

1-1 By: Schwertner S.B. No. 3
1-2 (In the Senate - Filed March 12, 2021; March 18, 2021, read
1-3 first time and referred to Committee on Jurisprudence;
1-4 March 26, 2021, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; March 26, 2021,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			

1-14 COMMITTEE SUBSTITUTE FOR S.B. No. 3 By: Huffman

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to preparing for, preventing, and responding to weather
1-18 emergencies and power outages; increasing the amount of
1-19 administrative and civil penalties.

1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-21 SECTION 1. Chapter 411, Government Code, is amended by
1-22 adding Subchapter K-1 to read as follows:

1-23 SUBCHAPTER K-1. POWER OUTAGE ALERT

1-24 Sec. 411.301. POWER OUTAGE ALERT. (a) With the cooperation
1-25 of the Texas Department of Transportation, the Texas Division of
1-26 Emergency Management, the office of the governor, and the Public
1-27 Utility Commission of Texas, the department shall develop and
1-28 implement an alert to be activated when the power supply in this
1-29 state may be inadequate to meet demand.

1-30 (b) The Public Utility Commission of Texas by rule shall
1-31 adopt criteria for the content and activation of the alert
1-32 described by Subsection (a). The criteria must provide for an alert
1-33 to be regional or statewide.

1-34 Sec. 411.302. ADMINISTRATION. (a) The director is the
1-35 statewide coordinator of the power outage alert.

1-36 (b) The director shall adopt rules and issue directives as
1-37 necessary to ensure proper implementation of the power outage
1-38 alert. The rules and directives must include the procedures to be
1-39 used by the Public Utility Commission of Texas and the independent
1-40 organization certified under Section 39.151, Utilities Code, to
1-41 communicate with the director about the power outage alert.

1-42 Sec. 411.303. DEPARTMENT TO RECRUIT PARTICIPANTS. The
1-43 department shall recruit public and commercial television and radio
1-44 broadcasters, private commercial entities, state or local
1-45 governmental entities, the public, and other appropriate persons to
1-46 assist in developing and implementing the power outage alert
1-47 system.

1-48 Sec. 411.304. STATE AGENCIES. (a) A state agency
1-49 participating in the power outage alert system shall:

1-50 (1) cooperate with the department and assist in
1-51 developing and implementing the alert system; and

1-52 (2) establish a plan for providing relevant
1-53 information to its officers, investigators, or employees, as
1-54 appropriate, once the power outage alert system has been activated.

1-55 (b) In addition to its duties as a state agency under
1-56 Subsection (a), the Texas Department of Transportation shall
1-57 establish a plan for providing relevant information to the public
1-58 through an existing system of dynamic message signs located across
1-59 the state.

1-60 Sec. 411.305. ACTIVATION OF POWER OUTAGE ALERT. (a) When

2-1 the Public Utility Commission of Texas or an independent
 2-2 organization certified under Section 39.151, Utilities Code,
 2-3 notifies the department that the power supply in this state or a
 2-4 region of this state may be inadequate to meet demand, the
 2-5 department shall confirm the accuracy of the information and, if
 2-6 confirmed, immediately issue a power outage alert under this
 2-7 subchapter in accordance with department rules.

2-8 (b) In issuing the power outage alert, the department shall
 2-9 send the alert to designated media outlets in this state. Following
 2-10 receipt of the alert, participating radio stations and television
 2-11 stations and other participating media outlets may issue the alert
 2-12 at designated intervals.

2-13 Sec. 411.306. CONTENT OF POWER OUTAGE ALERT. The power
 2-14 outage alert must include a statement that electricity customers
 2-15 may experience a power outage.

2-16 Sec. 411.307. TERMINATION OF POWER OUTAGE ALERT. The
 2-17 director shall terminate any activation of the power outage alert
 2-18 with respect to a particular energy emergency alert not later than
 2-19 the date the department receives notice that the energy emergency
 2-20 alert has been canceled.

2-21 Sec. 411.308. LIMITATION ON PARTICIPATION BY TEXAS
 2-22 DEPARTMENT OF TRANSPORTATION. Notwithstanding Section 411.304(b),
 2-23 the Texas Department of Transportation is not required to use any
 2-24 existing system of dynamic message signs in a statewide alert
 2-25 system created under this subchapter if that department receives
 2-26 notice from the United States Department of Transportation Federal
 2-27 Highway Administration that the use of the signs would result in the
 2-28 loss of federal highway funding or other punitive actions taken
 2-29 against this state due to noncompliance with federal laws,
 2-30 regulations, or policies.

2-31 SECTION 2. Section 418.048, Government Code, is amended to
 2-32 read as follows:

2-33 Sec. 418.048. MONITORING WEATHER. (a) The division shall
 2-34 keep continuously apprised of weather conditions that present
 2-35 danger of climatic activity, such as precipitation, severe enough
 2-36 to constitute a disaster.

2-37 (b) The division shall create a list of suggested actions
 2-38 for state agencies and the public to take to prepare for winter
 2-39 storms, organized by severity of storm based on the National
 2-40 Weather Service Winter Storm Severity Index.

2-41 SECTION 3. Chapter 418, Government Code, is amended by
 2-42 adding Subchapter J to read as follows:

2-43 SUBCHAPTER J. TEXAS ENERGY RELIABILITY COUNCIL

2-44 Sec. 418.301. DEFINITIONS. In this subchapter:

2-45 (1) "Chief" means the division's chief.

2-46 (2) "Council" means the Texas Energy Reliability
 2-47 Council.

2-48 Sec. 418.302. COUNCIL ESTABLISHED. The Texas Energy
 2-49 Reliability Council is established to:

2-50 (1) ensure that the energy and electric industries in
 2-51 this state meet high priority human needs and address critical
 2-52 infrastructure concerns; and

2-53 (2) enhance coordination and communication in the
 2-54 energy and electric industries in this state.

2-55 Sec. 418.303. MEMBERSHIP. (a) The council is composed of:

2-56 (1) the chairman of the Railroad Commission of Texas;

2-57 (2) the presiding officer of the Public Utility
 2-58 Commission of Texas;

2-59 (3) the chief executive of the Office of Public
 2-60 Utility Counsel;

2-61 (4) the presiding officer of the Texas Commission on
 2-62 Environmental Quality;

2-63 (5) the chair of the Texas Transportation Commission;

2-64 (6) a person to represent the independent organization
 2-65 certified under Section 39.151, Utilities Code, for the ERCOT power
 2-66 region, appointed by the governor;

2-67 (7) the chief;

2-68 (8) five persons to represent participants in the
 2-69 natural gas supply chain in this state, appointed by the Railroad

3-1 Commission of Texas to represent as many types of participants as
3-2 possible;
3-3 (9) five persons to represent the electric industry,
3-4 appointed by the Public Utility Commission of Texas, including:
3-5 (A) one person to represent entities that provide
3-6 dispatchable electric energy to the power grid in this state;
3-7 (B) one person to represent transmission and
3-8 distribution utilities, as defined by Section 31.002, Utilities
3-9 Code;
3-10 (C) one person to represent retail electric
3-11 providers, as defined by Section 31.002, Utilities Code;
3-12 (D) one person to represent municipally owned
3-13 utilities, as defined by Section 11.003, Utilities Code; and
3-14 (E) one person to represent electric
3-15 cooperatives;
3-16 (10) three persons to represent energy sectors not
3-17 otherwise represented on the council, such as the non-dispatchable
3-18 sources of energy, coal, or nuclear sectors, appointed by the
3-19 Public Utility Commission of Texas; and
3-20 (11) five persons to represent industrial concerns,
3-21 appointed by the governor, including:
3-22 (A) one person to represent motor fuel producers;
3-23 and
3-24 (B) one person to represent chemical
3-25 manufacturers.
3-26 (b) A member of the council described by Subsection (a)(1),
3-27 (2), (3), (4), (5), (6), or (7) may designate a person from the
3-28 member's agency to represent the member in any meeting.
3-29 (c) The council may request that a person collaborate with
3-30 the council to achieve the purposes described by Section 418.302.
3-31 Sec. 418.304. OFFICERS. (a) The chief shall serve as
3-32 presiding officer of the council.
3-33 (b) The council may select an assistant presiding officer
3-34 and secretary from among its members.
3-35 Sec. 418.305. COMPENSATION; REIMBURSEMENT. A member of the
3-36 council is not entitled to compensation or reimbursement of
3-37 expenses for service on the council.
3-38 Sec. 418.306. MEETINGS. (a) After its initial meeting, the
3-39 council shall meet at least twice each year at a time and place
3-40 determined by the chief.
3-41 (b) The council may meet at other times the council
3-42 considers appropriate. The presiding officer may call a meeting on
3-43 the officer's own motion.
3-44 Sec. 418.307. ADMINISTRATIVE SUPPORT. The division shall
3-45 provide administrative support to the council.
3-46 Sec. 418.308. GENERAL DUTIES OF COUNCIL. (a) The council
3-47 shall foster communication and planning to ensure preparedness for
3-48 making available and delivering energy and electricity in this
3-49 state to ensure that high priority human needs are met and critical
3-50 infrastructure needs are addressed.
3-51 (b) The council shall foster communication and coordination
3-52 between the energy and electric industries in this state.
3-53 Sec. 418.309. SUPPLY CHAIN MAP. The council shall:
3-54 (1) map the natural gas supply chain for this state in
3-55 order to designate priority service needs during extreme weather
3-56 events, including electric generation facilities powered by
3-57 natural gas; and
3-58 (2) identify and designate the sources in the supply
3-59 chain necessary to operate critical infrastructure, as defined by
3-60 Section 421.001.
3-61 SECTION 4. Subchapter C, Chapter 86, Natural Resources
3-62 Code, is amended by adding Section 86.044 to read as follows:
3-63 Sec. 86.044. WEATHER EMERGENCY PREPAREDNESS. (a) In this
3-64 section, "gas supply chain facility" means a facility that is:
3-65 (1) used for producing, treating, processing,
3-66 pressurizing, storing, or transporting natural gas to end
3-67 consumers;
3-68 (2) otherwise regulated by the commission under this
3-69 subtitle; and

4-1 (3) not regulated by the commission under Chapter 121,
 4-2 Utilities Code.

4-3 (b) The commission by rule shall require a gas supply chain
 4-4 facility operator to implement measures to prepare to operate
 4-5 during a weather emergency. In adopting the rules, the commission
 4-6 shall take into consideration the supply chain map created under
 4-7 Section 418.309, Government Code.

4-8 (c) The commission by rule shall require an operator of a
 4-9 gas supply chain facility that experiences repeated or major
 4-10 weather-related forced interruptions of production to:

4-11 (1) contract with a person who is not an employee of
 4-12 the provider to assess the operator's weatherization plans,
 4-13 procedures, and operations; and

4-14 (2) submit the assessment to the commission.

4-15 (d) The commission may require an operator of a gas supply
 4-16 chain facility to implement appropriate recommendations included
 4-17 in an assessment submitted to the commission under Subsection (c).

4-18 (e) If the commission determines that a person has violated
 4-19 a rule adopted under this section, the commission shall notify the
 4-20 attorney general of the violation. The attorney general shall
 4-21 initiate a suit to recover a penalty for the violation in the manner
 4-22 provided by Subchapter G.

4-23 SECTION 5. Section 86.222, Natural Resources Code, is
 4-24 amended by adding Subsections (a-1), (c), and (d) to read as
 4-25 follows:

4-26 (a-1) Notwithstanding Subsection (a), a person who violates
 4-27 a provision of a rule adopted under Section 86.044 is liable for a
 4-28 penalty of not more than \$1,000,000 for each offense.

4-29 (c) The commission by rule shall establish a classification
 4-30 system to be used by a court under this subchapter for violations of
 4-31 rules adopted under Section 86.044 that includes a range of
 4-32 penalties that may be recovered for each class of violation based
 4-33 on:

4-34 (1) the seriousness of the violation, including:

4-35 (A) the nature, circumstances, extent, and
 4-36 gravity of a prohibited act; and

4-37 (B) the hazard or potential hazard created to the
 4-38 health, safety, or economic welfare of the public;

4-39 (2) the history of previous violations;

4-40 (3) the amount necessary to deter future violations;

4-41 (4) efforts to correct the violation; and

4-42 (5) any other matter that justice may require.

4-43 (d) The classification system established under Subsection
 4-44 (c) shall provide that a penalty in an amount that exceeds \$5,000
 4-45 may be recovered only if the violation is included in the highest
 4-46 class of violations in the classification system.

4-47 SECTION 6. Section 15.023, Utilities Code, is amended by
 4-48 adding Subsection (b-1) to read as follows:

4-49 (b-1) Notwithstanding Subsection (b), the penalty for a
 4-50 violation of a provision of Subtitle B may be in an amount not to
 4-51 exceed \$1,000,000 for a violation. Each day a violation continues
 4-52 or occurs is a separate violation for purposes of imposing a
 4-53 penalty.

4-54 SECTION 7. Section 17.002, Utilities Code, is amended by
 4-55 adding Subdivision (3-a) to read as follows:

4-56 (3-a) "Critical care residential customer" means a
 4-57 residential customer who has permanently residing in the customer's
 4-58 home a person who has been diagnosed by a physician as being
 4-59 dependent upon an electric-powered medical device to sustain life.

4-60 SECTION 8. Section 17.003, Utilities Code, is amended by
 4-61 adding Subsections (d-1) and (e) to read as follows:

4-62 (d-1) An electric utility providing electric delivery
 4-63 service for a retail electric provider, as defined by Section
 4-64 31.002, shall collaborate with the retail electric provider and the
 4-65 commission to ensure that information about the following matters
 4-66 is periodically provided to the retail electric provider's retail
 4-67 customers together with bills sent to the customers:

4-68 (1) the electric utility's procedures for implementing
 4-69 involuntary load shedding initiated by the independent

5-1 organization certified for the ERCOT power region;
 5-2 (2) the types of customers who may be considered
 5-3 critical care residential customers or critical load according to
 5-4 commission rules adopted under Section 38.075;

5-5 (3) the procedure for a customer to apply to be
 5-6 considered a critical care residential customer or critical load
 5-7 according to commission rules adopted under Section 38.075; and

5-8 (4) reducing electricity use at times when involuntary
 5-9 load shedding events may be implemented.

5-10 (e) The commission by rule shall require each retail
 5-11 electric provider to:

5-12 (1) provide to the provider's customers clear and
 5-13 understandable information about the requirements for voluntary
 5-14 load shedding participation before the provider accepts a
 5-15 customer's agreement to volunteer to participate in voluntary load
 5-16 shedding;

5-17 (2) inform the provider's transmission and
 5-18 distribution utilities whether the retail electric provider serves
 5-19 customers willing to voluntarily participate in load shedding
 5-20 during an energy emergency; and

5-21 (3) coordinate with the provider's transmission and
 5-22 distribution utilities regarding the potential total amounts of
 5-23 electricity that would be available if voluntary load shedding is
 5-24 needed.

5-25 SECTION 9. Section 17.005, Utilities Code, is amended to
 5-26 read as follows:

5-27 Sec. 17.005. PROTECTIONS FOR CUSTOMERS OF MUNICIPALLY OWNED
 5-28 UTILITIES. (a) A municipally owned utility may not be deemed to be
 5-29 a "service provider" or "billing agent" for purposes of Sections
 5-30 17.156(b) and (e).

5-31 (b) The governing body of a municipally owned utility shall
 5-32 adopt, implement, and enforce rules that shall have the effect of
 5-33 accomplishing the objectives set out in Sections 17.004(a) and (b)
 5-34 and 17.102, as to the municipally owned utility within its
 5-35 certificated service area.

5-36 (c) The governing body of a municipally owned utility or its
 5-37 designee shall perform the dispute resolution function provided for
 5-38 by Section 17.157 for disputes arising from services provided by
 5-39 the municipally owned utility to electric customers served within
 5-40 the municipally owned utility's certificated service area.

5-41 (d) With respect to electric customers served by a
 5-42 municipally owned utility outside its certificated service area or
 5-43 otherwise served through others' distribution facilities, after
 5-44 retail competition begins as authorized by the legislature, the
 5-45 provisions of this chapter as administered by the commission apply.

5-46 (e) Nothing in this chapter shall be deemed to apply to a
 5-47 wholesale customer of a municipally owned utility.

5-48 (f) A municipally owned utility shall periodically provide
 5-49 with bills sent to retail customers of the utility information
 5-50 about:

5-51 (1) the utility's procedure for implementing
 5-52 involuntary load shedding;

5-53 (2) the types of customers who may be considered
 5-54 critical care residential customers or critical load according to
 5-55 commission rules adopted under Section 38.075;

5-56 (3) the procedure for a customer to apply to be
 5-57 considered a critical care residential customer or critical load
 5-58 according to commission rules adopted under Section 38.075; and

5-59 (4) reducing electricity use at times when involuntary
 5-60 load shedding events may be implemented.

5-61 SECTION 10. Section 17.006, Utilities Code, is amended to
 5-62 read as follows:

5-63 Sec. 17.006. PROTECTIONS FOR CUSTOMERS OF ELECTRIC
 5-64 COOPERATIVES. (a) An electric cooperative shall not be deemed to
 5-65 be a "service provider" or "billing agent" for purposes of Sections
 5-66 17.156(b) and (e).

5-67 (b) The electric cooperative shall adopt, implement, and
 5-68 enforce rules that shall have the effect of accomplishing the
 5-69 objectives set out in Sections 17.004(a) and (b) and 17.102.

6-1 (c) The board of directors of the electric cooperative or
 6-2 its designee shall perform the dispute resolution function provided
 6-3 for by Section 17.157 for electric customers served by the electric
 6-4 cooperative within its certificated service area.

6-5 (d) With respect to electric customers served by an electric
 6-6 cooperative outside its certificated service area or otherwise
 6-7 served through others' distribution facilities, after the
 6-8 legislature authorizes retail competition, the provisions of this
 6-9 chapter as administered by the commission shall apply.

6-10 (e) Nothing in this chapter shall be deemed to apply to a
 6-11 wholesale customer of an electric cooperative.

6-12 (f) An electric cooperative shall periodically provide with
 6-13 bills sent to retail customers of the cooperative information
 6-14 about:

6-15 (1) the cooperative's procedure for implementing
 6-16 involuntary load shedding;

6-17 (2) the types of customers who may be considered
 6-18 critical care residential customers or critical load according to
 6-19 commission rules adopted under Section 38.075;

6-20 (3) the procedure for a customer to apply to be
 6-21 considered a critical care residential customer or critical load
 6-22 according to commission rules adopted under Section 38.075; and

6-23 (4) reducing electricity use at times when involuntary
 6-24 load shedding events may be implemented.

6-25 SECTION 11. The heading to Chapter 35, Utilities Code, is
 6-26 amended to read as follows:

6-27 CHAPTER 35. [~~ALTERNATIVE~~] ENERGY PROVIDERS

6-28 SECTION 12. Subchapter A, Chapter 35, Utilities Code, is
 6-29 amended by adding Section 35.0021 to read as follows:

6-30 Sec. 35.0021. WEATHER EMERGENCY PREPAREDNESS. (a) This
 6-31 section applies only to a municipally owned utility, electric
 6-32 cooperative, qualifying facility, power generation company, or
 6-33 exempt wholesale generator that sells electric energy at wholesale
 6-34 in the ERCOT power region.

6-35 (b) The commission by rule shall require each provider of
 6-36 electric generation service described by Subsection (a) to
 6-37 implement measures to prepare the provider's generation assets to
 6-38 provide adequate electric generation service during a weather
 6-39 emergency according to reliability standards adopted by the
 6-40 commission.

6-41 (c) The independent organization certified under Section
 6-42 39.151 for the ERCOT power region shall:

6-43 (1) inspect generation assets in the ERCOT power
 6-44 region for compliance with the reliability standards;

6-45 (2) provide the owner of a generation asset with a
 6-46 reasonable period of time in which to remedy any violation the
 6-47 independent organization discovers in an inspection; and

6-48 (3) report to the commission any violation that is not
 6-49 remedied in a reasonable period of time.

6-50 (d) The commission by rule shall require a provider of
 6-51 electric generation service described by Subsection (a) for a
 6-52 generation asset that experiences repeated or major
 6-53 weather-related forced interruptions of service to:

6-54 (1) contract with a person who is not an employee of
 6-55 the provider to assess the provider's weatherization plans,
 6-56 procedures, and operations for that asset; and

6-57 (2) submit the assessment to the commission and the
 6-58 independent organization certified under Section 39.151 for the
 6-59 ERCOT power region.

6-60 (e) The commission may require a provider of electric
 6-61 generation service described by Subsection (a) to implement
 6-62 appropriate recommendations included in an assessment submitted to
 6-63 the commission under Subsection (d).

6-64 (f) The independent organization certified under Section
 6-65 39.151 for the ERCOT power region shall review, coordinate, and
 6-66 approve or deny requests by providers of electric generation
 6-67 service described by Subsection (a) for a planned power outage
 6-68 during a period in which historically, as determined by the
 6-69 commission, electricity use has reached a summer or winter peak.

7-1 (g) The commission shall impose an administrative penalty
 7-2 on an entity, including a municipally owned utility or an electric
 7-3 cooperative, that violates a rule adopted under this section in the
 7-4 manner provided by Chapter 15.

7-5 SECTION 13. Section 35.004(e), Utilities Code, is amended
 7-6 to read as follows:

7-7 (e) The commission shall ensure that ancillary services
 7-8 necessary to facilitate the transmission of electric energy are
 7-9 available at reasonable prices with terms and conditions that are
 7-10 not unreasonably preferential, prejudicial, discriminatory,
 7-11 predatory, or anticompetitive. The commission shall ensure that
 7-12 the independent organization certified under Section 39.151 for the
 7-13 ERCOT power region procures ancillary services sufficient to manage
 7-14 any reliability impacts of intermittent generation resources,
 7-15 including variability across peak demand periods, and shall
 7-16 directly assign the costs of such services to intermittent
 7-17 generators consistent with cost-causation principles. In this
 7-18 subsection, "ancillary services" means services necessary to
 7-19 facilitate the transmission of electric energy including load
 7-20 following, standby power, backup power, reactive power, and any
 7-21 other services as the commission may determine by rule. On the
 7-22 introduction of customer choice in the ERCOT power region,
 7-23 acquisition of generation-related ancillary services on a
 7-24 nondiscriminatory basis by the independent organization in ERCOT on
 7-25 behalf of entities selling electricity at retail shall be deemed to
 7-26 meet the requirements of this subsection.

7-27 SECTION 14. Subchapter D, Chapter 38, Utilities Code, is
 7-28 amended by adding Sections 38.074, 38.075, and 38.076 to read as
 7-29 follows:

7-30 Sec. 38.074. WEATHER EMERGENCY PREPAREDNESS. (a) The
 7-31 commission by rule shall require each electric cooperative,
 7-32 municipally owned utility, and transmission and distribution
 7-33 utility providing transmission service in the ERCOT power region to
 7-34 implement measures to prepare the cooperative's or utility's
 7-35 facilities to maintain service quality and reliability during a
 7-36 weather emergency according to standards adopted by the commission.

7-37 (b) The commission shall impose an administrative penalty
 7-38 on an entity, including a municipally owned utility or an electric
 7-39 cooperative, that violates a rule adopted under this section in the
 7-40 manner provided by Chapter 15.

7-41 Sec. 38.075. INVOLUNTARY LOAD SHEDDING. (a) The
 7-42 commission by rule shall adopt a system to allocate load shedding
 7-43 among electric cooperatives, municipally owned utilities, and
 7-44 transmission and distribution utilities providing transmission
 7-45 service in the ERCOT power region during an involuntary load
 7-46 shedding event initiated by an independent organization certified
 7-47 under Section 39.151 for the region during an energy emergency.

7-48 (b) The system must provide for allocations for electric
 7-49 cooperatives, municipally owned utilities, and transmission and
 7-50 distribution utilities in different seasons based on historical
 7-51 seasonal peak usage in the geographic area served by the electric
 7-52 cooperative, municipally owned utility, or transmission and
 7-53 distribution utility.

7-54 (c) The commission by rule shall:

7-55 (1) categorize types of critical load that may be
 7-56 given the highest priority for power restoration; and

7-57 (2) require electric cooperatives, municipally owned
 7-58 utilities, and transmission and distribution utilities providing
 7-59 transmission service in the ERCOT power region to submit to the
 7-60 commission and the independent organization certified under
 7-61 Section 39.151 for the region:

7-62 (A) customers or circuits the cooperative or
 7-63 utility has designated as critical load; and

7-64 (B) a plan for participating in load shedding in
 7-65 response to an involuntary load shedding event described by
 7-66 Subsection (a).

7-67 (d) The commission by rule shall require electric
 7-68 cooperatives and municipally owned utilities providing
 7-69 transmission service in the ERCOT power region to:

8-1 (1) maintain lists of customers willing to voluntarily
 8-2 participate in load shedding; and

8-3 (2) coordinate with municipalities, businesses, and
 8-4 customers that consume large amounts of electricity to encourage
 8-5 voluntary load shedding.

8-6 (e) This section does not abridge, enlarge, or modify the
 8-7 obligation of an electric cooperative, a municipally owned utility,
 8-8 or a transmission and distribution utility to comply with federal
 8-9 reliability standards.

8-10 Sec. 38.076. LOAD SHEDDING EXERCISES. (a) The commission
 8-11 and the independent organization certified for the ERCOT power
 8-12 region shall conduct load shedding exercises with providers of
 8-13 electric generation service and transmission and distribution
 8-14 service in the ERCOT power region.

8-15 (b) The commission shall ensure that each year at least one
 8-16 exercise is conducted during a summer month and one exercise is
 8-17 conducted during a winter month.

8-18 SECTION 15. Subchapter C, Chapter 39, Utilities Code, is
 8-19 amended by adding Section 39.110 to read as follows:

8-20 Sec. 39.110. WHOLESALE INDEXED PRODUCTS PROHIBITED. (a)
 8-21 In this section, "wholesale indexed product" means a retail
 8-22 electric product in which the price a customer pays for electricity
 8-23 includes a direct pass-through of real-time settlement point prices
 8-24 determined by the independent organization certified under Section
 8-25 39.151 for the ERCOT power region.

8-26 (b) A retail electric provider may not offer a wholesale
 8-27 indexed product to a residential or small commercial customer.

8-28 SECTION 16. Subchapter D, Chapter 39, Utilities Code, is
 8-29 amended by adding Section 39.159 to read as follows:

8-30 Sec. 39.159. WHOLESALE EMERGENCY PRICING PROCEDURES. (a)
 8-31 The commission by rule shall establish an emergency system-wide
 8-32 offer cap program based on actual costs of generation at the time of
 8-33 the emergency for the wholesale electric market.

8-34 (b) If the program includes more than one emergency
 8-35 system-wide offer cap:

8-36 (1) the program may not authorize the high system-wide
 8-37 offer cap to be in effect for a continuous period of more than 12
 8-38 hours;

8-39 (2) the program may only allow for a low system-wide
 8-40 offer cap that cannot exceed the high system-wide offer cap;

8-41 (3) the program may not allow an emergency system-wide
 8-42 offer cap to exceed any nonemergency high system-wide offer cap;
 8-43 and

8-44 (4) the price of ancillary services may not exceed 150
 8-45 percent of the high system-wide offer cap.

8-46 (c) The commission shall review the emergency system-wide
 8-47 offer cap program at least once every five years to determine
 8-48 whether to update aspects of the program.

8-49 SECTION 17. Subchapter Z, Chapter 39, Utilities Code, is
 8-50 amended by adding Section 39.9165 to read as follows:

8-51 Sec. 39.9165. DISTRIBUTED GENERATION REPORTING. (a) In
 8-52 this section, "distributed generation" is an electrical generating
 8-53 facility that:

8-54 (1) is located at a customer's point of delivery;

8-55 (2) is connected at a voltage less than or equal to 60
 8-56 kilovolts; and

8-57 (3) may be connected in parallel operation to the
 8-58 utility system.

8-59 (b) An independent organization certified under Section
 8-60 39.151 shall require an owner or operator of distributed generation
 8-61 to register with the organization and interconnecting transmission
 8-62 and distribution utility information necessary for the
 8-63 interconnection of the distributed generator.

8-64 (c) This section does not apply to distributed generation
 8-65 servicing a residential property.

8-66 SECTION 18. Section 105.023, Utilities Code, is amended by
 8-67 adding Subsections (b-1), (e), and (f) to read as follows:

8-68 (b-1) Notwithstanding Subsection (b), a civil penalty under
 8-69 this section shall be in an amount of not less than \$1,000 and not

9-1 more than \$1,000,000 for each violation of Section 104.258(c).

9-2 (e) The railroad commission by rule shall establish a
9-3 classification system to be used by a court under this subchapter
9-4 for violations of Section 104.258(c) that includes a range of
9-5 penalties that may be recovered for each class of violation based
9-6 on:

9-7 (1) the seriousness of the violation, including:
9-8 (A) the nature, circumstances, extent, and
9-9 gravity of a prohibited act; and

9-10 (B) the hazard or potential hazard created to the
9-11 health, safety, or economic welfare of the public;

9-12 (2) the history of previous violations;

9-13 (3) the amount necessary to deter future violations;

9-14 (4) efforts to correct the violation; and

9-15 (5) any other matter that justice may require.

9-16 (f) The classification system established under Subsection
9-17 (e) shall provide that a penalty in an amount that exceeds \$5,000
9-18 may be recovered only if the violation is included in the highest
9-19 class of violations in the classification system.

9-20 SECTION 19. Section 121.2015, Utilities Code, is amended by
9-21 amending Subsection (a) and adding Subsections (d), (e), and (f) to
9-22 read as follows:

9-23 (a) The railroad commission shall adopt rules regarding:

9-24 (1) public education and awareness relating to gas
9-25 pipeline facilities; ~~and~~

9-26 (2) community liaison for responding to an emergency
9-27 relating to a gas pipeline facility; and

9-28 (3) measures gas pipeline facility operators must
9-29 implement to prepare gas pipeline facilities to maintain service
9-30 quality and reliability during extreme weather conditions, taking
9-31 into consideration the supply chain map created under Section
9-32 418.309, Government Code.

9-33 (d) The railroad commission by rule shall require a gas
9-34 pipeline facility operator that experiences repeated or major
9-35 weather-related forced interruptions of service to:

9-36 (1) contract with a person who is not an employee of
9-37 the provider to assess the operator's weatherization plans,
9-38 procedures, and operations; and

9-39 (2) submit the assessment to the commission.

9-40 (e) The railroad commission may require an operator of a gas
9-41 supply chain facility to implement appropriate recommendations
9-42 included in an assessment submitted to the commission under
9-43 Subsection (d).

9-44 (f) The railroad commission shall assess an administrative
9-45 penalty against a person who violates a rule adopted under
9-46 Subsection (a)(3) in the manner provided by Subchapter E.

9-47 SECTION 20. Section 121.206, Utilities Code, is amended by
9-48 adding Subsections (b-1) and (e) to read as follows:

9-49 (b-1) Notwithstanding Subsection (b), the penalty for each
9-50 violation may not exceed \$1,000,000 for a violation of a rule
9-51 adopted under Section 121.2015(a)(3). Each day a violation
9-52 continues may be considered a separate violation for the purpose of
9-53 penalty assessment.

9-54 (e) The guidelines must provide that a penalty in an amount
9-55 that exceeds \$5,000 for a violation of a rule adopted under Section
9-56 121.2015(a)(3) may be assessed only if circumstances justify the
9-57 enhancement of the penalty.

9-58 SECTION 21. The heading to Section 186.007, Utilities Code,
9-59 is amended to read as follows:

9-60 Sec. 186.007. PUBLIC UTILITY COMMISSION WEATHER EMERGENCY
9-61 PREPAREDNESS REPORTS [REPORT].

9-62 SECTION 22. Sections 186.007(a-1), (b), (d), (e), and (f),
9-63 Utilities Code, are amended to read as follows:

9-64 (a-1) The commission shall analyze emergency operations
9-65 plans developed by electric utilities as defined by Section 31.002,
9-66 power generation companies as defined by Section 31.002,
9-67 municipally owned utilities, and electric cooperatives that
9-68 operate generation facilities in this state and retail electric
9-69 providers as defined by Section 31.002 and prepare a weather

10-1 emergency preparedness report on power [~~generation~~] weatherization
 10-2 preparedness. In preparing the report, the commission shall:

10-3 (1) review [~~the~~] emergency operations plans
 10-4 [~~currently~~] on file with the commission;

10-5 (2) analyze and determine the ability of the electric
 10-6 grid to withstand extreme weather events in the upcoming year;

10-7 (3) consider the anticipated weather patterns for the
 10-8 upcoming year as forecasted by the National Weather Service or any
 10-9 similar state or national agency; and

10-10 (4) make recommendations on improving emergency
 10-11 operations plans and procedures in order to ensure the continuity
 10-12 of electric service.

10-13 (b) The commission shall [~~may~~] require an [~~electric~~
 10-14 ~~generation~~] entity subject to this section to file an updated
 10-15 emergency operations plan if it finds that an emergency operations
 10-16 plan on file does not contain adequate information to determine
 10-17 whether the [~~electric generation~~] entity can provide adequate
 10-18 electric [~~generation~~] services.

10-19 (d) The commission shall submit the report described by
 10-20 Subsection (a-1) to the lieutenant governor, the speaker of the
 10-21 house of representatives, and the members of the legislature not
 10-22 later than September 30 of each even-numbered year [~~, 2012~~].

10-23 (e) The commission may submit additional [~~subsequent~~]
 10-24 weather emergency preparedness reports if the commission finds that
 10-25 significant changes to weatherization techniques have occurred or
 10-26 are necessary to protect consumers or vital services, or if there
 10-27 have been changes to statutes or rules relating to weatherization
 10-28 requirements. A report under this subsection must be submitted not
 10-29 later than:

10-30 (1) March 1 for a summer weather emergency
 10-31 preparedness report; and

10-32 (2) September 1 for a winter weather emergency
 10-33 preparedness report.

10-34 (f) The emergency operations plans submitted for a [~~the~~]
 10-35 report described by Subsection (a-1) and any additional
 10-36 [~~subsequent~~] plans submitted under Subsection (e) are public
 10-37 information except for the portions of the plan considered
 10-38 confidential under Chapter 552, Government Code, or other state or
 10-39 federal law. If portions of a plan are designated as confidential,
 10-40 the plan shall be provided to the commission in a redacted form for
 10-41 public inspection with the confidential portions removed. An
 10-42 [~~electric generation~~] entity within the ERCOT power region shall
 10-43 provide the entity's plan to ERCOT in its entirety.

10-44 SECTION 23. Subchapter A, Chapter 186, Utilities Code, is
 10-45 amended by adding Section 186.008 to read as follows:

10-46 Sec. 186.008. RAILROAD COMMISSION WEATHER EMERGENCY
 10-47 PREPAREDNESS REPORTS. (a) In this section, "commission" means the
 10-48 Railroad Commission of Texas.

10-49 (b) The commission shall analyze emergency operations plans
 10-50 developed by operators of gas supply chain facilities, as defined
 10-51 by Section 86.044, Natural Resources Code, and by gas pipeline
 10-52 facility operators regulated under Chapter 121 and prepare a
 10-53 weather emergency preparedness report on natural gas supply chain
 10-54 weatherization preparedness. In preparing the report, the
 10-55 commission shall:

10-56 (1) review any emergency operations plans on file with
 10-57 the commission;

10-58 (2) analyze and determine the ability of the natural
 10-59 gas supply chain, as mapped under Section 418.309, Government Code,
 10-60 to withstand extreme weather events in the upcoming year;

10-61 (3) consider the anticipated weather patterns for the
 10-62 upcoming year as forecasted by the National Weather Service or any
 10-63 similar state or national agency; and

10-64 (4) make recommendations on improving emergency
 10-65 operations plans and procedures in order to ensure the continuity
 10-66 of natural gas service.

10-67 (c) The commission shall require an entity subject to this
 10-68 section to file an updated emergency operations plan if it finds
 10-69 that an emergency operations plan on file does not contain adequate

11-1 information to determine whether the entity can provide adequate
 11-2 natural gas services.

11-3 (d) The commission may adopt rules relating to the
 11-4 implementation of the report described by Subsection (b).

11-5 (e) The commission shall submit the report described by
 11-6 Subsection (b) to the lieutenant governor, the speaker of the house
 11-7 of representatives, and the members of the legislature not later
 11-8 than September 30 of each even-numbered year.

11-9 (f) The commission may submit additional weather emergency
 11-10 preparedness reports if the commission finds that significant
 11-11 changes to weatherization techniques have occurred or are necessary
 11-12 to protect consumers or vital services, or if there have been
 11-13 changes to statutes or rules relating to weatherization
 11-14 requirements. A report under this subsection must be submitted not
 11-15 later than:

11-16 (1) March 1 for a summer weather emergency
 11-17 preparedness report; and

11-18 (2) September 1 for a winter weather emergency
 11-19 preparedness report.

11-20 (g) The emergency operations plans submitted for a report
 11-21 described by Subsection (b) and any additional plans submitted
 11-22 under Subsection (f) are public information except for the portions
 11-23 of the plan considered confidential under Chapter 552, Government
 11-24 Code, or other state or federal law. If portions of a plan are
 11-25 designated as confidential, the plan shall be provided to the
 11-26 commission in a redacted form for public inspection with the
 11-27 confidential portions removed.

11-28 SECTION 24. Section 13.1395(a), Water Code, is amended to
 11-29 read as follows:

11-30 (a) In this section:

11-31 (1) "Affected utility" means a retail public utility,
 11-32 exempt utility, or provider or conveyor of potable or raw water
 11-33 service that furnishes water service to more than one customer[+]

11-34 [~~(A) in a county with a population of 3.3 million~~
 11-35 ~~or more; or~~

11-36 [~~(B) in a county with a population of 550,000 or~~
 11-37 ~~more adjacent to a county with a population of 3.3 million or more].~~

11-38 (2) "Emergency operations" means the operation of a
 11-39 water system during an extended power outage at a minimum water
 11-40 pressure of 35 pounds per square inch.

11-41 (3) "Extended power outage" means a power outage
 11-42 lasting for more than 24 hours.

11-43 SECTION 25. Subchapter E, Chapter 13, Water Code, is
 11-44 amended by adding Section 13.151 to read as follows:

11-45 Sec. 13.151. BILLING FOR SERVICES PROVIDED DURING EXTREME
 11-46 WEATHER EMERGENCY. (a) In this section, "extreme weather
 11-47 emergency" means a period when:

11-48 (1) the previous day's highest temperature did not
 11-49 exceed 32 degrees Fahrenheit and the temperature is predicted to
 11-50 remain at or below that level for the next 24 hours according to the
 11-51 nearest National Weather Service reports; or

11-52 (2) the National Weather Service issues a heat
 11-53 advisory for any county in the relevant service territory, or when
 11-54 such an advisory has been issued on any one of the previous two
 11-55 calendar days.

11-56 (b) A retail public utility that is required to possess a
 11-57 certificate of public convenience and necessity or a district and
 11-58 affected county that furnishes retail water or sewer utility
 11-59 service shall defer collection of the full payment of bills that are
 11-60 due during an extreme weather emergency until after the emergency
 11-61 is over and shall work with customers to establish a pay schedule
 11-62 for deferred bills.

11-63 SECTION 26. Section 13.414, Water Code, is amended by
 11-64 adding Subsections (a-1), (d), and (e) to read as follows:

11-65 (a-1) Notwithstanding Subsection (a), a retail public
 11-66 utility or affiliated interest that violates Section 13.151 is
 11-67 subject to a civil penalty of not less than \$100 nor more than
 11-68 \$1,000,000 for each violation.

11-69 (d) The commission by rule shall establish a classification

12-1 system to be used by a court under this section for violations of
12-2 Section 13.151 that includes a range of penalties that may be
12-3 recovered for each class of violation based on:

- 12-4 (1) the seriousness of the violation, including:
- 12-5 (A) the nature, circumstances, extent, and
- 12-6 gravity of a prohibited act; and
- 12-7 (B) the hazard or potential hazard created to the
- 12-8 health, safety, or economic welfare of the public;
- 12-9 (2) the history of previous violations;
- 12-10 (3) the amount necessary to deter future violations;
- 12-11 (4) efforts to correct the violation; and
- 12-12 (5) any other matter that justice may require.

12-13 (e) The classification system established under Subsection
12-14 (d) shall provide that a penalty in an amount that exceeds \$5,000
12-15 may be recovered only if the violation is included in the highest
12-16 class of violations in the classification system.

12-17 SECTION 27. Section 13.4151, Water Code, is amended by
12-18 adding Subsection (a-1) to read as follows:

12-19 (a-1) Notwithstanding Subsection (a), the penalty for a
12-20 violation of Section 13.151 may be in an amount not to exceed
12-21 \$1,000,000 a day. The utility commission may assess a penalty in an
12-22 amount that exceeds \$5,000 under this subsection only if the
12-23 utility commission determines that a penalty in an amount that
12-24 exceeds \$5,000 is justified based on the seriousness of the
12-25 violation as classified under Subsection (b). Each day a violation
12-26 continues may be considered a separate violation.

12-27 SECTION 28. (a) The State Energy Plan Advisory Committee is
12-28 composed of 12 members. The governor, lieutenant governor, and
12-29 speaker of the house of representatives each shall appoint four
12-30 members to the advisory committee.

12-31 (b) Not later than September 1, 2022, the State Energy Plan
12-32 Advisory Committee shall prepare a comprehensive state energy plan.
12-33 The plan must:

- 12-34 (1) evaluate barriers in the electricity and natural
- 12-35 gas markets that prevent sound economic decisions;
- 12-36 (2) evaluate methods to improve the reliability,
- 12-37 stability, and affordability of electric service in this state;
- 12-38 (3) provide recommendations for removing the barriers
- 12-39 described by Subdivision (1) and using the methods described by
- 12-40 Subdivision (2); and
- 12-41 (4) evaluate the electricity market structure and
- 12-42 pricing mechanisms used in this state.

12-43 (c) The state energy plan prepared under this section must
12-44 be submitted to the legislature not later than September 1, 2022.

12-45 SECTION 29. The Public Utility Commission of Texas and the
12-46 independent organization certified under Section 39.151, Utilities
12-47 Code, shall review statutes, rules, protocols, and bylaws that
12-48 apply to conflicts of interest for commissioners and for members of
12-49 the governing body of the independent organization and submit to
12-50 the legislature a report on the effects the statutes, rules,
12-51 protocols, and bylaws have on the ability of the commission and the
12-52 independent organization to fulfill their duties.

12-53 SECTION 30. The Public Utility Commission of Texas shall
12-54 complete the first review required by Section 39.159(c), Utilities
12-55 Code, as added by this Act, not later than December 31, 2022.

12-56 SECTION 31. (a) Not later than November 1, 2021, each
12-57 affected utility, as defined by Section 13.1395, Water Code, as
12-58 amended by this Act, shall complete the submissions required by
12-59 Section 13.1396(c), Water Code.

12-60 (b) Not later than March 1, 2022, each affected utility
12-61 shall submit to the Texas Commission on Environmental Quality the
12-62 emergency preparedness plan required by Section 13.1395, Water
12-63 Code, as amended by this Act.

12-64 (c) Not later than July 1, 2022, each affected utility shall
12-65 implement the emergency preparedness plan approved by the Texas
12-66 Commission on Environmental Quality under Section 13.1395, Water
12-67 Code, as amended by this Act.

12-68 (d) An affected utility may file with the Texas Commission
12-69 on Environmental Quality a written request for an extension, not to

13-1 exceed 90 days, of the date by which the affected utility is
13-2 required under Subsection (b) of this section to submit the
13-3 affected utility's emergency preparedness plan or of the date by
13-4 which the affected utility is required under Subsection (c) of this
13-5 section to implement the affected utility's emergency preparedness
13-6 plan. The Texas Commission on Environmental Quality shall approve
13-7 the requested extension for good cause shown.

13-8 SECTION 32. This Act takes effect immediately if it
13-9 receives a vote of two-thirds of all the members elected to each
13-10 house, as provided by Section 39, Article III, Texas Constitution.
13-11 If this Act does not receive the vote necessary for immediate
13-12 effect, this Act takes effect September 1, 2021.

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