

1-1 By: Meza (Senate Sponsor - Johnson) H.C.R. No. 54
 1-2 (In the Senate - Received from the House May 17, 2021;
 1-3 May 17, 2021, read first time and referred to Committee on Health &
 1-4 Human Services; May 21, 2021, reported favorably by the following
 1-5 vote: Yeas 9, Nays 0; May 21, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 HOUSE CONCURRENT RESOLUTION

1-18 WHEREAS, In 2015, the federal Department of Justice (DOJ)
 1-19 began an investigation of the Health and Human Services Commission
 1-20 (HHSC) quality control (QC) of the Supplemental Nutrition
 1-21 Assistance Program (SNAP) from 2007 to the present, requesting
 1-22 documents from HHSC in April 2017 and deposing HHSC staff in March
 1-23 2019; and

1-24 WHEREAS, DOJ's investigation focused on whether HHSC
 1-25 properly and accurately calculated, determined, and reported
 1-26 Texas' error rates in compliance with FNS requirements regarding
 1-27 SNAP QC; specifically, DOJ focused on HHSC's relationship with
 1-28 Julie Osnes Consulting (Osnes), a contractor who assisted HHSC in
 1-29 determining SNAP error rates and quality control review of SNAP
 1-30 cases from September 2009 to June 2015; and

1-31 WHEREAS, DOJ was concerned that, by following certain
 1-32 recommendations by Osnes, HHSC failed to maintain the integrity of
 1-33 the QC system by introducing bias into its processes; and

1-34 WHEREAS, Osnes reached a settlement with DOJ in June 2019 of
 1-35 \$751,571, and to date three other states have settled DOJ's claims
 1-36 related to their implementation of Osnes's recommendations:

- 1-37 (a) April 2017--Virginia settled for \$7,150,436;
- 1-38 (b) April 2017--Wisconsin settled for \$6,991,905;
- 1-39 (c) September 2017--Alaska settled for \$2,489,999; and

1-40 WHEREAS, DOJ claimed that HHSC's SNAP management violated the
 1-41 Federal False Claims Act (31 U.S.C. 3729, et seq.) and the Program
 1-42 Fraud Civil Remedies Act (31 U.S.C. 3801, et seq.), in addition to
 1-43 asserting various claims under common law; and

1-44 WHEREAS, The Covered Conduct alleged by DOJ included:

- 1-45 (a) Changing QC findings or dropping cases from review to
 1-46 reduce or eliminate errors;
- 1-47 (b) Adding to or removing information from case files as
 1-48 necessary to support the new findings and submitting the revised
 1-49 findings and information to the U.S. Food and Nutrition Service;
- 1-50 (c) Finding ways to induce client responses to justify
 1-51 dropping error cases from the review and asking leading questions
 1-52 of clients to obtain desired answers to eliminate error potential;
- 1-53 (d) Selectively applying requirements and policies to
 1-54 overturn and reduce errors;
- 1-55 (e) Retaliating against SNAP employees who questioned using
 1-56 Osnes's methods by removing the employees from the QC review team;
 1-57 and

1-58 WHEREAS, DOJ sought recovery of two years of accuracy
 1-59 performance bonuses paid to HHSC, as well as certain other costs
 1-60 associated with the QC process and the relationship with Osnes; and

1-61 WHEREAS, DOJ engaged HHSC in settlement negotiations, with

2-1 the Office of the Attorney General representing HHSC in both the
2-2 investigation and settlement discussions; and

2-3 WHEREAS, In December 2019, the parties reached agreement on
2-4 the following terms:

2-5 (a) A total settlement amount of \$15,294,360:

2-6 (1) Of that amount, DOJ characterizes \$13,396,343 as
2-7 restitution for the performance bonuses paid to the State;

2-8 (2) The remaining \$1,898,017 represents repayment of
2-9 the federally funded portion of HHSC's QC costs and the amounts paid
2-10 to Osnes, plus a "multiplier" required by DOJ;

2-11 (b) Waiver by HHSC of any claim to the 2014 performance
2-12 bonus that was awarded but never paid to the State;

2-13 (c) No admission of liability by HHSC; and

2-14 WHEREAS, Section 111.003(b) of the Texas Civil Practice and
2-15 Remedies Code prohibits HHSC from entering a settlement agreement
2-16 that requires the payment of damages of more than \$10,000,000
2-17 within a fiscal biennium; therefore, the settlement agreement is
2-18 expressly conditioned upon the legislature approving and
2-19 appropriating the agreed upon settlement amount; and

2-20 WHEREAS, Since the findings resulting in the settlement, the
2-21 U.S. Department of Agriculture has reviewed HHSC's Quality Control
2-22 SNAP section processes twice and did not identify any adverse
2-23 finding; now, therefore, be it

2-24 RESOLVED, That the 87th Legislature of the State of Texas
2-25 hereby approve the proposed Settlement Agreement.

2-26

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