

1-1 By: Zaffirini S.B. No. 5  
1-2 (In the Senate - Filed March 11, 2011; March 14, 2011, read  
1-3 first time and referred to Committee on Higher Education;  
1-4 April 11, 2011, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 11, 2011,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 5 By: Zaffirini

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the administration and business affairs of public  
1-11 institutions of higher education.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 ARTICLE 1. FINANCIAL MANAGEMENT

1-14 SECTION 1.01. Subsection (b), Section 51.003, Education  
1-15 Code, is amended to read as follows:

1-16 (b) The funds shall either be deposited in the depository  
1-17 bank or banks or invested as authorized by Chapter 2256, Government  
1-18 Code (Public Funds Investment Act). Funds that are to be deposited  
1-19 in the depository bank or banks must be deposited within seven days  
1-20 from the date of receipt by the institution [~~collection~~].

1-21 SECTION 1.02. Subchapter A, Chapter 51, Education Code, is  
1-22 amended by amending Section 51.005 and adding Sections 51.010,  
1-23 51.011, and 51.012 to read as follows:

1-24 Sec. 51.005. REPORTS. Each institution of higher education  
1-25 [~~(a) True and full accounts shall be kept by the governing board~~  
1-26 ~~and by the employees of the institution of all funds collected from~~  
1-27 ~~all sources and of all sums paid out and the persons to whom and the~~  
1-28 ~~purposes for which the sums are paid. The governing board] shall~~  
1-29 prepare [annually print] a complete annual financial report as  
1-30 prescribed by Section 2101.011, Government Code [of all the sums  
1-31 collected, all expenditures, and all sums remaining on hand. The  
1-32 report shall show the true condition of all funds as of the August  
1-33 31 preceding as well as the collections and expenditures for the  
1-34 preceding year.

1-35 [~~(b) Reports under this section must be in a form approved~~  
1-36 ~~jointly by the coordinating board and the comptroller. The~~  
1-37 ~~accounting and classification procedures of each institution must~~  
1-38 ~~be consistent with uniform procedures prescribed for that purpose~~  
1-39 ~~by the coordinating board and the comptroller. The requirements~~  
1-40 ~~imposed by the coordinating board and the comptroller must be~~  
1-41 ~~designed to reduce paperwork and duplicative reports.~~

1-42 [~~(c) The governing board shall furnish one copy of the~~  
1-43 ~~report each to the governor, comptroller of public accounts, state~~  
1-44 ~~auditor, Texas Higher Education Coordinating Board, Legislative~~  
1-45 ~~Budget Board, House Appropriations Committee, Senate Finance~~  
1-46 ~~Committee, and Legislative Reference Library. A copy of the report~~  
1-47 ~~shall be submitted to the comptroller by the deadline established~~  
1-48 ~~by the comptroller or the General Appropriations Act as necessary~~  
1-49 ~~to prepare an audited comprehensive financial report. The~~  
1-50 ~~governing board shall retain five copies of the report for~~  
1-51 ~~distribution to legislators or other state officials on request].~~

1-52 Sec. 51.010. COLLECTION OF DELINQUENT OBLIGATIONS. If  
1-53 under the rules adopted by the attorney general under Chapter 2107,  
1-54 Government Code, an institution of higher education is not required  
1-55 to refer a delinquent obligation for collection to the attorney  
1-56 general, the institution is not required to expend resources for  
1-57 further collection efforts if, considering the amount, security,  
1-58 likelihood of collection, expense, and available resources, the  
1-59 institution determines that further collection should not be  
1-60 actively pursued.

1-61 Sec. 51.011. DISPOSITION OF SMALL CREDIT BALANCES.  
1-62 (a) This section applies to a credit balance of less than \$25 held  
1-63 by an institution of higher education that is presumed abandoned

2-1 under Chapter 72, Property Code.

2-2 (b) An institution of higher education may maintain an  
 2-3 unclaimed money fund and transfer to that fund a credit balance to  
 2-4 which this section applies. A deposit to the unclaimed money fund  
 2-5 does not affect the ownership of the amount deposited. The  
 2-6 institution shall:

2-7 (1) adopt procedures for owners to make and receive  
 2-8 payments of claims against the fund; and

2-9 (2) maintain a database that permits members of the  
 2-10 public to search for ownership of unclaimed funds.

2-11 (c) The institution of higher education shall use the fund  
 2-12 to pay the claims of persons establishing ownership of amounts  
 2-13 transferred to the fund and shall hold and account for the unclaimed  
 2-14 money fund as educational and general funds of the institution. If  
 2-15 the fund balance is insufficient to pay a valid claim, the  
 2-16 institution shall pay the claim from the institution's other  
 2-17 educational and general funds.

2-18 (d) Each fiscal year, after deducting funds sufficient to  
 2-19 pay anticipated expenses of and claims against the unclaimed money  
 2-20 fund, the institution shall use the balance of the fund as other  
 2-21 educational and general funds of the institution.

2-22 (e) In consultation with institutions of higher education,  
 2-23 the comptroller by rule may establish minimum requirements for  
 2-24 notice to owners of unclaimed money deposited in the unclaimed  
 2-25 money fund and for charges for that notice. The rules may not  
 2-26 provide stricter requirements than the comptroller applies for  
 2-27 amounts of less than \$25 in the custody of the comptroller under  
 2-28 Chapter 74, Property Code.

2-29 (f) If an institution of higher education maintains an  
 2-30 unclaimed money fund under this section, Chapter 74, Property Code,  
 2-31 does not apply to a credit balance to which this section applies.

2-32 Sec. 51.012. PAYMENTS BY ELECTRONIC FUNDS TRANSFER OR  
 2-33 ELECTRONIC PAY CARD. An institution of higher education may make  
 2-34 any payment, including a payment of salary or wages, through  
 2-35 electronic funds transfer or by electronic pay card.

2-36 SECTION 1.03. Section 65.42, Education Code, is amended to  
 2-37 read as follows:

2-38 Sec. 65.42. DELINQUENT ACCOUNTS; VENUE. A suit by The  
 2-39 University of Texas System on its own behalf or on behalf of a  
 2-40 component institution of The University of Texas System to recover  
 2-41 a delinquent loan, account, or debt owed to The University of Texas  
 2-42 System or a component institution of The University of Texas System  
 2-43 must ~~may~~ be brought in Travis County.

2-44 SECTION 1.04. Section 1231.001, Government Code, is amended  
 2-45 by amending Subdivision (2) and adding Subdivision (3) to read as  
 2-46 follows:

2-47 (2) "State security" means:

2-48 (A) an obligation, including a bond, issued by:

2-49 (i) a state agency;

2-50 (ii) an entity that is expressly created by  
 2-51 statute and has statewide jurisdiction; or

2-52 (iii) an entity issuing the obligation on  
 2-53 behalf of this state or on behalf of an entity described by  
 2-54 Subparagraph (i) or (ii);

2-55 (B) an installment sale or lease-purchase  
 2-56 obligation that is issued by or on behalf of an entity described by  
 2-57 Paragraph (A) and that has:

2-58 (i) a stated term of more than five years;  
 2-59 or

2-60 (ii) an initial principal amount of more  
 2-61 than \$250,000; or

2-62 (C) an obligation, including a bond, that is  
 2-63 issued under Chapter 53, Education Code, at the request of or for  
 2-64 the benefit of an institution of higher education [~~as defined by~~  
 2-65 ~~Section 61.003, Education Code,~~] other than a public junior  
 2-66 college.

2-67 (3) "Institution of higher education" has the meaning  
 2-68 assigned by Section 61.003, Education Code.

2-69 SECTION 1.05. Section 1231.041, Government Code, is amended

3-1 to read as follows:

3-2 Sec. 1231.041. APPROVAL OF STATE SECURITY. (a) Except as  
3-3 otherwise provided by this section, an ~~[An]~~ entity, including a  
3-4 state agency, may not issue a state security unless:

3-5 (1) the board approves the issuance; or

3-6 (2) the security is exempted under law, including a  
3-7 board rule adopted under Section 1231.022(2).

3-8 (b) A state security issued by an institution of higher  
3-9 education, or issued at the request of or for the benefit of an  
3-10 institution of higher education, is not subject to board approval  
3-11 unless the general revenue of the state is pledged to the payment of  
3-12 the security.

3-13 SECTION 1.06. Section 74.001, Property Code, is amended by  
3-14 adding Subsection (c) to read as follows:

3-15 (c) This chapter does not apply to small credit balances  
3-16 held by an institution of higher education in an unclaimed money  
3-17 fund under Section 51.011, Education Code.

3-18 SECTION 1.07. Section 51.011, Education Code, as added by  
3-19 this Act, applies to credit balances held by a public institution of  
3-20 higher education on or after the effective date of this Act.

#### 3-21 ARTICLE 2. GOODS AND SERVICES

3-22 SECTION 2.01. Section 51.923, Education Code, is amended to  
3-23 read as follows:

3-24 Sec. 51.923. QUALIFICATIONS OF CERTAIN BUSINESS ENTITIES TO  
3-25 ENTER INTO CONTRACTS WITH AN INSTITUTION OF HIGHER EDUCATION.

3-26 (a) In this section:

3-27 (1) "Business entity" ~~["Corporation"]~~ means any  
3-28 entity recognized by law through which business is conducted,  
3-29 including a sole proprietorship, partnership, firm, corporation,  
3-30 limited liability company, holding company, joint stock company,  
3-31 receivership, or trust ~~[a corporation for profit organized under  
3-32 the laws of this state or under laws other than the laws of this  
3-33 state].~~

3-34 (2) "Governing board" has the meaning assigned by  
3-35 Section 61.003 ~~[of this code].~~

3-36 (3) "Institution of higher education" has the meaning  
3-37 assigned by Section 61.003 ~~[of this code].~~

3-38 (4) "Nonprofit corporation" means any organization  
3-39 exempt from federal income tax under Section 501 of the Internal  
3-40 Revenue Code of 1986 that does not distribute any part of its income  
3-41 to any member, director, or officer.

3-42 (b) A nonprofit corporation is not disqualified from  
3-43 entering into a contract or other transaction with an institution  
3-44 of higher education even though one or more members of the governing  
3-45 board of the institution of higher education also serves as a  
3-46 member, ~~[or]~~ director, officer, or employee of the nonprofit  
3-47 corporation.

3-48 (c) A business entity ~~[corporation]~~ is not disqualified  
3-49 from entering into a contract or other transaction with an  
3-50 institution of higher education even though one or more members of  
3-51 the governing board of the institution of higher education have an  
3-52 interest in the business entity, subject to Subsection (d) ~~[also  
3-53 serves as a stockholder or director of the corporation provided  
3-54 that no member of the governing board owns or has a beneficial  
3-55 interest in more than five percent of the corporation's outstanding  
3-56 capital stock and further provided that the contract or transaction  
3-57 is:~~

3-58 ~~[(1) an affiliation, licensing, or sponsored research  
3-59 agreement, or~~

3-60 ~~[(2) awarded by competitive bidding or competitive  
3-61 sealed proposals].~~

3-62 (d) An institution of higher education is not prohibited  
3-63 from entering into a contract or other transaction with a business  
3-64 entity in which a member of the governing board of the institution  
3-65 of higher education has an interest if the interest is not a  
3-66 substantial interest or, if the interest is a substantial interest,  
3-67 the [described in this section if any] board member [having an  
3-68 interest described in this section in the contract or transaction]  
3-69 discloses that interest in a meeting held in compliance with

4-1 Chapter 551, Government Code, and refrains from voting on the  
 4-2 contract or transaction requiring board approval. Any such  
 4-3 contract or transaction requiring board approval must be approved  
 4-4 by an affirmative majority of the board members voting on the  
 4-5 contract or transaction.

4-6 (e) For purposes of this section, a member of a governing  
 4-7 board has a substantial interest in a business entity if:

4-8 (1) the member owns 10 percent or more of the voting  
 4-9 stock or shares of the business entity or owns either 10 percent or  
 4-10 more or \$15,000 or more of the fair market value of the business  
 4-11 entity;

4-12 (2) funds received by the member from the business  
 4-13 entity exceed 10 percent of the member's gross income for the  
 4-14 previous year;

4-15 (3) the member is an officer of the business entity or  
 4-16 a member of the governing board of the business entity; or

4-17 (4) an individual related to the member in the first  
 4-18 degree by consanguinity or affinity, as determined under Chapter  
 4-19 573, Government Code, has an interest in the business entity as  
 4-20 described by Subdivision (1), (2), or (3).

4-21 (f) A violation of this section does not render an action of  
 4-22 the governing board voidable unless the contract or transaction  
 4-23 that was the subject of the action would not have been approved by  
 4-24 the governing board without the vote of the member who violated this  
 4-25 section.

4-26 SECTION 2.02. Section 51.9335, Education Code, is amended  
 4-27 by amending Subsections (d) and (f) and adding Subsections (g) and  
 4-28 (h) to read as follows:

4-29 (d) To the extent of any conflict, this section prevails  
 4-30 over any other law, including Chapters 2155, 2156, 2157, 2158,  
 4-31 2167, and 2170, Government Code, except a law or rule relating to  
 4-32 contracting with historically underutilized businesses [~~or~~  
 4-33 ~~relating to the procurement of goods and services from persons with~~  
 4-34 ~~disabilities~~]. An institution of higher education may, but is not  
 4-35 required to, acquire goods or services as provided by Chapters  
 4-36 2155, 2156, 2157, 2158, 2167, and 2170, Government Code.

4-37 (f) This section does not apply to professional services as  
 4-38 defined by Section 2254.002, Government Code. Professional  
 4-39 services shall be procured in accordance with Subchapter A, Chapter  
 4-40 2254, Government Code.

4-41 (g) Except as otherwise provided by this section, Subtitle  
 4-42 D, Title 10, Government Code, and Chapter 2254, Government Code, do  
 4-43 not apply to acquisition of goods and services under this section.  
 4-44 An institution of higher education may adopt rules and procedures  
 4-45 for the acquisition of goods or services.

4-46 (h) In any contract for the acquisition of goods and  
 4-47 services to which an institution of higher education is a party, a  
 4-48 provision required by applicable law to be included in the contract  
 4-49 is considered to be a part of the executed contract without regard  
 4-50 to:

4-51 (1) whether the provision appears on the face of the  
 4-52 contract; or

4-53 (2) whether the contract includes any provision to the  
 4-54 contrary.

4-55 SECTION 2.03. Subchapter Z, Chapter 51, Education Code, is  
 4-56 amended by adding Sections 51.9336 and 51.9337 to read as follows:

4-57 Sec. 51.9336. ELECTRONIC AND DIGITAL SIGNATURES. (a) An  
 4-58 institution of higher education or university system, as those  
 4-59 terms are defined by Section 61.003, shall determine whether, and  
 4-60 the extent to which, the institution or system will send and accept  
 4-61 electronic or digital signatures to and from other persons and  
 4-62 otherwise create, generate, communicate, store, process, use, and  
 4-63 rely on electronic or digital signatures. The institution or  
 4-64 system may adopt rules and procedures governing the use of  
 4-65 electronic or digital signatures.

4-66 (b) To the extent of any conflict, this section prevails  
 4-67 over Chapter 322, Business & Commerce Code, and rules and  
 4-68 guidelines adopted under that chapter.

4-69 Sec. 51.9337. INTERAGENCY CONTRACTS FOR INFORMATION

5-1 RESOURCE TECHNOLOGIES. (a) In this section, "institution of  
5-2 higher education" and "university system" have the meanings  
5-3 assigned by Section 61.003.

5-4 (b) Section 2054.119, Government Code, does not apply to an  
5-5 interagency contract for information resources technologies  
5-6 between two or more institutions of higher education or between an  
5-7 institution of higher education or university system and one or  
5-8 more state agencies, institutions of higher education, or  
5-9 university systems.

5-10 SECTION 2.04. Section 51.966, Education Code, is amended by  
5-11 amending Subsection (c) and adding Subsection (d) to read as  
5-12 follows:

5-13 (c) Section 612.002(b), Government Code, does not apply to  
5-14 an institution of higher education or university system purchasing  
5-15 insurance under this section.

5-16 (d) In ~~[As used in]~~ this section, "governing board," ~~[and]~~  
5-17 "institution of higher education," and "university system" have the  
5-18 meanings assigned by Section 61.003.

5-19 SECTION 2.05. Subchapter C, Chapter 791, Government Code,  
5-20 is amended by adding Section 791.035 to read as follows:

5-21 Sec. 791.035. CONTRACTS WITH INSTITUTIONS OF HIGHER  
5-22 EDUCATION OR UNIVERSITY SYSTEMS. (a) A local government and an  
5-23 institution of higher education or university system may contract  
5-24 with one another to perform any governmental functions and  
5-25 services. If the terms of the contract provide for payment based on  
5-26 cost recovery, any law otherwise requiring competitive procurement  
5-27 does not apply to the functions and services covered by the  
5-28 contract.

5-29 (b) In this section, "institution of higher education" and  
5-30 "university system" have the meanings assigned by Section 61.003,  
5-31 Education Code.

5-32 SECTION 2.06. Section 2054.008, Government Code, is amended  
5-33 by adding Subsection (c) to read as follows:

5-34 (c) A university system or institution of higher education  
5-35 must provide written notice to the Legislative Budget Board under  
5-36 Subsection (b) only if the cost of the major information system  
5-37 exceeds \$1 million. In this subsection, "university system" has  
5-38 the meaning assigned by Section 61.003, Education Code.

5-39 SECTION 2.07. Subsection (n), Section 2155.078, Government  
5-40 Code, is amended to read as follows:

5-41 (n) This section does not apply to an institution ~~[a medical~~  
5-42 ~~and dental unit]~~ to which Section 51.9335, Education Code, applies  
5-43 or to an institution to which Section 73.115, Education Code,  
5-44 applies.

### 5-45 ARTICLE 3. HUMAN RESOURCES

5-46 SECTION 3.01. Subchapter Z, Chapter 51, Education Code, is  
5-47 amended by adding Section 51.9611 to read as follows:

5-48 Sec. 51.9611. PAYROLL DEDUCTIONS FOR EMPLOYEES OF  
5-49 UNIVERSITY SYSTEM OR INSTITUTION OF HIGHER EDUCATION. (a) In this  
5-50 section, "institution of higher education" and "university system"  
5-51 have the meanings assigned by Section 61.003.

5-52 (b) The governing board of a university system, or of an  
5-53 institution of higher education that is not a component institution  
5-54 of a university system, may authorize employees of the system or  
5-55 institution, as applicable, to elect a payroll deduction for any  
5-56 purpose that the governing board determines serves a public purpose  
5-57 and benefits employees. The board may adopt policies and  
5-58 procedures governing payroll deductions under this section. A  
5-59 payroll deduction under this section is in addition to payroll  
5-60 deductions authorized by other law.

5-61 (c) A payroll deduction under this section must be at the  
5-62 written request of the employee, and the request must state the  
5-63 amount to be deducted and the entity to which the deducted amount is  
5-64 to be transferred. A payroll deduction is in effect until revoked  
5-65 in writing by the employee, but the policies and procedures of the  
5-66 university system or institution of higher education, as  
5-67 applicable, may provide for enrollment periods.

5-68 (d) A university system or institution of higher education  
5-69 may collect an administrative fee to cover the costs of making a

6-1 deduction.

6-2 SECTION 3.02. Subsection (a), Section 1601.004, Insurance  
6-3 Code, is amended to read as follows:

6-4 (a) In this chapter, "dependent," with respect to an  
6-5 individual eligible to participate in the uniform program under  
6-6 Section 1601.101 or 1601.102, means the individual's:

6-7 (1) spouse;

6-8 (2) unmarried child younger than 25 years of age; and

6-9 (3) child of any age who the system determines lives  
6-10 with or has the child's care provided by the individual on a regular  
6-11 basis if the child is mentally retarded or physically incapacitated  
6-12 to the extent that the child is dependent on the individual for care  
6-13 or support, as determined by the system, and:

6-14 (A) if the child is at least 25 years of age, the  
6-15 child's coverage under this chapter has not lapsed, and the child  
6-16 was enrolled as a participant in the health benefits coverage under  
6-17 the uniform program on the date of the child's 25th birthday; or

6-18 (B) if the child is a child of an individual  
6-19 eligible to participate as an employee under Section 1601.101, at  
6-20 the time of the individual's initial enrollment in health benefits  
6-21 coverage under the uniform program the child is at least 25 years of  
6-22 age and is enrolled in comparable coverage, as determined by the  
6-23 system, under the individual's previous health benefits coverage.

6-24 SECTION 3.03. Subchapter C, Chapter 1601, Insurance Code,  
6-25 is amended by adding Section 1601.111 to read as follows:

6-26 Sec. 1601.111. PROGRAMS PROMOTING DISEASE PREVENTION,  
6-27 WELLNESS, AND HEALTH. A system may establish premium discounts,  
6-28 surcharges, rebates, or a revision in otherwise applicable  
6-29 copayments, coinsurance, or deductibles, or any combination of  
6-30 those incentives, for an individual who participates in  
6-31 system-approved programs promoting disease prevention, wellness,  
6-32 and health.

6-33 SECTION 3.04. Subsection (d), Section 1601.201, Insurance  
6-34 Code, is amended to read as follows:

6-35 (d) Subsection (c) does not prohibit a system from  
6-36 contributing, from money not appropriated from the general revenue  
6-37 fund, amounts in excess of the amount specified by that subsection  
6-38 for:

6-39 (1) an individual employed by the system in a position  
6-40 that as a condition of employment requires the individual to be  
6-41 enrolled as a student in the system in graduate level courses; or

6-42 (2) an individual who is a tenured faculty member with  
6-43 whom the system has entered into a phased retirement agreement  
6-44 under which the individual will work less than 40 hours a week for a  
6-45 specified period of time at the end of which the individual will  
6-46 retire.

6-47 ARTICLE 4. REAL ESTATE AND CONSTRUCTION

6-48 SECTION 4.01. Subsection (a), Section 51.951, Education  
6-49 Code, is amended to read as follows:

6-50 (a) Information related to the development, location,  
6-51 purchase price, or sale price of real property developed,  
6-52 purchased, or sold by or for an institution of higher education, as  
6-53 defined by Section 61.003, including a contract provision related  
6-54 to the development, purchase, or sale of the property, is  
6-55 confidential and exempt from disclosure under Chapter 552,  
6-56 Government Code, until all deeds for the property that are  
6-57 applicable to the transaction or series of related transactions are  
6-58 executed and until all substantive performance or executor  
6-59 requirements of applicable contracts have been satisfied [a deed  
6-60 for the property is executed]. Information that is confidential  
6-61 and exempted from disclosure under this subsection includes an  
6-62 appraisal, completed report, evaluation, investigation conducted  
6-63 for the purpose of locating or determining the purchase or sale  
6-64 price of the property, or any report prepared in anticipation of  
6-65 purchasing or selling real property.

6-66 SECTION 4.02. Subchapter C, Chapter 61, Education Code, is  
6-67 amended by adding Section 61.0573 to read as follows:

6-68 Sec. 61.0573. PROJECTS EXEMPT FROM BOARD APPROVAL. (a) In  
6-69 this section, "project" means the acquisition of improved or

7-1 unimproved real property or the construction, repair, or  
 7-2 rehabilitation of a building or other facility.  
 7-3 (b) Board approval of a project at an institution of higher  
 7-4 education is not required under Section 61.0572 or 61.058 if the  
 7-5 institution notifies the board of the project and certifies to the  
 7-6 board that:  
 7-7 (1) the institution meets the current published board  
 7-8 standards applicable to the institution for space need, usage  
 7-9 efficiency, deferred maintenance, and critical deferred  
 7-10 maintenance or the board has approved the institution's plan to  
 7-11 correct any deficiencies in the institution's compliance with those  
 7-12 applicable standards;  
 7-13 (2) the project meets current published board  
 7-14 standards applicable to the project for cost, efficiency, and space  
 7-15 use;  
 7-16 (3) the project is identified on the institution's  
 7-17 campus master plan, as submitted to the board; and  
 7-18 (4) the institution has no deficiencies according to  
 7-19 the board's most recent facilities audit or the board has approved  
 7-20 the institution's plan to correct any such deficiencies.  
 7-21 (c) The board's staff shall promptly review a certification  
 7-22 submitted under Subsection (b) and notify the institution whether  
 7-23 the certification is sufficient and whether the information  
 7-24 certified is consistent with the records of the board. If the staff  
 7-25 review determines that the certification is sufficient and that the  
 7-26 information certified is consistent with the records of the board,  
 7-27 the project is considered approved by the board.  
 7-28 (d) This section does not apply to a project that is a new  
 7-29 branch campus or a new higher education center.  
 7-30 SECTION 4.03. Subsection (c), Section 2166.302, Government  
 7-31 Code, is amended to read as follows:  
 7-32 (c) Subsection (a) does not apply to a project constructed  
 7-33 by and for the Texas Department of Transportation or an institution  
 7-34 of higher education or university system. In this subsection,  
 7-35 "institution of higher education" and "university system" have the  
 7-36 meanings assigned by Section 61.003, Education Code.  
 7-37 SECTION 4.04. Subsection (c-1), Section 2166.403,  
 7-38 Government Code, is amended to read as follows:  
 7-39 (c-1) For a project constructed by and for a state  
 7-40 institution of higher education, the [~~governing body of the~~]  
 7-41 institution shall, during the planning phase of the proposed  
 7-42 construction for the project, verify [~~in an open meeting~~] the  
 7-43 economic feasibility of incorporating into the building's design  
 7-44 and proposed energy system alternative energy devices for space  
 7-45 heating and cooling functions, water heating functions, electrical  
 7-46 load functions, and interior lighting functions. The [~~governing~~  
 7-47 ~~body of the~~] institution shall determine the economic feasibility  
 7-48 of each function listed in this subsection by comparing the  
 7-49 estimated cost of providing energy for the function, based on the  
 7-50 use of conventional design practices and energy systems, with the  
 7-51 estimated cost of providing energy for the function, based on the  
 7-52 use of alternative energy devices, during the economic life of the  
 7-53 building.  
 7-54 SECTION 4.05. Subsection (b), Section 2167.001, Government  
 7-55 Code, is amended to read as follows:  
 7-56 (b) This chapter does not apply to:  
 7-57 (1) radio antenna space;  
 7-58 (2) residential space for a Texas Department of Mental  
 7-59 Health and Mental Retardation program;  
 7-60 (3) residential space for a Texas Youth Commission  
 7-61 program;  
 7-62 (4) space to be used for less than one month for  
 7-63 meetings, conferences, conventions, seminars, displays,  
 7-64 examinations, auctions, or similar purposes;  
 7-65 (5) district office space for members of the  
 7-66 legislature;  
 7-67 (6) space used by the Texas Workforce Commission;  
 7-68 (7) residential property acquired by the Texas  
 7-69 Department of Housing and Community Affairs or the Texas State

8-1 Affordable Housing Corporation that is offered for sale or rental  
 8-2 to individuals and families of low or very low income or families of  
 8-3 moderate income;

8-4 (8) except as provided by Section 2167.007, [~~classroom~~  
 8-5 ~~and instructional~~] space for a university system or [an]  
 8-6 institution of higher education; or

8-7 (9) space leased by the Texas Veterans Commission to  
 8-8 administer the veterans employment services program.

8-9 SECTION 4.06. Section 33.06, Tax Code, is amended by adding  
 8-10 Subsection (g) to read as follows:

8-11 (g) If the ownership interest of an individual entitled to a  
 8-12 deferral under this section is a life estate, a lien for the  
 8-13 deferred tax attaches to the estate of the life tenant, and not to  
 8-14 the remainder interest, if the owner of the remainder is an  
 8-15 institution of higher education that has not consented to the  
 8-16 deferral. In this subsection, "institution of higher education"  
 8-17 has the meaning assigned by Section 61.003, Education Code. This  
 8-18 subsection does not apply to a deferral for which the individual  
 8-19 entitled to the deferral filed the affidavit required by Subsection  
 8-20 (b) before September 1, 2011.

8-21 ARTICLE 5. BOARD APPOINTMENTS

8-22 SECTION 5.01. Section 552.123, Government Code, is amended  
 8-23 to read as follows:

8-24 Sec. 552.123. EXCEPTION: NAME OF APPLICANT FOR CHIEF  
 8-25 EXECUTIVE OFFICER OF INSTITUTION OF HIGHER EDUCATION. The name of  
 8-26 an applicant for the position of chief executive officer of an  
 8-27 institution of higher education, and other information that would  
 8-28 tend to identify the applicant, is excepted from the requirements  
 8-29 of Section 552.021, except that the governing body of the  
 8-30 institution must give public notice of the name or names of the  
 8-31 finalists being considered for the position at least 21 days before  
 8-32 the date of the meeting at which final action or vote is to be taken  
 8-33 on the employment of the person.

8-34 SECTION 5.02. Subsection (b), Section 95.006, Health and  
 8-35 Safety Code, is amended to read as follows:

8-36 (b) The advisory committee is composed of:

8-37 (1) the following representatives appointed by the  
 8-38 executive director of the office:

8-39 (A) one representative of the office;

8-40 (B) one representative of the Texas Education  
 8-41 Agency;

8-42 (C) one representative of the Texas Pediatric  
 8-43 Society;

8-44 (D) one representative of the American Diabetes  
 8-45 Association;

8-46 (E) [~~one representative who is a member of the~~  
 8-47 ~~board of regents of The University of Texas--Pan American,~~

8-48 [~~(F)~~] one school nurse representative from an  
 8-49 urban school located within the boundaries of a regional education  
 8-50 service center;

8-51 (F) [~~(G)~~] one parent or guardian of a child who  
 8-52 resides within the boundaries of a regional education service  
 8-53 center; and

8-54 (G) [~~(H)~~] one person with knowledge and  
 8-55 experience in health care in school settings; and

8-56 (2) the following representatives appointed by the  
 8-57 chairman of the council:

8-58 (A) one representative of the council;

8-59 (B) one representative of the Texas Medical  
 8-60 Association;

8-61 (C) one school district administrator  
 8-62 representative from a school district located within the boundaries  
 8-63 of a regional education service center;

8-64 (D) one school principal representative from a  
 8-65 school district located within the boundaries of a regional  
 8-66 education service center; and

8-67 (E) one school nurse representative from a rural  
 8-68 school located within the boundaries of a regional education  
 8-69 service center.



9-1 SECTION 5.03. Subsections (a) and (c), Section 2.03,  
 9-2 Chapter 670, Acts of the 72nd Legislature, Regular Session, 1991  
 9-3 (Article 4477-7j, Vernon's Texas Civil Statutes), are amended to  
 9-4 read as follows:

9-5 (a) On or after the effective date of this Act, the  
 9-6 Commissioners Court of Gaines County shall appoint three persons,  
 9-7 the governing body of the city of Seminole shall appoint two  
 9-8 persons, and the governing body of the city of Seagraves shall  
 9-9 appoint two persons to serve as initial directors of the district.  
 9-10 The four persons appointed by the governing bodies of the cities of  
 9-11 Seminole and Seagraves shall represent the municipalities within  
 9-12 the county, and the three persons appointed by the Commissioners  
 9-13 Court of Gaines County shall represent the unincorporated areas of  
 9-14 the county. [~~In addition, the board of regents of The University of  
 9-15 Texas System shall appoint one person to serve as an ex-officio,  
 9-16 nonvoting director of the district.~~]

9-17 (c) The Commissioners Court of Gaines County and the  
 9-18 governing bodies of the cities of Seminole and Seagraves shall each  
 9-19 appoint one initial director to serve a term expiring on May 1 of  
 9-20 the first year after the year in which the original appointment is  
 9-21 made. In addition, the Commissioners Court of Gaines County shall  
 9-22 appoint two initial directors and the governing bodies of the  
 9-23 cities of Seminole and Seagraves shall each appoint one initial  
 9-24 director to serve terms expiring on May 1 of the second year after  
 9-25 the year in which the original appointment is made. [~~The initial  
 9-26 ex-officio member serves a term expiring on May 1 of the second year  
 9-27 after the year in which the original appointment is made.~~]  
 9-28 Successor directors serve two-year terms.

9-29 SECTION 5.04. Subsection (a), Section 3.01, Chapter 670,  
 9-30 Acts of the 72nd Legislature, Regular Session, 1991 (Article  
 9-31 4477-7j, Vernon's Texas Civil Statutes), is amended to read as  
 9-32 follows:

9-33 (a) The district is governed by a board of directors  
 9-34 composed of seven voting members [~~and one ex-officio nonvoting  
 9-35 member~~] who are appointed as provided by this Act. However, the  
 9-36 district shall change to a system of electing the voting directors  
 9-37 if:

9-38 (1) the Commissioners Court of Gaines County and the  
 9-39 governing bodies of the cities of Seminole and Seagraves each pass a  
 9-40 resolution calling for the election of the directors; or

9-41 (2) the board receives a petition signed by at least  
 9-42 150 registered voters of Gaines County calling for the election of  
 9-43 the directors.

#### 9-44 ARTICLE 6. REPORTS; RECORDS; AUDITS; NOTICES

9-45 SECTION 6.01. Subsection (d), Section 51.403, Education  
 9-46 Code, is amended to read as follows:

9-47 (d) For purposes of this subsection, "small classes" [Each  
 9-48 institution shall file with its governing board and the  
 9-49 coordinating board a small class report, excluding individual  
 9-50 instruction courses, indicating department, course number, title  
 9-51 of course, and the name of the instructor. "Small classes," for the  
 9-52 purpose of this report,] are undergraduate-level courses with less  
 9-53 than 10 registrations, and graduate-level courses with less than 5  
 9-54 registrations. No small classes shall be offered in any  
 9-55 institution except as authorized by the appropriate governing  
 9-56 board, within the guidelines established by the Coordinating Board.

9-57 SECTION 6.02. Subchapter H, Chapter 51, Education Code, is  
 9-58 amended by adding Section 51.406 to read as follows:

9-59 Sec. 51.406. EXPIRATION OF CERTAIN REPORTING REQUIREMENTS  
 9-60 APPLICABLE TO INSTITUTIONS OF HIGHER EDUCATION AND UNIVERSITY  
 9-61 SYSTEMS. (a) In this section, "university system" has the meaning  
 9-62 assigned by Section 61.003.

9-63 (b) To the extent that any of the following laws require  
 9-64 reporting by a university system or an institution of higher  
 9-65 education, a university system or institution of higher education  
 9-66 is not required to make the report on or after September 1, 2013,  
 9-67 unless legislation enacted by the 83rd Legislature that becomes law  
 9-68 expressly requires the institution or system to make the report:

9-69 (1) Section 7.109;

- 10-1                   (2) Section 33.083;
- 10-2                   (3) Section 51.0051;
- 10-3                   (4) Section 59.07;
- 10-4                   (5) Section 130.086;
- 10-5                   (6) Section 325.007, Government Code;
- 10-6                   (7) Section 669.003, Government Code;
- 10-7                   (8) Section 2005.007, Government Code;
- 10-8                   (9) Section 2052.103, Government Code;
- 10-9                   (10) Section 2054.097, Government Code;
- 10-10                  (11) Section 2101.011, Government Code;
- 10-11                  (12) Section 2102.009, Government Code;
- 10-12                  (13) Chapter 2114, Government Code; and
- 10-13                  (14) Section 2205.041, Government Code.

10-14                  (c) A rule or policy of a state agency, including the Texas  
 10-15 Higher Education Coordinating Board, in effect on June 1, 2011,  
 10-16 that requires reporting by a university system or an institution of  
 10-17 higher education has no effect on or after September 1, 2013, unless  
 10-18 the rule or policy is affirmatively and formally readopted before  
 10-19 that date by formal administrative rule published in the Texas  
 10-20 Register and adopted in compliance with Chapter 2001, Government  
 10-21 Code. This subsection does not apply to:

- 10-22                   (1) a rule or policy for which the authorizing statute  
 10-23 is listed in Subsection (b);
- 10-24                   (2) a rule or policy for which the authorizing statute  
 10-25 is repealed on or before September 1, 2013, by legislation enacted  
 10-26 by the legislature that becomes law; or
- 10-27                   (3) a report required under any of the following laws:
  - 10-28                   (A) Section 51.005;
  - 10-29                   (B) Section 51.3062;
  - 10-30                   (C) Section 51.402;
  - 10-31                   (D) Section 56.039;
  - 10-32                   (E) Section 61.051(k);
  - 10-33                   (F) Section 61.059; or
  - 10-34                   (G) Section 62.095(b).

10-35                  SECTION 6.03. Subsection (h), Section 61.051, Education  
 10-36 Code, is amended to read as follows:

10-37                  (h) The board shall make continuing studies of the needs of  
 10-38 the state for research and designate the institutions of higher  
 10-39 education to perform research as needed. The board shall also  
 10-40 maintain an inventory of all institutional and programmatic  
 10-41 research activities being conducted by the various institutions,  
 10-42 whether state-financed or not. Once a year, on dates prescribed by  
 10-43 the board, each institution of higher education shall report to the  
 10-44 board all research conducted at that institution during the last  
 10-45 preceding year. The submission by an institution of the  
 10-46 institution's response to the National Science Foundation's annual  
 10-47 Higher Education Research and Development Survey satisfies the  
 10-48 requirements of this section. All reports required by this  
 10-49 subsection shall be made subject to the limitations imposed by  
 10-50 security regulations governing defense contracts for research.

10-51                  SECTION 6.04. Section 61.0582, Education Code, is amended  
 10-52 by adding Subsection (f) to read as follows:

10-53                  (f) This section does not apply to a university system that  
 10-54 maintains an ongoing system-wide capital improvement program  
 10-55 approved by the system's board of regents.

10-56                  SECTION 6.05. Section 130.152, Education Code, is amended  
 10-57 to read as follows:

10-58                  Sec. 130.152. CRITERIA FOR PROGRAMS FOR THE DISADVANTAGED.  
 10-59 A junior college may develop programs to serve persons from  
 10-60 backgrounds of economic or educational deprivation by submission of  
 10-61 a plan based on the following criteria to the Texas Higher Education  
 10-62 Coordinating Board~~[, Texas College and University System]~~:

- 10-63                   (1) an instructional program that accommodates the  
 10-64 different learning rates of students and compensates for prior  
 10-65 economic and educational deprivation;
- 10-66                   (2) an unrestricted admissions policy allowing the  
 10-67 enrollment of any person 18 years of age or older with a high school  
 10-68 diploma or its equivalent who can reasonably be expected to benefit  
 10-69 from instruction;

11-1 (3) the assurance that all students, regardless of  
 11-2 their differing programs of study, will be considered, known, and  
 11-3 recognized as full members of the student body, provided that the  
 11-4 administrative officers of a junior college may deny admission to a  
 11-5 prospective student or attendance of an enrolled student if, in  
 11-6 their judgment, the person [he] would not be competent to benefit  
 11-7 from a program of the college, or would by the person's [his]  
 11-8 presence or conduct create a disruptive atmosphere within the  
 11-9 college not consistent with the statutory purposes of the college;

11-10 (4) ~~[the submission of a plan for a financial aid~~  
 11-11 ~~program which removes to the maximum extent possible the financial~~  
 11-12 ~~barriers to the educational aspirations of the citizens of this~~  
 11-13 ~~state,~~

11-14 ~~[(5) an annual evaluation report based on scientific~~  
 11-15 ~~methods and utilizing control groups wherever possible to be~~  
 11-16 ~~submitted to the coordinating board at the end of each school year,~~  
 11-17 ~~covering each remedial-compensatory course or program offered at~~  
 11-18 ~~the college,~~

11-19 ~~[(6)]~~ any other criteria consistent with the  
 11-20 provisions of this subchapter specified by the coordinating board;  
 11-21 and

11-22 (5) ~~[(7)]~~ a junior college must obtain approval of the  
 11-23 coordinating board ~~[Coordinating Board, Texas College and~~  
 11-24 ~~University System,]~~ before offering any courses under the  
 11-25 provisions of this Act.

11-26 SECTION 6.06. Section 401.042, Government Code, is amended  
 11-27 by adding Subsection (c) to read as follows:

11-28 (c) In consultation with public institutions of higher  
 11-29 education, the offices of the governor and the Legislative Budget  
 11-30 Board shall review the forms for higher education legislative  
 11-31 appropriations requests to identify opportunities to improve  
 11-32 efficiency, provide better transparency of funding sources,  
 11-33 eliminate unnecessary or duplicative requirements, and otherwise  
 11-34 reduce the cost or difficulty of providing information related to  
 11-35 appropriations requests.

11-36 SECTION 6.07. Subchapter L, Chapter 403, Government Code,  
 11-37 is amended by adding Section 403.2715 to read as follows:

11-38 Sec. 403.2715. UNIVERSITY SYSTEMS AND INSTITUTIONS OF  
 11-39 HIGHER EDUCATION. (a) In this section, "institution of higher  
 11-40 education" and "university system" have the meanings assigned by  
 11-41 Section 61.003, Education Code.

11-42 (b) Except as provided by this section, this subchapter does  
 11-43 not apply to a university system or institution of higher  
 11-44 education.

11-45 (c) A university system or institution of higher education  
 11-46 shall account for all personal property as defined by the  
 11-47 comptroller under Section 403.272. At all times, the property  
 11-48 records of a university system or institution of higher education  
 11-49 must accurately reflect the personal property possessed by the  
 11-50 system or institution.

11-51 (d) The chief executive officer of each university system or  
 11-52 institution of higher education shall designate one or more  
 11-53 property managers. The property manager shall maintain the records  
 11-54 required and be the custodian of all personal property possessed by  
 11-55 the system or institution.

11-56 (e) Sections 403.273(h), 403.275, and 403.278 apply to a  
 11-57 university system or institution of higher education.

11-58 SECTION 6.08. Section 2054.1125, Government Code, is  
 11-59 amended by adding Subsection (c) to read as follows:

11-60 (c) This section does not apply to a university system or  
 11-61 institution of higher education that adopts procedures for  
 11-62 notifying affected individuals of a breach of information system  
 11-63 security. In this subsection, "institution of higher education"  
 11-64 and "university system" have the meanings assigned by Section  
 11-65 61.003, Education Code.

11-66 SECTION 6.09. Subsection (d), Section 2101.0115,  
 11-67 Government Code, is amended by adding Subdivision (4) to read as  
 11-68 follows:

11-69 (4) "Institution of higher education" and "university

12-1 system" have the meanings assigned by Section 61.003, Education  
12-2 Code.

12-3 SECTION 6.10. Section 2101.0115, Government Code, is  
12-4 amended by adding Subsection (e) to read as follows:

12-5 (e) This section does not apply to an institution of higher  
12-6 education or university system.

12-7 SECTION 6.11. Subsection (c), Section 2254.028, Government  
12-8 Code, is amended to read as follows:

12-9 (c) Subsection (a) [~~(a)(3)~~] does not apply to a major  
12-10 consulting services contract to be entered into by an institution  
12-11 of higher education other than a public junior college if the  
12-12 institution includes in the invitation published under Section  
12-13 2254.029 a finding by the chief executive officer of the  
12-14 institution that the consulting services are necessary and an  
12-15 explanation of that finding.

12-16 SECTION 6.12. Section 2254.0301, Government Code, is  
12-17 amended to read as follows:

12-18 Sec. 2254.0301. CONTRACT NOTIFICATION. (a) A state agency  
12-19 shall provide written notice to the Legislative Budget Board of a  
12-20 contract for consulting services if the amount of the contract,  
12-21 including an amendment, modification, renewal, or extension of the  
12-22 contract, exceeds \$14,000. The notice must be on a form prescribed  
12-23 by the Legislative Budget Board and filed not later than the 10th  
12-24 day after the date the entity enters into the contract.

12-25 (b) This section does not apply to a university system or  
12-26 institution of higher education. In this subsection, "institution  
12-27 of higher education" and "university system" have the meanings  
12-28 assigned by Section 61.003, Education Code.

12-29 SECTION 6.13. Subsection (f), Section 388.005, Health and  
12-30 Safety Code, is amended to read as follows:

12-31 (f) This section does not apply to a state agency or an  
12-32 institution of higher education that the State Energy Conservation  
12-33 Office determines [~~that~~], before September 1, 2007, adopted a plan  
12-34 for conserving energy under which the agency or institution  
12-35 established a percentage goal for reducing the consumption of  
12-36 electricity. The exemption provided by this section applies only  
12-37 while the agency or institution has an energy conservation plan in  
12-38 effect and only if the agency or institution submits reports on the  
12-39 conservation plan each year [~~calendar quarter~~] to the governor, the  
12-40 Legislative Budget Board, and the State Energy Conservation Office.

12-41 SECTION 6.14. Section 21.552, Labor Code, is amended by  
12-42 adding Subsection (c) to read as follows:

12-43 (c) This section does not apply to a university system or  
12-44 institution of higher education, except to the extent required by  
12-45 federal law. In this subsection, "institution of higher education"  
12-46 and "university system" have the meanings assigned by Section  
12-47 61.003, Education Code.

12-48 SECTION 6.15. Section 412.053, Labor Code, is amended by  
12-49 adding Subsection (c) to read as follows:

12-50 (c) This section does not apply to an institution of higher  
12-51 education or university system. In this subsection, "institution  
12-52 of higher education" and "university system" have the meanings  
12-53 assigned by Section 61.003, Education Code.

12-54 SECTION 6.16. Subsection (d), Section 31.153, Natural  
12-55 Resources Code, is amended to read as follows:

12-56 (d) Each state agency, other than an institution of higher  
12-57 education, annually at the time set by the division, shall furnish  
12-58 the Texas Historical Commission with a photograph and information  
12-59 that specifies and identifies the age of each building:

12-60 (1) that was acquired by the agency after the date of  
12-61 the preceding annual submission and that is at least 45 years old on  
12-62 the date of the current submission; or

12-63 (2) that is possessed by the agency and has become 45  
12-64 years old since the date the information was previously submitted.

12-65 ARTICLE 7. REPEALER

12-66 SECTION 7.01. (a) The following laws are repealed  
12-67 effective September 1, 2011:

12-68 (1) Section 51.216, Education Code;

12-69 (2) Subsections (b) and (c), Section 51.403, Education

13-1 Code;  
 13-2 (3) Section 51.4033, Education Code;  
 13-3 (4) Subsection (c), Section 61.058, Education Code;  
 13-4 (5) Section 61.0815, Education Code;  
 13-5 (6) Section 61.086, Education Code;  
 13-6 (7) Subsection (c), Section 61.087, Education Code;  
 13-7 (8) Section 62.098, Education Code;  
 13-8 (9) Section 1434.054, Government Code;  
 13-9 (10) Section 2107.005, Government Code;  
 13-10 (11) Subsection (c), Section 412.042, Labor Code; and  
 13-11 (12) Subsection (c), Section 3.01, Chapter 670, Acts  
 13-12 of the 72nd Legislature, Regular Session, 1991 (Article 4477-7j,  
 13-13 Vernon's Texas Civil Statutes).

13-14 (b) The following provisions of the Education Code are  
 13-15 repealed effective September 1, 2013:

- 13-16 (1) Section 51.859;
- 13-17 (2) Subsection (e), Section 51.917;
- 13-18 (3) Subsection (d), Section 51.968;
- 13-19 (4) Subsection (h), Section 54.203;
- 13-20 (5) Subsection (c), Section 56.034;
- 13-21 (6) Subsection (j), Section 56.079;
- 13-22 (7) Subsection (c), Section 61.066;
- 13-23 (8) Subsection (d), Section 63.003;
- 13-24 (9) Section 63.004;
- 13-25 (10) Section 63.103;
- 13-26 (11) Subsection (m), Section 86.52;
- 13-27 (12) Section 88.210;
- 13-28 (13) Section 106.54;
- 13-29 (14) Section 142.005;
- 13-30 (15) Section 143.006;
- 13-31 (16) Section 147.005;
- 13-32 (17) Section 148.005; and
- 13-33 (18) Section 153.008.

13-34 SECTION 7.02. (a) This section governs a conflict between  
 13-35 this Act and any other Act of the 82nd Legislature, Regular Session,  
 13-36 2011, without regard to the relative dates of enactment.

13-37 (b) If this Act and any other Act repeal the same statute,  
 13-38 the earlier effective date of repeal controls.

13-39 (c) If this Act amends a statute that any other Act repeals,  
 13-40 the repeal controls.

13-41 ARTICLE 8. EFFECTIVE DATE

13-42 SECTION 8.01. This Act takes effect immediately if it  
 13-43 receives a vote of two-thirds of all the members elected to each  
 13-44 house, as provided by Section 39, Article III, Texas Constitution.  
 13-45 If this Act does not receive the vote necessary for immediate  
 13-46 effect, this Act takes effect September 1, 2011.

13-47 \* \* \* \* \*