HOUSE OF REPRESENTATIVES
COMPILATION OF PUBLIC COMMENTS

Submitted to the Committee on Business & Industry

For HB 4

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Rather than adopt HB 4 as is, we encourage the legislature to consider a framework for data privacy that better aligns with recently enacted privacy legislation in other states, such as the Virginia Consumer Data Protection Act ("VCDPA"). In the current absence of a national standard for data privacy at the federal level, it is critical for legislators to seriously consider the costs to both consumers and businesses that will accrue from a patchwork of differing privacy standards across the states. Harmonization with existing privacy laws is critical to minimizing costs of compliance and fostering similar consumer privacy rights for consumers, particularly in a state like Texas that has one of the largest economies in the United States and in the world.

One way that HB 4 presently diverges from existing state privacy laws is its definitions of key terms—"sale of personal data" and "personal data." Definitional differences across privacy laws increase compliance burdens for businesses. By departing from established standards in other state laws, HB 4 would generate more confusion among consumers, businesses, and regulators. Meanwhile, the differing definitional language in HB 4 fails to provide a commensurate benefit or protection to Texas consumers. The bill should be updated to harmonize its definitions with those in the VCDPA.

Absent amendments to HB 4 to unify its approach with existing state privacy laws, the costs to facilitate compliance with divergent state privacy requirements would be significant. To make the point: a regulatory impact assessment of the California Consumer Privacy Act of 2018 ("CCPA") concluded that the initial compliance costs to California firms for the CCPA alone would be $55 billion. Additionally, a recent study on a proposed privacy bill in a different state found that the proposal would have generated a direct initial compliance cost of between $6.2 billion to $21 billion, and an ongoing annual compliance cost of between $4.6 billion to $12.7 billion for companies. Other studies confirm the staggering costs associated with different state privacy standards. One report found that state privacy laws could impose out-of-state costs of between $98 billion and $112 billion annually, with costs exceeding $1 trillion dollars over a 10-year period and small businesses shouldering a significant portion of the compliance cost burden. Texas should not add to this compliance burden for businesses and should instead opt for an approach to data privacy that is in harmony with already existing state privacy laws.