureau; Sara Gonzalez, Texas Hospital Association; Monty Wynn, Texas

Municipal League; Suzi Kennon, Texas PTA; Julia Parenteau, Texas Realtors; Heather Sheffield, Texas Rural Broadband Coalition (TRBC); Kelty Garbee, Texas Rural Funders; John Hubbard, Mark Seale, Texas Telephone Association; Joseph McGrath, Texoma Communications; Jennifer Prather, Totelcom Communications; Kenneth Sumberlin, TSAEW IBEW; Richard Lawson, Verizon; John Pitts Jr., Western Governors University - Texas; Mike Hunsucker, Windstream; David Zumwalt, WISPA and Broadband without Borders; Thomas Parkinson)

Against — None

On – Harrison Hiner, Communications Workers of America (*Registered but did not testify*: David Cruz, Greg Conte, Glen Hegar, Comptroller of Public Accounts; Thomas Gleeson, Public Utility Commission)

DIGEST:

CSHJR 125 would amend the Texas Constitution to create the Broadband Infrastructure Fund as a special fund in the state treasury outside the general revenue fund, consisting of:

- appropriations from the Legislature;
- money transferred or deposited to the credit of the fund by the constitution or general law;
- revenue that the Legislature by general law dedicated to the fund;
- investment earnings and interest earned on money in the fund; and
- gifts, grants, and donations.

Money in the fund would be administered by the comptroller, and without further appropriations, could be used only for the expansion of access to and the adoption of broadband and telecommunications services, including the development and operation of infrastructure. The Legislature would be required to provide for the manner in which fund assets could be used by general law.

CSHJR 125 would require the comptroller to transfer $5 billion from the economic stabilization fund (ESF) to the broadband infrastructure fund no later than January 15, 2024. Money in the fund would be considered

constitutionally dedicated, and an appropriation from the ESF to the fund would be treated as if it were constitutionally dedicated.

The fund would expire on September 1, 2035, unless extended for another ten years by a joint resolution of each house of the Legislature. The comptroller would be required to transfer any remaining fund balance to the ESF immediately before the fund expired.

The amendment to the constitution made by CSHJR 125 would take effect January 1, 2024.

The ballot proposal would be presented to voters at an election on November 7, 2023, and would read: "The constitutional amendment creating the broadband infrastructure fund to assist in the financing of broadband and telecommunications services projects in the state."

SUPPORTERS SAY:

CSHJR 125, along with its enabling legislation, CSHB 9, would give Texans the opportunity to increase broadband access and affordability across the state by authorizing major investments in broadband and telecommunications infrastructure in coordination with federal funding programs.

Millions of Texans currently lack broadband internet, limiting their access to education, telehealth, and employment opportunities online. Lack of access disproportionally affects rural communities, people of color, and low-income families. The fund established by CSHJR 125 would provide resources to close this digital divide in the state, which in turn could help to improve quality of life and spur significant economic growth, including higher personal incomes, job creation, and increased state revenue. At a time when the state has the advantage of a budget surplus, supporting broadband expansion would be a sound investment.

All available tools, including both fiber and wireless technology, are needed to close the digital divide across Texas. Each technology has advantages and disadvantages, but efforts to support the growth of broadband should retain the flexibility needed to determine which technologies and investments are feasible for different areas of the state, depending on topography, population density, and other factors. The

resolution and enabling bill's holistic approach would promote competition and maximize efficiency.

Including a specific provision on labor standards is unnecessary because federal regulations already require states to include fair labor practices in their broadband development programs. The federal Broadband Equity, Access, and Deployment (BEAD) program also requires states to develop a plan aimed at achieving a diverse and sufficiently skilled workforce to build and maintain broadband infrastructure.

CRITICS SAY:

CSHJR 125 should require the broadband infrastructure fund to prioritize projects that develop fiber optic broadband infrastructure, which may be faster, safer, and more durable and reliable than wireless broadband.

OTHER CRITICS SAY:

In order to ensure that broadband investment in Texas is successfully implemented by a skilled and properly trained workforce, CSHJR 125 should incorporate federally recommended labor standards for broadband projects that call for a directly employed, rather than subcontracted, workforce. Subcontracting can create problems for quality of service and accountability. The state should include fair labor standards, including robust in-house training requirements, in the criteria for awarding grants.

NOTES:

CSHB 9 by Ashby, the enabling legislation for CSHJR 125, is set for second reading consideration today.

According to the Legislative Budget Board, CSHJR 125 and CSHB 9 would have an estimated negative impact to general revenue related funds of $436,285,000 through fiscal 2024-2025, with a negative impact of about $4.8 billion through the following biennium. The cost of publication for the ballot proposal would be $204,406.

SUBJECT: Increasing the mandatory retirement age for state justices and judges

COMMITTEE: Judiciary & Civil Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Leach, Julie Johnson, Flores, Moody, Murr, Schofield, Slawson, Vasut

0 nays

1 absent — Davis

WITNESSES: For — Jack Walker, Texas Trial Lawyers Association (*Registered, but did not testify*: Geoffrey Tahuahua, Associated Builders and Contractors of Texas; Kent Birdsong, Oldham County Attorneys Office; Dale Laine, TASFRJ, Inc; Lee Parsley, Texans for Lawsuit Reform; George Christian, Texas Civil Justice League; Mark Borskey, Texas Trucking Association; Jay Brown; James E. "Buster" Brown; Jennifer Emerson)

Against — None

BACKGROUND: Tex. Const. Art 5, sec 1-a(1) establishes that justices and judges of the appellate courts, district courts, and criminal district courts are to retire on the expiration of the term during which they reach the age 75, or an earlier age not less than 70, as the Legislature may prescribe.

If a justice or judge reaches the age of 75 in the first four years of a six year term, the office becomes vacant on December 31 of the fourth year of the term.

DIGEST: HJR 107 would amend Tex. Const. Art 5, sec 1-a(1) to change the mandatory retirement age for a justice or judge to 79 or an earlier age, not less than 75, as the Legislature may prescribe.

The bill also would remove a provision stating that judges may serve until December 31 of their fourth year in office if they reach the age of 75 in the first four years of their term.

The ballot proposal would be presented to voters at an election on November 7, 2023, and would read: "The constitutional amendment to increase the mandatory age of retirement for state justices and judges."

SUPPORTERS SAY:

HJR 107, which would extend the current mandatory retirement age for certain justices and judges, would reflect the fact that people are living and working longer. The resolution would allow experienced and competent judges who are still capable and willing to continue to serve.

Allowing judges to serve longer also would ensure a more predictable and stable judicial system that worked to the benefit of all parties. Because Texas elects its judges, the electorate would be able to hold accountable any judges who were not performing adequately at an older age.

CRITICS SAY:

No concerns identified.

NOTES:

According to the fiscal note, it is assumed that there would be an indeterminate negative impact to the state due to judges electing to serve longer, but the number of such judges and the additional years they would serve is unknown. The cost to the state for publication of the resolution would be $204,406.

SUBJECT: Prohibiting a tax on the net worth of individuals or businesses

COMMITTEE: Ways & Means — committee substitute recommended

VOTE: 8 ayes — Meyer, Button, Craddick, Hefner, Muñoz, Noble, Raymond, Shine

2 nays — Thierry, Turner

1 absent — Gervin-Hawkins

WITNESSES: For — (*Registered, but did not testify*: Michelle Evans; Tom Glass)

Against — Dick Lavine, Every Texan (*Registered, but did not testify*: Alejandro Pena, Texas American Federation of Teachers; Carolyn Albert Donovan)

On — (*Registered, but did not testify*: Lara Abi Habib, Comptroller of Public Accounts)

DIGEST: CSHJR 132 would amend the Texas Constitution to prohibit the Legislature from imposing a tax on the net worth of individuals or business entities.

The resolution would define the net worth of individuals or businesses as the amount computed by subtracting from the value of an individual's or entity's assets the value of the individual's or entity’s liabilities.

The resolution would not be construed as prohibiting the imposition of:

- an ad valorem tax on property; or
- a general business tax measured by business activity.

A ballot proposal would be presented to voters at an election on November 7, 2023, and would read: "The constitutional amendment to prohibit the legislature from imposing a tax on the net worth of individuals or businesses."

SUPPORTERS SAY:

CSHJR 132 would be a proactive attempt to protect Texans from a tax on wealth. Such measures can discourage investment and innovation in favor of excessive individual spending. Taxing wealth in Europe, for example, has had a negative effect, as such trends lead to economic stagnation with long term consequences. While such a tax has not been proposed in Texas, this constitutional amendment would ensure that Texans had a direct say if a future legislature tried to implement one.

The constitution already prohibits a state income tax without a vote of the people, and this resolution would do the same for a tax on wealth to ensure Texans could vote on whether the state should impose one.

CRITICS SAY:

The needs of Texans may be different in the future than they are now, and addressing future needs should be a task for future legislatures.

NOTES:

According to the Legislative Budget Board, the proposed constitutional amendment would have no cost to the state other than the cost of publication, which would be $204,406.

SUBJECT: Adjusting the criminal penalty for tampering with physical evidence

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Moody, Cook, Bhojani, Bowers, Darby, Harrison, Leach, C. Morales, Schatzline

0 nays

WITNESSES: For — (*Registered, but did not testify*: M Paige Williams, Dallas County Criminal District Attorney John Creuzot; James Parnell, Dallas Police Association; Ray Hunt, Houston Police Officer Union; Lindy Borchardt, Phil Sorrells; Joe Morris, Texas Game Warden Peace Officers Association; John Wilkerson, Texas Municipal Police Association; Thomas Parkinson)

Against — None

BACKGROUND: Penal Code section 37.09 establishes that the offense of tampering with or fabricating physical evidence is a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000), with certain exceptions.

Some have raised concerns that the penalty for tampering with or fabricating physical evidence is disproportionately punitive in cases in which the related offense is a misdemeanor.

DIGEST: HB 1300 would add an exception to the established penalties for an offense of tampering with or fabricating physical evidence. Under these provisions, a tampering offense would be considered a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) if the thing altered, destroyed or concealed could be used as evidence in an investigation or official proceeding related only to an offense punishable as a misdemeanor.

The bill would take effect September 1, 2023, and would apply only to an offense committed on or after that date.

NOTES: According to the Legislative Budget Board (LBB), the bill may result in reduced demands upon state correctional resources but the fiscal implications cannot be determined due to lack of relevant data.

SUBJECT: Allowing disclosure of a beneficiary to certain funeral directors

COMMITTEE: Insurance — favorable, without amendment

VOTE: 7 ayes — Oliverson, A. Johnson, Cortez, Caroline Harris, Julie Johnson, Paul, Perez

2 nays — Cain, Hull

WITNESSES: For — Jennifer Cawley, Texas Association of Life and Health Insurers; Harvey Hilderbran, Texas Funeral Directors Association

Against — None

On — (*Registered, but did not testify*: David Bolduc, Office of Public Insurance Counsel; James White, Texas Funeral Service Commission)

BACKGROUND: Concerns have been raised that life insurance providers can refuse to disclose the beneficiary of a life insurance policy to a person directing a funeral, which can make the arrangement and funding of a funeral more difficult.

DIGEST: HB 1554 would allow certain funeral directors to request a disclosure from life insurers if the director obtained written consent from an heir, an heir's representative, or the personal representative of the decedent for the director to contact a specific life insurer concerning designated beneficiaries. The written consent would be required to include the name and address of the heir, heir's representative, or personal representative of the decedent and a brief statement of the facts regarding:

- knowledge as to the family and nearest relatives of the decedent;
- the basis for the belief that the decedent was or could have been insured under a life insurance policy with a particular life insurer; and
- whether the decedent was or could have been the owner of the policy.

The funeral director would  be required to provide a copy of the written consent to the life insurer from whom information was being requested.

Within five days of receiving a request, the life insurer would be required to provide a written disclosure of the designated beneficiary of the decedent's life insurance policy. A life insurer could not disclose the designated beneficiary of a life insurance policy if the decedent did not own the policy unless the life insurer received written consent of the owner to provide disclosure. The insurer could inform a funeral director who requested information that the decedent was not the owner of the policy.

The bill would apply only to a life insurance policy with a death benefit of $15,000 or less issued by a legal reserve life insurance policy, a mutual assessment or stipulated premium life insurance company, a burial association, or a fraternal benefit society. The bill also would apply only to a funeral director who:

- was directing a decedent's funeral in the state;
- was provided reasonably sufficient information that the decedent was or could be insured under a life insurance policy; and
- needed information from the issuer of the life insurance policy because an heir, heir's representative, or personal representative of the decedent was unaware or unable to provide information on whether the decedent was the owner of a life insurance policy or on the identity of the designated beneficiary under the policy.

The bill could not be interpreted as requiring a life insurer to disclose the owner or designated beneficiary of a life insurance policy that was not owned by the decedent without the owner's written consent or establishing a funeral director's right to benefits under a life insurance policy unless the designated beneficiary of the policy had executed a written assignment of benefits to the funeral director. The bill also could not be construed to establish any determination that benefits were payable under the terms of the appliable life insurance policy. A life insurer could not be subject to civil liability or administrative action by making an authorized disclosure under the bill.

The bill would take effect September 1, 2023.

SUBJECT: Authorizing the use of unmanned aircraft for certain inspections

COMMITTEE: Energy Resources — favorable, without amendment

VOTE: 8 ayes — Goldman, E. Morales, Anchía, Anderson, Bailes, Darby, Gerdes, Guerra

0 nays

3 absent — Craddick, Thierry, Zwiener

WITNESSES: For — Cyrus Reed, Lone Star Chapter Sierra Club (*Registered, but did not testify*: Julie Williams, Chevron; Virginia Palacios, Commission Shift; Adrian Shelley, Public Citizen; Jeremy Mazur, Texas 2036; Ryan Paylor, Texas Independent Producers & Royalty Owners Association; George Andrush)

Against — None

On — (*Registered, but did not testify*: Colore Lincoln; Clay Woodul, Railroad Commission of Texas)

BACKGROUND: Some have suggested that the Railroad Commission should be provided with the authority to use unmanned aircraft to inspect oil and gas facilities, which could improve inspection efficiency and help better protect the public against hazardous spills or accidents.

DIGEST: HB 1302 would authorize the Railroad Commission to use an unmanned aircraft during an inspection or examination to capture an image of an oil or gas facility, a pipeline facility, or a surface mining site.

The bill would require that the commission have access to oil property at all times for inspection and examination by unmanned aircraft.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023.

SUBJECT: Extending the period to file a special bill of review in certain proceedings

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Moody, Cook, Bhojani, Bowers, Darby, Harrison, Leach, C. Morales, Schatzline

0 nays

WITNESSES: For — (*Registered, but did not testify*: Chad Heck, Lisa Heck, Carrie Lee, Cory Lee, Corine Rackley, Ashley Redding, Bad Boy Bail Bonds; Billy Olson, Brad Pursley, Billy Olson Bail Bonds; Paul Schuder, PBT; Roger Moore, Ken Good, Professional Bondsmen of Texas; Jerry Redding, Spec's; Akanksha Balekai, Texas Appleseed; and 15 individuals)

Against — Rick Thompson, County Judges and Commissioners Association of Texas (*Registered, but did not testify*: M Paige Williams, Dallas County Criminal District Attorney John Creuzot)

BACKGROUND: Some have suggested that extending the time limit within which a bail bondsman may return a defendant to the appropriate court and still recover the money paid out under the bond would better incentivize a bail bondsman to return a defendant who failed to appear in court.

DIGEST: HB 1709 would extend the final date on which the surety on a bond could file a special bill of review from no later than two years to no later than the fourth anniversary of the date a final judgement was entered in a bond forfeiture proceeding.

The bill would take effect September 1, 2023, and would apply only to a bail bond for which a final judgement of forfeiture was entered on or after the effective date.

SUBJECT: Disallowing prohibitions on national motto displays in classrooms

COMMITTEE: Public Education — favorable, without amendment

VOTE: 13 ayes — Buckley, Allen, Allison, Cunningham, Dutton, Cody Harris, Harrison, Hefner, Hinojosa, K. King, Longoria, Schaefer, Talarico

0 nays

WITNESSES: For —Linda Kellogg, Perla Muñoz Hopkins, National Motto Project; Carrie Moore, Texas Education 911 and County Citizens Defending Freedom; Donald Garner, Texas Faith & Freedom Coalition; Judi DeHaan; Tom Nobis; Teresa Thomas (*Registered, but did not testify*: Jill Glover, Republican Party of Texas; Whitney Broughton, Texas Association of School Boards; Cindi Castilla, Karole Fedrick, Texas Eagle Forum; Dee Carney, Texas School Alliance; Jonathan Covey, Texas Values; Mary Elizabeth Castle, Jonathan Saenz, Texas Values Action; Julie McCarty, True TX Project; and eight individuals)

Against — Kathryn Kizer (*Registered, but did not testify*: Daniel Dawer, Educators in Solidarity; Nancy Kasten, Faith Commons; Paige Duggins-Clay, Intercultural Development Research Association; Denishea Williams, Texas Freedom Network; Joshua Houston, Texas Impact; and 23 individuals)

On — Shawn Hall Lecuona, BFQ (*Registered, but did not testify*: Eric Marin, TEA)

BACKGROUND: Under Education Code sec. 1.004, a public elementary or secondary school or an institution of higher education must display in a conspicuous place in each building of the school or institution a durable poster or framed copy of the United States motto, "In God We Trust," if the poster or framed copy is donated for display at the school or institution or purchased from private donations and made available to the school or institution. Requirements for a poster or framed copy of the national motto include that:

- the poster or framed copy must contain a representation of the United States flag centered under the national motto and a representation of the state flag; and
- the poster or framed copy may not depict any words, images, or other information other than the representations listed above.

Some have suggested that the display of the national motto can serve as a reminder of important values and principles and that current law does not adequately ensure that the motto is displayed within state classrooms.

DIGEST:

HB 2012 would specify that a classroom teacher at a public elementary or secondary school, or a teacher or professor at an institution of higher education, could not be prohibited from displaying in a classroom a poster or framed copy of the national motto that met the established requirements.

The bill would apply beginning with the 2023-24 school year. The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023.

SUBJECT: Creating a commission to study laws restricting people with felonies

COMMITTEE: Corrections — favorable, without amendment

VOTE: 8 ayes — Herrero, Kacal, Allen, V. Jones, R. Lopez, Sherman, Swanson, Toth

0 nays

1 absent — Murr

WITNESSES: For — (*Registered, but did not testify*: Lauren Johnson, ACLU of Texas; M Paige Williams, Dallas County Criminal District Attorney; Marc Hoskins, Disability Rights Texas; Charlie Malouff, Texas C.U.R.E., Inc; Susan Stewart)

Against — (*Registered, but did not testify*: Henry Bohnert)

On — (*Registered, but did not testify*: Benny Hernandez III)

BACKGROUND: Concerns have been raised that the unintended consequences of certain laws may create barriers to reintegration into society and self-sufficiency for people convicted of felony offenses.

DIGEST: HB 927 would create a commission to study and review all state laws that restrict the rights or activities of persons convicted of a felony offense, including the right to vote, the right to serve on a grand or petit jury, and eligibility for certain occupational licenses. The commission would be required to make recommendations to the Legislature regarding the repeal or amendment of laws that were identified as being overly restrictive, or not otherwise serving the best interest of justice.

The commission would be composed of nine appointed members, including:

- two members appointed by the governor;
- two members appointed by the lieutenant governor;

- two members appointed by the speaker of the House of Representatives;
- one member appointed by the chief justice of the Supreme Court of Texas; and
- two members appointed by the presiding judge of the Texas Court of Criminal Appeals.

The governor would be required to designate one member of the commission to serve as the presiding officer.

The officials making these appointments would be required to ensure that the membership of the commission included judges, legal scholars, and relevant business and governmental interests. The commission would meet at the call of the presiding officer. Members of the commission would not be entitled to compensation or reimbursement of expenses.

The bill would require appointments to be made to the commission not later than the 60th day after the effective date of the bill.

By November 1, 2024, the commission would be required to report findings and recommendations to the governor, lieutenant governor, the speaker of the House of Representatives, the Supreme Court of Texas, and the Texas Court of Criminal Appeals. Recommendations would include any specific statutes that the commission recommended repealing or amending.

The commission would be abolished and the bill would expire December 31, 2024.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023.

SUBJECT: Amending requirements for certain advice postsecondary students receive

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 8 ayes — Kuempel, Paul, Burns, Clardy, Cole, Howard, Lalani, Raney

0 nays

3 absent — Bucy, Burrows, M. González

WITNESSES: For — Josette Saxton, Texas Suicide Prevention Council; Naomi Cruz, Young Invincibles (*Registered, but did not testify*: Omodele Ojomo, Autism Society of Texas; Elisa M. Tamayo, El Paso County; Ricardo Martinez, Equality Texas; Hannah Gill, NAMI Texas; Bryan Mares, National Association of Social Workers-Texas; Leela Rice, Texas Council of Community Centers; Caitlin Flanders, Texas Medical Association; Georgia Bates, Texas Southern University, Houston Community College; Jennifer Allmon, The Texas Catholic Conference of Bishops; Nicole Ma, Quynh-Huong Nguyen, Steven Wu, Woori Juntos; and 29 individuals)

Against — None

BACKGROUND: Under Education Code 51.9194, a general academic teaching institution is required to provide to each entering full-time undergraduate, graduate, or professional student, including those who transfer to the institution, information about certain available mental health and suicide prevention services as well as early warning signs often present in, and appropriate intervention for, a person who may be considering suicide.

Under Education Code 61.003, "institution of higher education" means any public technical institute, public junior college, general academic teaching institution, public senior college or university, medical or dental unit, public state college, or other agency of higher education as defined in the section.

Concerns have been raised about a lack of information available at some institutions of higher education regarding mental health awareness and suicide awareness and prevention.

DIGEST:

HB 906 would require an institution of higher education, rather than a general academic teaching institution, to provide each entering undergraduate, graduate, or professional student, including transfer students and regardless of full-time status, with information about mental health and suicide prevention services as well as early warning signs often present in and appropriate intervention for a person who could be considering suicide.

The changes made in the bill would apply beginning with the 2023-2024 academic year. The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023.

SUBJECT: Requiring the suspension of certain residential caregivers

COMMITTEE: Human Services — committee substitute recommended

VOTE: 7 ayes — Frank, Rose, Campos, Hull, Manuel, Noble, Shaheen

1 nay — Klick

1 absent — Ramos

WITNESSES: For — Don Moore (*Registered, but did not testify*: Dennis Borel, Coalition of Texans with Disabilities; Bill Kelly, Mayor's Office City of Houston; Hannah Gill, Greg Hansch, NAMI Texas; Ashley Ford, The Arc of Texas; Stephanie Deroy)

Against — None

On — Corey Kintzer, Health and Human Services Commission; Sandra Batton, Providers Alliance for Community Services of Texas; Isabel Casas, Texas Council of Community Centers and Private Providers Association of Texas (*Registered, but did not testify*: Laura Cazabon-Braly, Health and Human Services Commission)

BACKGROUND: Concerns have been raised that residential caregivers under investigation for misconduct are not barred from caring for individuals with intellectual or developmental disabilities until the appeals process is exhausted, which allows these individuals to continue providing care until the final decision is made.

DIGEST: CSHB 1008 would define "residential caregiver" as an individual who provided community-based residential care services through a group home or other residential facility operating under the authority of the Health and Human Services Commission (HHSC) to four or fewer individuals with an intellectual or developmental disability at a residence other than the home of the individual providing the services. The bill also would amend the definition of "facility" to include state-supported living centers.

Medicaid providers, including those providing services under a home and community-based services waiver program, who employed or contracted with a residential caregiver to provide community-based residential care services through a group home or certain other residential facilities would be required to suspend the employment or contract of an individual who HHSC found had engaged in reportable conduct while the individual exhausted any applicable appeals process. The provider could not reinstate the individual's employment or contract during the course of any applicable appeals process.

HHSC would disenroll any providers who violated the provisions of the bill from participation in Medicaid. HHSC's executive commissioner would adopt rules necessary to implement these provisions.

Facilities also would be required to suspend the employment of a facility employee who HHSC found had engaged in reportable conduct while the employee exhausted any applicable appeals process. The facility could not reinstate the employee's position during the course of any applicable appeals process.

Reportable conduct would include the following actions against a resident or individual using the consumer-directed service option:

- abuse or neglect that caused or could cause death or harm to an individual;
- sexual abuse;
- financial exploitation of an individual in an amount of $25 or more; and
- emotional, verbal, or psychological abuse that caused harm.

If a state agency determined that a waiver or authorization from a federal agency was necessary to implement any provision the bill, the agency would be required to request the waiver and could delay implementation until the waiver or authorization was granted for that provision.

The bill would take effect September 1, 2023.

NOTES: According to the Legislative Budget Board, CSHB 1008 would have a negative impact of $890,642 on general revenue related funds for fiscal 2024-2025.

SUBJECT: Amending grant eligibility for certain advanced clean energy projects

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 7 ayes — Goldman, Morales, Anderson, Bailes, Darby, Gerdes, Guerra

0 nays

4 absent — Anchía, Craddick, Thierry, Zwiener

WITNESSES: For — Eleanor Kim, Occidental Petroleum Corporatiom; Jeremy Mazur, Texas 2036 (*Registered, but did not testify*: Randy Cain, Advanced Power Alliance; Suzi Mcclellan, AES Corporation; Mark Stover, Apex Clean Energy; Buddy Garcia, ARX Energy; Mark Bell, Association of electric companies of Texas; John Colyandro, Carbon Neutral Coalition; Scott Hutchinson, Entergy Texas; Jimmy Carlile, Fasken oil and ranch, ltd; Kaitlyn Murphy, Greater Houston Partnership; Kelly Mcbeth, Howard Energy Partners; Jake Posey, Nacero, Inc.; Reed Clay, Next Decade; Jennifer Rodriguez, North Texas Commission; Brian Yarbrough, Port of Corpus Christi Authority; Chris Shields, Tenaska; Rebecca Grande, Texas Association of Business; Craig Chick, Texas Hydrogen Alliance; Ryan Paylor, Texas Independent Producers & Royalty Owners Association; Thure Cannon, Texas Pipeline Association; Marie Camino, The Nature Conservancy Texas Chapter; Matthew Posey, Tx Aggregate & Concrete Assn.; Carl Jacob; Kathryn Kizer)

Against — Cyrus Reed, Lone Star Chapter Sierra Club; Adrian Shelley, Public Citizen (*Registered, but did not testify*: Tsion Amare, Environmental Defense Fund; Dara R)

On — Virginia Palacios, Commission Shift (*Registered, but did not testify*: Colore Lincoln)

BACKGROUND: Health and Safety Code sec. 382.003 defines the requirements for a project to be considered an “advanced clean energy project," including the required emission reductions a project must achieve to qualify.

Tax Code Sec 151.334 exempts tangible personal property used in connection to certain advanced clean energy projects from certain sales, excise, and use taxes.

Health and Safety Code sec. 391.002(b) establishes the projects eligible for an award under the new technology implementation grant program meant to assist the implementation of new technologies that reduce emissions.

Some have suggested making projects that utilize carbon capture and air capture technologies eligible for funding under the Texas emissions reduction plan could benefit Texas economically and environmentally.

DIGEST:

CSHB 1158 would amend Health and Safety Code provisions establishing the eligible natural gas emission rate of an advanced clean energy project designed for the use of one or more combustion turbines to include an annual emission rate that met best available technology requirements as determined by the commission as an alternative to the current rate of two parts per million by volume.

CSHB 1158 would increase the required percentage of carbon dioxide captured by an advanced clean energy project from 50 to 75 percent.

The bill also would amend sec. 391.002(b) to add to the list of projects eligible for a grant any projects that utilized technology to capture, use, reuse, store, gather, transport, or sequester carbon dioxide emissions from certain facilities for the purpose of preventing carbon dioxide from entering the atmosphere. CSHB 1158 also would add projects that involve the use of renewable energy to produce hydrogen fuel for use in certain industries and result in a reduction of pollutants entering the atmosphere.

CSHB 1158 would include within real property exempt from taxes imposed by Tax Code sec. 151.334 any components purchased or installed by a carbon capture facility if components were installed to capture the carbon dioxide from the atmosphere or from an anthropogenic emission source. The bill would make conforming language changes to reflect this addition.

The bill would remove current requirements regarding carbon sequestration, instead providing a tax exemption to any components used in connection with the capture, use, reuse, storage, injection, or sequestration of carbon dioxide emissions.

The bill would update language referencing lapsed expiration dates for the submission of application for a permit.

Changes in the Tax Code would not affect tax liability occurring before the effective date.

The bill would take effect September 1, 2023.

SUBJECT: Revising provisions under the Crime Victims' Compensation Act

COMMITTEE: Juvenile Justice & Family Issues — committee substitute recommended

VOTE: 8 ayes — Dutton, Lujan, Cook, Leo-Wilson, J. Lopez, Smithee, Talarico, Wu

0 nays

1 absent — Martinez Fischer

WITNESSES: For — Terra Tucker, Alliance for Safety and Justice; Jill Henderson, Cathy Taylor, Crime Survivors for Safety and Justice (*Registered, but did not testify*: Lauren Johnson, ACLU of Texas; Daniel Hodge, Alliance for Safety and Justice; Nadia Islam, City of San Antonio; Jennifer Balido, Dallas County Criminal District Attorney John Creuzot; Molly Thibodeaux, Texas Council on Family Violence; Jennifer Allmon, The Texas Catholic Conference of Bishops)

Against — None

On — (*Registered, but did not testify*: Kristen Huff, Office of the Attorney General)

BACKGROUND: Concerns have been raised that certain provisions relating to eligibility requirements and compensation limits under the Crime Victims' Compensation Act may hinder the program from fulfilling its intent of meeting the needs of crime victims and their families.

DIGEST: **Definitions.** The bill would define a family member as an individual who was related to the victim by consanguinity or affinity, removing the condition that a family member be related within the second degree.
As it related to eligibility for crime victims' compensation, CSHB 250 would remove the condition that a family member of a victim be an "immediate" family member to qualify as a claimant. The bill also would remove the condition that a household member be related by consanguinity or affinity to the victim.

CSHB 250 would expand the definition of family violence as it relates to the crime victims' compensation program to include abuse by a member of a family or household toward a child of the family or household and dating violence.

**Pecuniary loss.** CSHB 250 would amend certain provisions related to losses incurred as a result of injury or death that could be covered by the program. The bill would remove the 10-day limit on bereavement leave for a family member or household member of a deceased member. The bill also would remove the one night limit for lodging near a place of execution for the purposes of witnessing an execution.

**Compensation limits.** The bill would remove limitations on payments for certain expenses for victims of stalking, family violence, or trafficking of persons, a victim of sexual assault who was assaulted in the victim's residence, or a child who was a victim of a murder attempt in the child's residence. Such victims also could receive compensation for temporary or emergency lodging and transportation expenses in addition to other expenses.

Other victims, a dependent of any victim, or a family member or household member of any victim could receive compensation for the following certain relocation expenses and housing rental expenses.

Unless the attorney general determined that there was an extraordinary health or safety need for compensation to be made to more than two households, the attorney general could, for each application based on criminally injurious conduct giving rise to the need for relocation or housing rental expenses, award compensation for relocation or housing rental expenses to households of no more than one victim and one claimant or, if the victim was deceased, two claimants.

The attorney general by rule could establish a limitation on the amount a victim or claimant could receive except that the limitation for relocation expenses could not be less than $2,000 and housing rental expenses could not be less than $1,800.

The attorney general by rule could establish a limitation on an award a family member or household members of a deceased victim could receive for lost wages as a result of bereavement leave taken by the family or household member, except that the limit could not be less than the lesser of $1,000 or an amount equal to 10 work days of lost wages.

The bill would take effect September 1, 2023, and would apply only to compensation for criminally injurious conduct occurring on or after that date.

NOTES:

According to estimates by the Legislative Budget Board (LBB), CSHB 250 would have a negative two-year impact of $4,341,472 to general revenue-dedicated Compensation to Victims of Crime account.

SUBJECT: Adjusting the penalties for possession of certain controlled substances

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Moody, Cook, Bhojani, Bowers, Darby, Harrison, Leach, C. Morales, Schatzline

0 nays

WITNESSES: For — Karen Reeves, CenTex Community Outreach; David Bass; Elizabeth Miller; Jason Vaughn (*Registered, but did not testify*: M Paige Williams, Dallas County Criminal District Attorney John Creuzot; Kevin Hale, Libertarian Party of Texas; Daryoush Zamhariri, Texas Cannabis Collective; and 10 individuals)

Against — (*Registered, but did not testify*: James Parnell, Dallas Police Association; Todd McCoy, Montgomery County S.O.; Jack Armstrong II, Michael Landrum, Justin Schutzenhofer, Michael Uber, Jason Prince, Montgomery County Sheriff's Office; John Wilkerson, TMPA)

On — Amber York, Healthy Herb Farm

BACKGROUND: Health and Safety Code Chapter 481 subch. D classifies controlled substances into Penalty Groups 1 through 4 for the purpose of establishing criminal penalties.

Sec. 481.103 establishes that Penalty Group 2 consists of tetrahydrocannabinols (THC), other than marihuana, synthetic equivalents of the substances contained in the plant or in the resinous extractives of Cannabis, or any derivative with similar chemical structure and pharmacological activity, including specified structures and compounds of those structures.

Sec. 481.116 establishes that an offense of possession of a substance in Penalty Group 2 is a felony, ranging from a state-jail felony (180 days to two years in a state jail and an optional fine of up to $10,000) to a first-

degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to $10,000) depending on the amount possessed.

Sec. 481.121 specifies that an offense of possession of marihuana is a class B misdemeanor (up to 180 days in jail and/or a maximum fine of $2,000) if the amount of marihuana possessed is two ounces or less. This substance does not fall within penalty groups established within the Health and Safety Code.

Concerns have been raised that the difference in the penalty between possession of small amounts of marihuana and possession of THC in forms other than marihuana creates an unnecessary disparity and that the criminal penalty for possession of small amounts of marihuana is too high.

DIGEST:

CSHB 218 would decrease the penalty for possession of an ounce or less of marihuana from a class B misdemeanor to a class C misdemeanor (maximum fine of $500). The bill also would create a new Penalty Group related to the possession of certain THC compounds. The bill also would allow for the expungement of related records for first-time offenders.

**Penalty Group 2-B.** CSHB 218 would remove THC substances and compounds listed within Penalty Group 2 and place them into a new penalty group, Penalty Group 2-B. The bill would include conforming language to reflect this change.

Penalty Group 2-B would consist of any quantity of THC substances, their salts, isomers, and salts of isomers, unless specifically excepted, if the existence of these salts, isomers, and salts of isomers were possible within the specific designation.

The bill would amend the offense of knowingly delivering certain substances to a child or person enrolled in primary or secondary school to include substances from Penalty Group 2-B and Penalty Group 2-A, which includes synthetic marihuana and cannabinoids.

CSHB 218 would add Penalty Group 2-A and 2-B substances to the list of substances that would qualify as a third-degree felony (two to 10 years in

prison and an optional fine of up to $10,000) if involved in an offense of possession or transport with intent to manufacture a controlled substance.

Possession of a substance in Penalty Group 2-A or 2-B otherwise punishable as a class B misdemeanor would be a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) if the offense was committed in a drug-free zone.

The bill would add drugs listed in Penalty Group 2-A and 2-B to the definition of a controlled substance and would remove such substances from the definition of the term "dangerous drug."

**Possession of a substance in Penalty Group 2-A and 2-B.** The bill would add substances under Penalty Group 2-B to penalties already established for the possession of a substance in Penalty Group 2-A.

The bill would amend the established penalties for possession of substances in Penalty Group 2-A or 2-B, making it a class C misdemeanor if the amount of the controlled substance was, by aggregate weight, one ounce or less.

The bill would specify that, if the amount of the controlled substance was, by aggregate weight, two ounces or less but more than one ounce, such an offense would be classified as a class B misdemeanor.

**Possession of marihuana.** CSHB 218 would decrease the criminal penalty for possession of one ounce or less of marihuana from a class B misdemeanor to a class C misdemeanor.

The bill would specify that such an offense would be a class B misdemeanor if the possessed amount was two ounces or less but more than one ounce.

**Appearance in front of a magistrate**. CSHB 218 would amend provisions specifying when an offender was required to be taken before a magistrate.

The bill would prohibit a peace officer from arresting an individual who was being charged with a class C misdemeanor offense for the possession of a substance in Penalty Group 2-A or 2-B, possession of marihuana, or possession or delivery of drug paraphernalia. In these instances, a peace officer would be required to issue the person a citation.

**Expunction of certain conviction records.** The bill would amend the Code of Criminal Procedure to establish that persons charged with a class C misdemeanor offense for the possession of a substance in Penalty Group 2-A or 2-B, possession of marihuana, and possession or delivery of drug paraphernalia could be eligible for record expunction if:

- the complaint was dismissed under a deferral of disposition; and
- either at least 180 days had elapsed from the date of the dismissal, at least one year had elapsed from the date of the citation, or the person was acquitted of the offense.

The person would be required to make a written request, under oath, to have the record expunged. The court would be required to order all complaints, verdicts, sentences and prosecutorial and law enforcement records and any other documents relating to the offense expunged from the person's record if the court found that the person satisfied the requirements for record expunction.

The justice or municipal court would have to require a person who requested expungement to pay a $30 fee to defray the cost of notifying state agencies of orders of expungement. These procedures for expunction would be separate from other expunction procedures.

**Suspension of sentence and deferral of final disposition.** CSHB 218 would add provisions relating to deferral procedures for a class C misdemeanor offense for the possession of a substance in Penalty Group 2-A or 2-B, possession of marihuana, or possession or delivery for drug paraphernalia.

The bill would establish that, unless the defendant had previously received a deferral of disposition for such an offense committed within the 12-month period preceding the date of the commission of the current offense,

on a plea of guilt or nolo contendere for either offense, a judge would be required to defer further proceedings without entering an adjudication of guilt and place the defendant on probation.

A court that dismissed a complaint for a person charged with such offenses would be required to notify the defendant in writing of the person's expunction rights and provide the person with a copy of the provision specifying those rights. The dismissed complaint would not be a conviction and could not be used against the person for any purpose.

**Other provisions.** To petition for an order of nondisclosure of criminal history record information on the grounds of having committed an offense solely as a victim of trafficking of persons, continuous trafficking of persons, or compelling prostitution, CSHB 218 would make eligible a person convicted of or placed on deferred adjudication community supervision for a class B misdemeanor offense for the possession of a substances in Penalty Group 2-A or 2-B.

The bill would clarify that the term "drug offense" did not include an offense punishable by fine only under the laws of Texas. This provision would take effect on the 91st day after the office of the attorney general published a specified finding in the Texas Register.

The bill would take effect September 1, 2023, and would apply only to an offense committed on or after that date.

NOTES:

According to the Legislative Budget Board (LBB), CSHB 218 could result in reduced demands upon state correctional resources but the fiscal implications cannot be determined due to lack of relevant data.

SUBJECT: Authorizing an annuity increase for certain municipal retirees

COMMITTEE: Pensions, Investments & Financial Services — favorable, without amendment

VOTE: 7 ayes — Capriglione, Lambert, Bhojani, Bryant, Leo-Wilson, VanDeaver, Vo

0 nays

2 absent — Frazier, Plesa

WITNESSES: For — Toby Hudson, Amarillo Police Officers Association; Chris Jones, Combined Law Enforcement Associations of Texas (*Registered, but did not testify*: Norm Fisher, Amarillo Police Officers Assn)

Against — None

On — (*Registered, but did not testify*: Amy Cardona, Pension Review Board; Ashley Rendon, Pension Review Board; David Wescoe, TMRS)

BACKGROUND: Some have suggested that optional annuity increases for certain retirees and beneficiaries of the Texas Municipal Retirement System could help to alleviate financial strain for those living on a fixed income amidst rising inflation.

DIGEST: HB 2464 would allow a governing body of a municipality that adopted an ordinance providing for increased annuities effective January 1, 2024 or 2025 to compute the annuity increase as the sum of prior and current service annuities of the person on whose service the annuities were based on the effective date of the annuity increase multiplied by the percentage increase specified in the ordinance. An increase to the annuity after the annuity's starting date could not exceed the maximum amount of annuity increase authorized under current statute. These provisions would expire December 31, 2025.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023.

SUBJECT: Amending the provision of home telemonitoring services under Medicaid

COMMITTEE: Public Health — committee substitute recommended

VOTE: 11 ayes — Klick, Campos, Collier, Jetton, A. Johnson, J. Jones, V. Jones, Oliverson, Price, Smith, Tinderholt

0 nays

WITNESSES: For — Jennifer Mertz, Texas Association of Community Health Centers; Nora Belcher, Texas e-Health Alliance (*Registered, but did not testify*: Omodele Ojomo, Autism Society of Texas; Elizabeth Stoll, Baxter Healthcare; Michael Webb, Equality Federation; Katherine Strandberg, Every Body Texas; Jennifer Biundo, Healthy Futures of Texas; Lindsay Lanagan, Legacy Community Health; Christine Yanas, Methodist Healthcare Ministries; Elena Ferguson, Positive Women's Network-USA; Timothy Ottinger, St. Luke's Health; Maureen Milligan, Teaching Hospitals of Texas; Tom Banning, Texas Academy of Family Physicians; David Reynolds, Texas Chapter American College of Physicians Services; Steve Wohleb, Texas Hospital Association; Michelle Romero, Texas Medical Association; Jill Sutton, Texas Osteopathic Medical Association; Clayton Travis, Texas Pediatric Society; Kristen Lenau, Texas Women's Healthcare Coalition; Laura Atlas Kravitz, Texas Women's Foundation; Arthur Simon; Cynthia Van Maanen)

Against — None

On — (*Registered, but did not testify*: Emily Zalkovsky, Health & Human Services Commission; Venus Alemanji)

BACKGROUND: Government Code sec. 531.02164 establishes a program for Medicaid reimbursement for home telemonitoring services. Reimbursement for home telemonitoring services is only available for services provided to patients with certain conditions who exhibit two or more specified risk factors.

Some have raised concerns that limitations on Medicaid reimbursement for home telemonitoring services could prevent these services from being used to their fullest benefit, including to prevent maternal mortality and morbidity.

DIGEST:

CSHB 2727 would amend the definition of "home telemonitoring service" to include remote health data monitoring provided by rural health clinics and federally qualified health centers.

Home telemonitoring services would be eligible for Medicaid reimbursement if the service was determined to be clinically effective, rather than cost-effective and feasible. The bill would add end stage renal disease, conditions that require renal dialysis treatment, and any other condition the Health and Human Services Commission (HHSC) determined that home telemonitoring services would be clinically effective to the list of conditions for which home telemonitoring services could be reimbursed by Medicaid.

For services to be eligible for reimbursement, patients would be required to have at least one risk factor instead of two or more. In the list of risk factors a patient could exhibit, the bill would replace a risk factor of having a documented history of falls in the prior six-month period with a risk factor of having a documented risk of falls. Limited or absent informal support systems and living alone or being home alone for extended periods of time would be removed from the list of risk factors.

Clinical information gathered by federally qualified health centers and rural clinics while providing home telemonitoring services would have to be shared with the patient's physician. Providers would also be required to establish a plan of care that included outcome measures for each patient receiving home telemonitoring services and share the plan and outcome measures with the patient's physician.

To the extent permitted by state and federal law, providers would be required to provide patients experiencing a high-risk pregnancy with clinically appropriate home telemonitoring services equipment for temporary use in the patient's home. By rule, HHSC's executive commissioner would establish criteria to identify patients experiencing a

high-risk pregnancy who would benefit from access to home telemonitoring services equipment and, if feasible and clinically appropriate, ensure that the home telemonitoring services equipment included uterine and pregnancy-induced hypertension remote monitoring services equipment.

Providers would be required to obtain prior authorization from HHSC before providing equipment to a patient during the first month the equipment was provided to the patient and an extension of the authorization from HHSC based on the patient's ongoing medical need before providing the equipment in a subsequent month. A request for prior authorization for home telemonitoring services for a high-risk pregnancy would have to be based on an in-person assessment of the patient. Documentation of the patient's ongoing medical need for the equipment would need to be provided to HHSC before an extension was provided. HHSC also would prohibit payment or reimbursement for equipment during any period that the equipment was not in use because the patient was hospitalized or away from the patient's home, regardless of whether the equipment remained in the patient's home.

When providing home telemonitoring services for patients who had conditions and risk factors other than those expressly authorized, HHSC and managed care organizations would have to determine whether the services were cost-effective and clinically effective before reimbursing providers rather than consider whether the services were cost-effective and clinically effective.

If a state agency determined that a waiver or authorization from a federal agency was necessary to implement the bill, the agency would be required to request the waiver and could delay implementation until the waiver or authorization was granted.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023.

NOTES:

According to the Legislative Budget Board, CSHB 2727 would have a negative impact of about $13.3 million on general revenue related funds for fiscal 2024-25.

SUBJECT: Limiting liability for certain professional firms contracted with TxDOT

COMMITTEE: Judiciary & Civil Jurisprudence — committee substitute recommended

VOTE: 5 ayes — Leach, Murr, Schofield, Slawson, Vasut

3 nays — Julie Johnson, Davis, Flores

1 absent — Moody

WITNESSES: For — Ken Norrie, American Council of Engineering Companies of Texas (*Registered, but did not testify*: Ray Sullivan, American Property and Casualty Insurance Association; George Christian, Texas Civil Justice League; Al Zito)

Against — Laura Tamez, Texas Trial Lawyers Association

BACKGROUND: Concerns have been raised that certain professional firms contracted with the Texas Department of Transportation (TxDOT) to provide inspection services on transportation construction and maintenance projects have been brought into lawsuits relating to highway construction projects that involve matters outside of their control and purview.

DIGEST: Under CSHB 3156, a professional firm or an officer or employee of a professional firm that provided monitoring and inspection services for TxDOT as a consultant or subconsultant to monitor and inspect the work on a transportation construction or maintenance project performed by a contractor would not be liable to a claimant for personal injury, property damage, or death arising from an action that:

- was performed in the course and scope of the firm's duties to TxDOT to ensure the project was constructed in conformity with the project's plans, specifications, and contract provisions; and
- did not involve gross negligence or willful and wanton misconduct by the firm.

These provisions would apply only to a professional firm providing monitoring and inspection services for TxDOT and would not apply to a

professional firm engaged by the TxDOT for the design or construction of a project.

The changes made by this bill would apply only to a cause of action that accrued on or after the effective date of the bill.

The bill would take effect September 1, 2023.