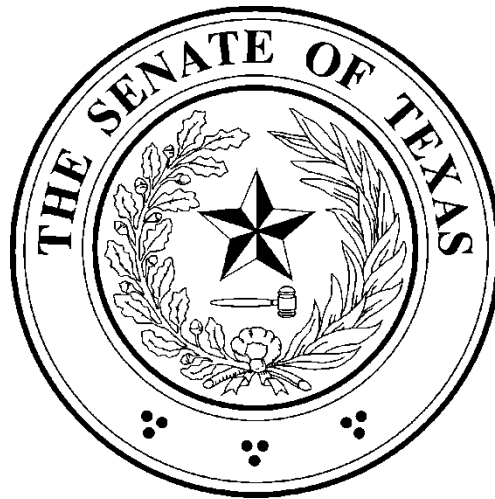


Senate Committee on Finance

Interim Report
to the
89th Legislature



DECEMBER 2024

SENATOR JOAN HUFFMAN
CHAIR
SENATOR JUAN "CHUY" HINOJOSA
VICE CHAIR



POST OFFICE BOX 12068
AUSTIN, TX 78711
(512) 463-0370


SENATE COMMITTEE ON FINANCE

The Honorable Dan Patrick
Lieutenant Governor of Texas
Texas State Capitol
Austin, Texas 78701


Dear Lieutenant Governor Patrick:

The Senate Committee on Finance of the Eighty-Eighth Legislature hereby submits its interim report including findings and recommendations for consideration by the Eighty-Ninth Legislature.

Respectfully submitted,



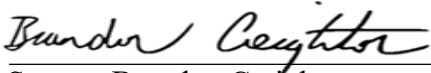
Senator Joan Huffman, Chair



Senator Juan "Chuy" Hinojosa, Vice-Chair



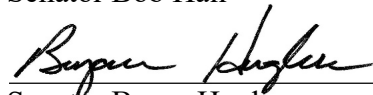
Senator Paul Bettencourt



Senator Brandon Creighton



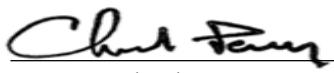
Senator Bob Hall



Senator Bryan Hughes



Senator Robert Nichols



Senator Charles Perry



Senator Royce West



Senator Donna Campbell



Senator Pete Flores




Senator Kelly Hancock



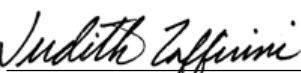
Senator Lois Kolkhorst



Senator Angela Paxton



Senator Charles Schwertner



Senator Judith Zaffirini

Table of Contents

Interim Charges.....	4
Senate Committee on Finance Interim Hearings.....	6
Interim Charge Discussions and Recommendations.....	7
Charge No. 1 and 5(a) Continue Cutting Property Taxes & Monitor Property Tax Relief.....	7
Charge No. 2 Mental Health Services and Inpatient Facilities	18
Charge No. 3 School Enrollment Trends	31
Charge No. 4 Texas Moving Image Industry Incentive Program	37
Charge No. 5 Monitor Infrastructure Funds.....	44
Charge No. 5(b) Texas Energy Fund	44
Charge No. 5(c) Texas Water Fund	52
Charge No. 5(d) Centennial Parks Conservation Fund.....	57
Charge No. 5(e) Broadband Infrastructure Fund.....	62

Interim Charges

The Senate Committee on Finance is charged with conducting a thorough and detailed study of the following issues, and preparing recommendations, when appropriate, to address problems or issues that are identified.

1. **Continue Cutting Property Taxes:** Identify the best combination to further increase the amount of homestead exemption and compression to continue cutting Texans' property taxes.

Additionally, establish and report on the cost of eliminating:

- (a) School maintenance and operation property taxes;
- (b) All school property taxes; and
- (c) All property taxes.

Determine the fiscal consequences of each action, including whether revenue reallocations would be required for public education funding and local government funding, and impacts on the state's ability to respond to disasters and other urgent priorities. For example, determine the effect on other state programs if general revenue were used to fully replace school property taxes, particularly during economic downturns. Evaluate and report on how much state revenue would need to be generated to replace foregone property tax revenue, and from what source.

2. **Mental Health Services and Inpatient Facilities:** Monitor the implementation of Senate Bill 30, 88th Legislature, Regular Session, with regard to appropriations made for expanding mental health services and inpatient facilities across the state. Report on the progress of inpatient facility construction projects. Assess and report on the effectiveness of spending on mental health services.
3. **School Enrollment Trends:** Study post-pandemic student enrollment trends, and examine the possible causes behind the shift in student enrollment, including the rise in homeschooling, micro-schools, and other parental choice options. Make recommendations to ensure parents and educators have the tools and resources needed to respond to the projected enrollment changes and ensure that every child has the best educational options available to learn.
4. **Texas Moving Image Industry Incentive Program:** Review the expenditure of funds appropriated to the Texas Film Commission for the Texas Moving Image Industry Incentive Program (TMIIP) by the 88th Legislature and assess the effectiveness of the program in promoting media production and stimulating local economies through job creation and business growth. Analyze application trends before and after the appropriation, with attention to high-profile or large-budget productions. Additionally, review other states and international incentive programs and evaluate Texas's workforce and educational needs in media production. Provide recommendations to improve the TMIIP's transparency and enhance Texas's competitive position.

5. **Monitor Property Tax Relief and Infrastructure Funds:** Monitor the appropriations supporting, and implementation of, the following legislation passed during the 88th Legislature, Regular or Special Sessions, and approved by voters, amending the Texas Constitution:

- (a) Property Tax Relief: Senate Bill 2 and House Joint Resolution 2, 88th Legislature, Second Called Special Session;
- (b) Texas Energy Fund: Senate Bill 2627 and Senate Joint Resolution 93, 88th Legislature, Regular Session;
- (c) Texas Water Fund: Senate Bill 28 and Senate Joint Resolution 75, 88th Legislature, Regular Session;
- (d) Centennial Parks Conservation Fund: Senate Bill 1648 and Senate Joint Resolution 74, 88th Legislature, Regular Session; and
- (e) Broadband Infrastructure Fund: House Bill 9 and House Joint Resolution 125, 88th Legislature, Regular Session.

Senate Committee on Finance Interim Hearings

September 4, 2024, *EI.036*

The Committee took invited and public testimony on Charge Nos. 1 & 5(a).

September 5, 2024, *EI.036*

The Committee took invited and public testimony on Charge Nos. 2 & 5 (b) – (e).

October 9, 2024, *EI.036*

The Committee took invited and public testimony on Charge Nos. 3 & 4.

Interim Charge Discussions and Recommendations

Charge Nos. 1 and 5(a)

Continue Cutting Property Taxes: Identify the best combination to further increase the amount of homestead exemption and compression to continue cutting Texans' property taxes.

Additionally, establish and report on the cost of eliminating:

- *School maintenance and operation property taxes;*
- *All school property taxes; and*
- *All property taxes.*

Determine the fiscal consequences of each action, including whether revenue reallocations would be required for public education funding and local government funding, and impacts on the state's ability to respond to disasters and other urgent priorities. For example, determine the effect on other state programs if general revenue were used to fully replace school property taxes, particularly during economic downturns. Evaluate and report on how much state revenue would need to be generated to replace foregone property tax revenue, and from what source.

Monitor Property Tax Relief: Monitor the appropriations supporting, and implementation of, the following legislation passed during the 88th Legislature, Regular or Special Sessions, and approved by voters, amending the Texas Constitution: Property Tax Relief: Senate Bill 2 and House Joint Resolution 2, 88th Legislature, Second Called Special Session;

Background

Local governments determine tax rates and collect property taxes to fund various services such as public schools, infrastructure, and emergency services within their adopted budgets. Texas law mandates that property values used for tax purposes must be fair and consistent, outlining the procedures for assessing property values, setting tax rates, and collecting taxes. Different types of local entities, including counties, school districts, cities, and special purpose districts like hospitals or water districts, impose property taxes within their jurisdictions.

In 2023, local property taxes in Texas totaled \$81.5 billion, most of which (48.4 percent) was levied by school districts for both maintenance and operations (M&O, \$28.3 billion) and debt service, or interest and sinking (I&S, \$11.1 billion).¹ City property taxes accounted for \$15 billion, or 18.5 percent of the total.² County property taxes were \$14.3 billion, or 17.5 percent of the total.³ Finally, property taxes levied by special purpose districts (districts for the support of hospitals, junior colleges, water, wastewater, etc.) amounted to \$12.6 billion, or 15.4 percent of the total.⁴

¹Property Tax Relief Charge: Hearing Before S. Comm on Finance, 88th Interim (Tex. 2024) (testimony of Korry Castillo, Texas Comptroller of Public Accounts).

² *Id.*

³ *Id.*

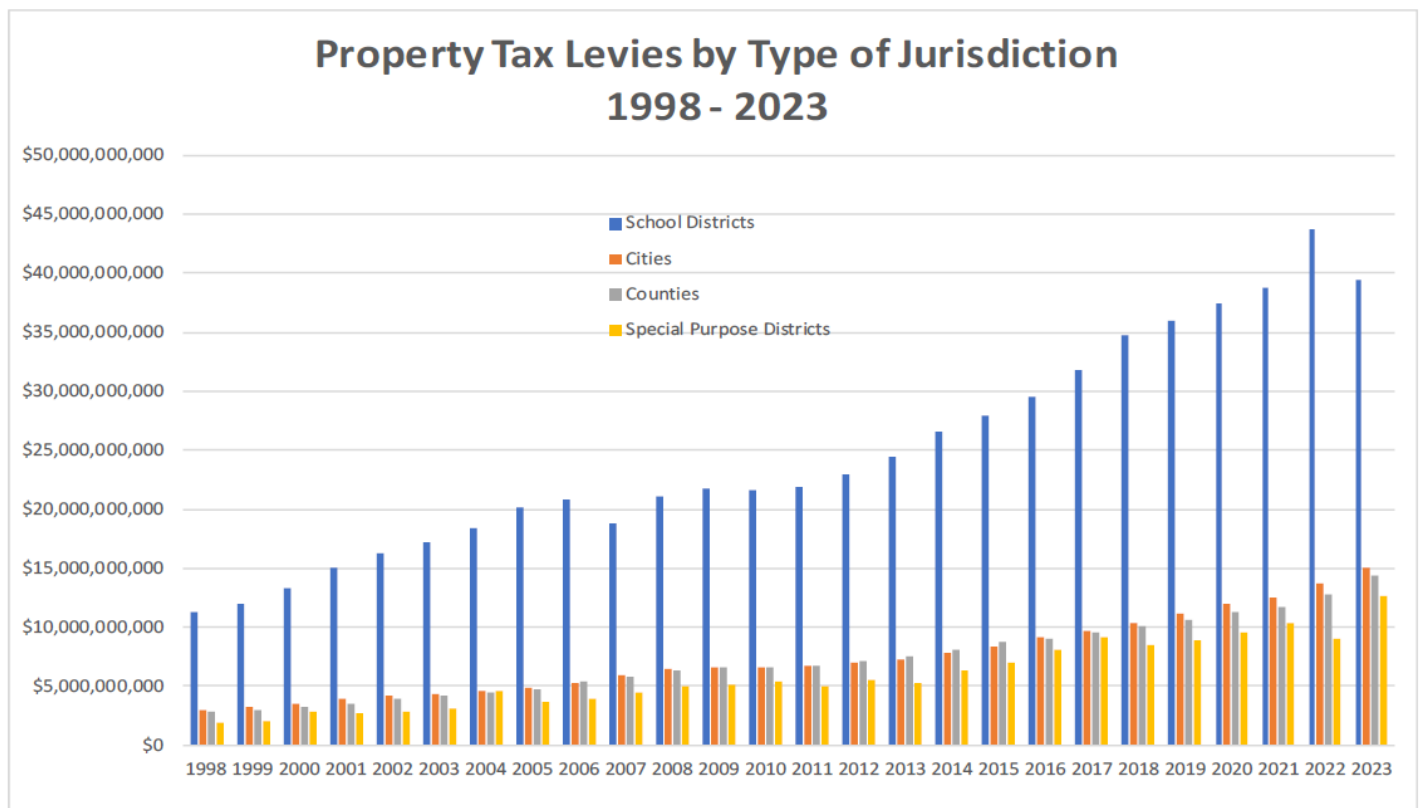
⁴ <https://comptroller.texas.gov/taxes/property-tax/rates/>

TY 2023	Estimated Tax Levy
School District Tier 1	\$24.6 billion
School District Tier 2	\$3.7 billion
School District I&S	\$11.2 billion
Non-School District Property Taxes	\$42.0 billion
Total Property Tax Levy	\$81.5 billion

Source: Legislative Budget Board

As demonstrated in Figure 1 below, property tax levies in the state have grown by \$58 billion since 2000, with school district levies accounting for most of the growth.⁵ To address this uncontrolled rise in local property tax levies, the Legislature passed House Bill (HB) 3 in 2019 to slow the growth in collections by reducing school district Tier 1 M&O tax rates in proportion to property value growth, thereby stabilizing the state share of public education spending. However, local property taxes would continue to grow with the first 2.5 percent of district property value growth.⁶

Figure 1: Property Tax Growth Since 1998⁷



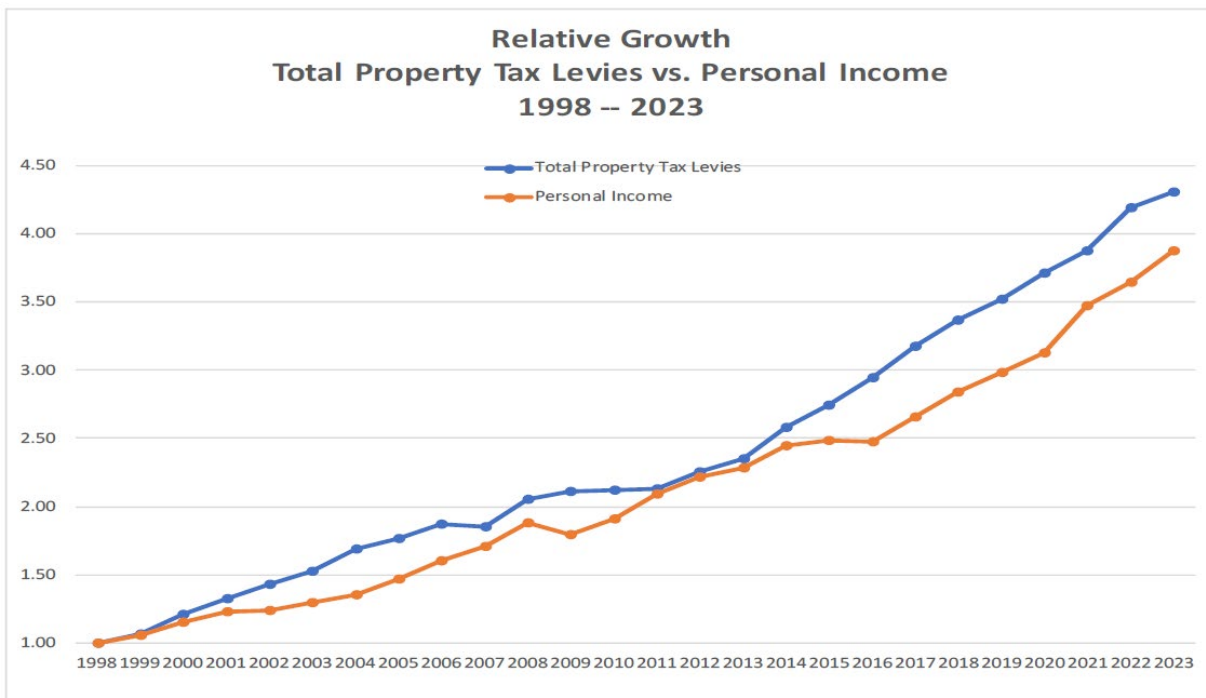
⁵ Property Tax Relief Charge: Hearing Before S. Comm on Finance, 88th Interim (Tex. 2024) (testimony of Korry Castillo, Texas Comptroller of Public Accounts).

⁶ Property Tax Relief Charge: Hearing Before S. Comm on Finance, 88th Interim (Tex. 2024)(testimony of Maggie Jebson, LBB).

⁷ Property Tax Relief Charge: Hearing Before S. Comm on Finance, 88th Interim (Tex. 2024) (testimony of Korry Castillo, Texas Comptroller of Public Accounts).

Additionally, as depicted in Figure 2 below, the Comptroller’s office noted that property tax levy increases have outpaced personal income growth in the state with the largest increases in levies coming from the creation of special purpose districts. There were 1,243 new special purpose districts created between 1998 and 2023, a 98 percent increase, and in that time, special purpose district levies increased over 500 percent, from \$1.9 billion to \$12.6 billion.⁸

Figure 2: Relative Growth of Property Tax Levies vs. Personal Income Since 1998



Types of Property Tax Relief

Property tax burden is the cumulative levy of a tax rate and appraised property value, and historical relief has targeted both sides of this equation. Most notably has been rate reduction via compression and levy reduction through special appraisal and exemption.

Compression refers to using state funds to buy down tax rates of local entities, currently applying to school district Tier 1 M&O rates, with ancillary affects on I&S collections. New funding the Legislature commits for this purpose will appear as an appropriation to the Foundation School Program (FSP) in a given budget cycle, but will continue to be applied in perpetuity through the school finance formulas resulting in the state committing to pay for all future property value growth over given limits. As a result, school district budgets are not adversely affected by compression as the revenues that the taxing entity would have generated locally are replaced by the State. Compression is considered the most uniform method of tax relief as the rate of every property taxpayer in the jurisdiction is reduced equally, regardless of property type or exemption status. The

⁸ Property Tax Relief Charge: Hearing Before S. Comm on Finance, 88th Interim (Tex. 2024) (testimony of Korry Castillo, Texas Comptroller of Public Accounts).

wide uniformity of compression also means that it will typically be the most expensive option available to the Legislature to provide property tax relief. Rate reductions include state compression percentages, maximum compressed tax rates, and the voter approval rate. The state compression percentage (SCP) (Education Code §48.255) is the percentage of the rate of \$1.00 per \$100 valuation of taxable property that is used to determine a school district's maximum compressed tax rate.⁹ The percentage is set by appropriation in the General Appropriations Act and is currently set at 68 percent.¹⁰ The maximum compressed rate (MCR) (Education Code §48.2551) refers to the rate at which a district must levy M&O tax to receive the full amount of Tier 1 entitlement to which the school district is entitled. Compression becomes more expensive to the state the further rates are compressed.

Under current law, the highest and lowest taxing school district rates must remain within 10 percent of each other to ensure equitable student funding and tax burden throughout the state.¹¹ This tethering of high and low property value districts is often referred to as the “equity band.” Compression can either be targeted at the ceiling of this band, thereby shifting the entire equity band to lower rates, or providing equal rate reduction to every district. With a change in statute, compression could also target the floor of the equity band and allow for greater separation of rates between the highest and lowest property value districts. Expanding the equity band to 15 or 20 percent would allow high property value districts to receive additional compression, but would not affect districts who are not currently at the equity band floor. The Texas Education Agency (TEA) notes that as of tax year 2024, roughly half (586) of all school districts are constrained from further compression by the equity band floor, with only 72 districts at the ceiling.¹²

Additionally, the state may compress the Collection Limit Reduction (CLR), which is the rate of allowable local property value growth before new SCP compression is automatically applied. Currently, the state allows for 2.5 percent of property value growth in a school district to be collected locally and any growth over 2.5 percent is used to compress the M&O tax rate; in other words, rising appraisals mean automatically lowering the tax rate through state investment. Any adjustment to lower the CLR assumes that the state will bare the cost of that property value growth. For example, if the CLR was set to zero percent, all property value growth in a district would shift the burden of funding from the local property taxpayer to the state.

Other taxing entities, which do not receive state financial aid, are not held harmless for state constraint on levee growth. Senate Bill (SB) 2, passed during the 86th Regular Session, moved the automatic trigger for tax elections from 8 percent to 3.5 percent for large entities, leaving a growth above 3.5 percent to the will of the voters.¹³

Special appraisals and exemptions artificially reduce the taxable value of properties within a jurisdiction, offering targeted property tax relief to specific taxpayers. However, these measures generally do not decrease the overall tax revenue collected by the jurisdiction. Properties benefiting from these appraisals or exemptions are either fully or partially shielded from taxation based on their appraised value, or their taxes are calculated using criteria other than market value. The

⁹ *Tex. Edu. Code §48.257.*

¹⁰ *Tex. H.B. 1, 86th Leg, R.S (2023)*

¹¹ Property Tax Relief Charge: Hearing Before S. Comm on Finance, 88th Interim (Tex. 2024)(testimony of Maggie Jebson, LBB).

¹² Property Tax Relief Charge: Hearing Before S. Comm on Finance, 88th Interim (Tex. 2024) (testimony of Mike Morath, TEA).

¹³ *Tex. S.B. 2, 86th Leg, R.S (2019).*

shortfall in tax revenue caused by these exemptions is usually offset by adjusting the aggregate tax levies. Consequently, the state does not compensate jurisdictions for the lost revenue with a partial exception for certain entities offering 100 percent disabled veteran's tax exemption.

Exemptions include: (1) residence homestead exemptions (Tax Code §11.13) by which the taxable property value of a homestead is reduced; (2) tangible personal property or freeport goods (Tax Code §11.251), relating to property that under Article VIII, Section 1-j of the Texas Constitution is not taxable; (3) income-producing personal property (Tax Code §11.145) which refers to an exemption from taxation of the tangible personal property a person owns that is held or used for the production of income that has a taxable value of less the \$2,500; and (4) public, religious, and charitable organizations (Tax Code §11.11, 11.18, and 11.20).¹⁴

Special appraisal methods refer to the 10 percent year over year appraisal increase cap of residence homesteads (Tax Code §23.23), the over 65 years old and disabled school tax ceiling (Tax Code §11.26), and special appraisals for agriculture and timber land (Tax Code §23.41-23.73, 23.9803).¹⁵

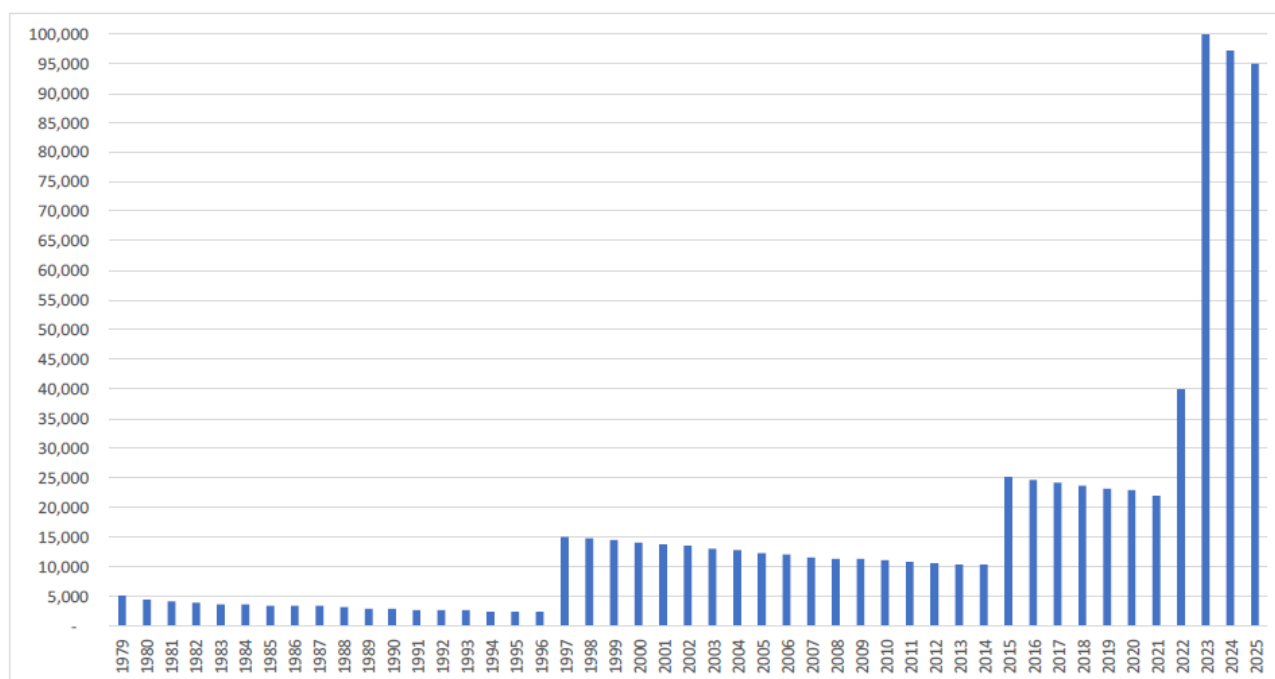
Homestead Exemption

The Legislature has made a concerted effort to shift property tax burden away from homeowners by increasing the statewide residence homestead exemption, which provides immediate relief at a lower cost than compression, and provides an understandable, transparent value of property tax relief to homeowners. While raising the homestead exemption targets tax relief to Texas homeowners, other non-homestead property owners absorb that cost and the value of the exemption diminishes over time, as shown in Figure 3 below. To keep pace with rising property values and general inflation hitting a 40-year high, the 88th Legislature raised the homestead exemption from \$40,000 to \$100,000. For example, the owner of a \$350,000 home was being taxed at \$310,000 under the \$40,000 exemption for most homeowners. Now, the same house would be taxed only on \$250,000 under the homestead exemption approved last year. Owners of single-family homes benefited greatly from this homestead exemption increase.

¹⁴ Property Tax Relief Charge: Hearing Before S. Comm on Finance, 88th Interim (Tex. 2024) (testimony of Korry Castillo, Texas Comptroller of Public Accounts).

¹⁵ *Id.*

Figure 3: Homestead Exemption, Inflation Adjusted, 1979-2025¹⁶



Legislative Action to Provide Property Tax Relief

The Legislature has taken several steps to lower the local property tax burden on taxpayers. Dating back to 1997, HB 4 from the 75th Regular Session increased the state mandatory homestead exemption from \$5,000 to \$15,000.¹⁷ The 79th Legislature, through HB 1 of the 3rd Called Session, compressed school district tax rates by two-thirds beginning in Fiscal Year 2008, from \$1.50 to \$1.00 with an annual state cost of \$7.1 billion.¹⁸ This one-time rate compression created an ongoing cost that is currently imbedded in the school finance appropriation. Furthermore, the state allowed for an additional 17 cents of enrichment capacity for districts.

The 84th Legislature passed SB 1 and Senate Joint Resolution (SJR) 1 which increased the state mandated school district homestead exemption from \$15,000 to \$25,000 beginning in Fiscal Year 2016. Like other measures, tax limitations for taxpayers over 65 years-old and the disabled were adjusted to reflect the additional exemptions and school districts were held harmless for the lost revenue, shifting a cost of \$615.9 million from property taxpayers to the state, and growing in subsequent years.¹⁹

In 2019, HB 3 compressed school district M&O Tier 1 tax rates by 7 pennies and Tier 2 rates by 3.2 pennies beginning in fiscal year 2020.²⁰ HB 3-directed compression is ongoing, as it is

¹⁶ Property Tax Relief Charge: Hearing Before S. Comm on Finance, 88th Interim (Tex. 2024) (testimony of Korry Castillo, Texas Comptroller of Public Accounts).

¹⁷ *Tex. H.B. 4, 75th Leg. R.S. (1997)*

¹⁸ *Tex. H.B. 1, 79th Leg. (3) (2007)*

¹⁹ *Tex. S.B. 1, 84th Leg. R.S. (2015)*

²⁰ *Tex. H.B. 3, 86th Leg. R.S. (2019)*

imbedded in the school finance system, and will automatically grow when district revenues increase by more than 2.5 percent. This mechanism does not limit the growth of a school district's budget by 2.5 percent, rather it ensures that a district's local share of Tier 1 does not increase by more than 2.5 percent annually. However, locally compressed tax rates may not be below 90 percent of the least compressed district's maximum compressed tax rate.²¹

The 86th Legislature also passed SB 2, which renamed the "rollback rate," the "voter approval rate." This legislative change lowered the threshold by which taxing districts are required to hold elections to adopt rates in excess of voter approval rates from 8 percent to 3.5 percent.²² While there has been clear slowed growth in taxing units' levies since passage of SB 2, future savings are difficult to project in a meaningful way due to the amount of variables that depend on property value growth and tax rate adoption.

Passed during the 87th Legislature, 3rd Called Special Session, SB 1 and SJR 2 increased the state mandated school district homestead exemption from \$25,000 to \$40,000 beginning with Fiscal Year 2023.²³ School districts were held harmless for any lost revenue.

In the 88th Legislature, compression triggered through HB 3 automatically lowered rates by 8.25 cents due to property value growth exceeding 2.5 percent, costing the state \$5.3 billion.²⁴ Building upon this automatic compression, the Legislature appropriated an additional \$12.3 billion to fund SB 2 and House Joint Resolution (HJR) 2 during the 88th Legislature, Second Called Special Session. In conjunction, these pieces of legislation constitutionally dedicated tax relief spending to provide an additional 10.7 cents of M&O rate compression, increase the mandatory state residential homestead exemption from \$40,000 to \$100,000 effective with the 2023 tax year, allow senior homeowners over 65 years of age to benefit from ongoing compression, and create a "circuit breaker" 20 percent limitation to appraised value increases for non-homestead real property valued \$5 million or less (adjusted each year for inflation) to be implemented as a pilot program.²⁵ At the time of the writing of this report, no data from the Comptroller's office is available regarding the effects of the "circuit breaker" mechanism.

Legislative actions since 2019 have lowered the school district M&O Tier 1 rate ceiling by 33 percent.²⁶ Most school districts are now taxing at a Tier 1 rate 38 percent below the maximum 2019 rate.²⁷

According to testimony provided by TEA, and as demonstrated in Figure 4 below, since compression became the primary vehicle for property tax relief in 2019, the state has provided \$37 billion in property tax relief in Tier 1 (current law vs pre-HB 3 law). These are funds that without legislative action would have been collected locally from taxpayers and are now the obligation of the state.²⁸

²¹ *Id.*

²² *Tex. S.B. 2, 86th Leg, R.S (2019)*

²³ *Tex. S.B. 1, 83th Leg, (3)(2021)*

²⁴ https://www.lbb.texas.gov/Documents/Publications/Fiscal_SizeUp/Fiscal_SizeUp.pdf

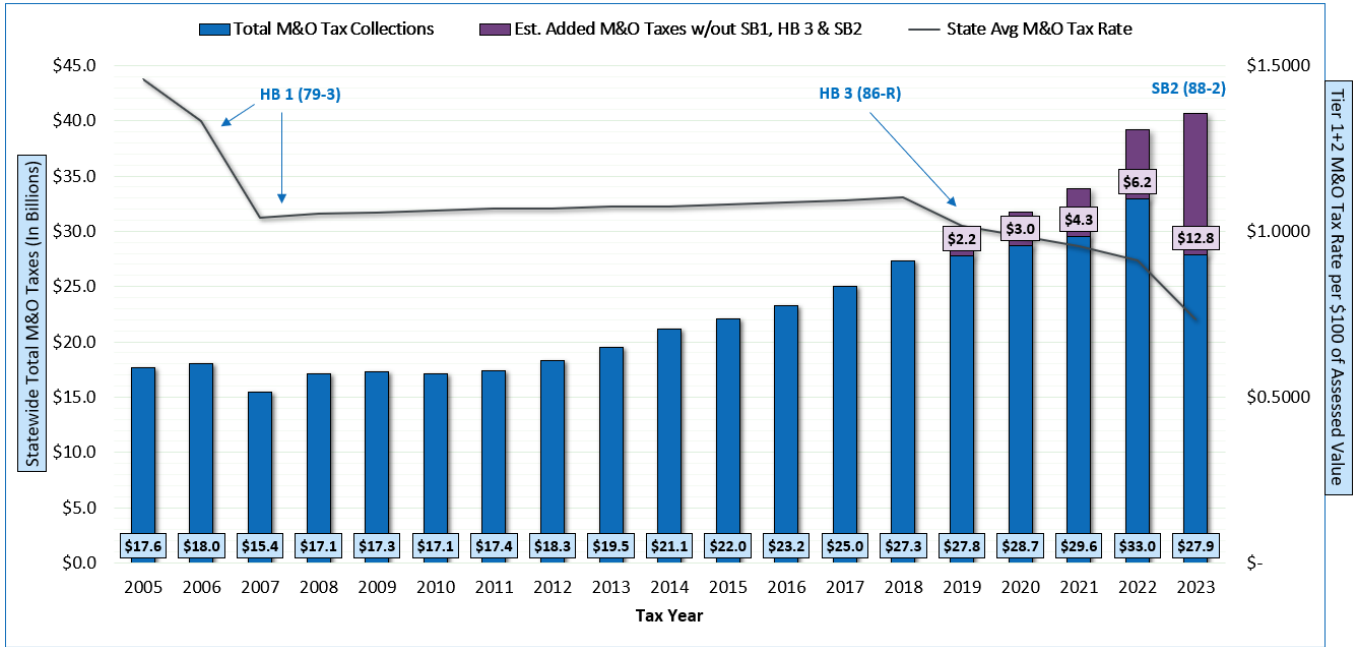
²⁵ *Tex. S.B. 2, 88th Leg, R.S (2023)*

²⁶ Comparison of 2019 MCR and 2023 MCR.

²⁷ Property Tax Relief Charge: Hearing Before S. Comm on Finance, 88th Interim (Tex. 2024) (testimony of Mike Morath, TEA).

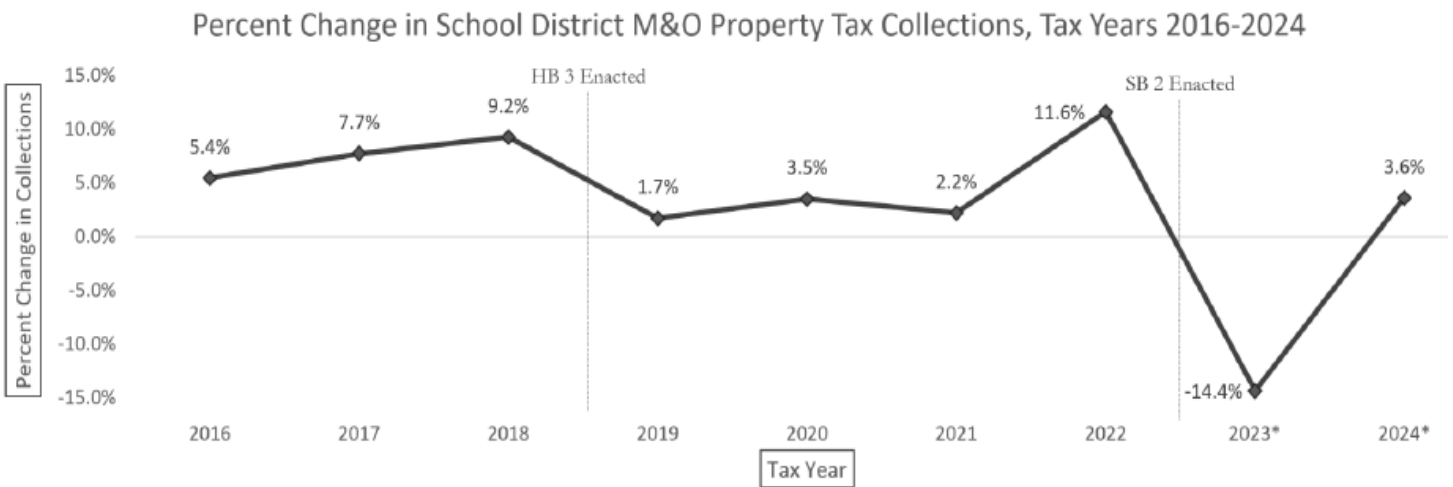
²⁸ *Id.*

Figure 4: Property Tax Relief Since 2019



Figures 5 and 6 below show the continued downward pressure that ongoing compression and the homestead exemption have on M&O collections, noting a 7.5 percent drop with the enactment of HB 3 and a 14 percent drop after the passage of SB 2. TEA estimates that in 2024 alone, local M&O collections were reduced by \$11.8 billion through property tax relief efforts of the Legislature as compared to collections with no legislative action.²⁹

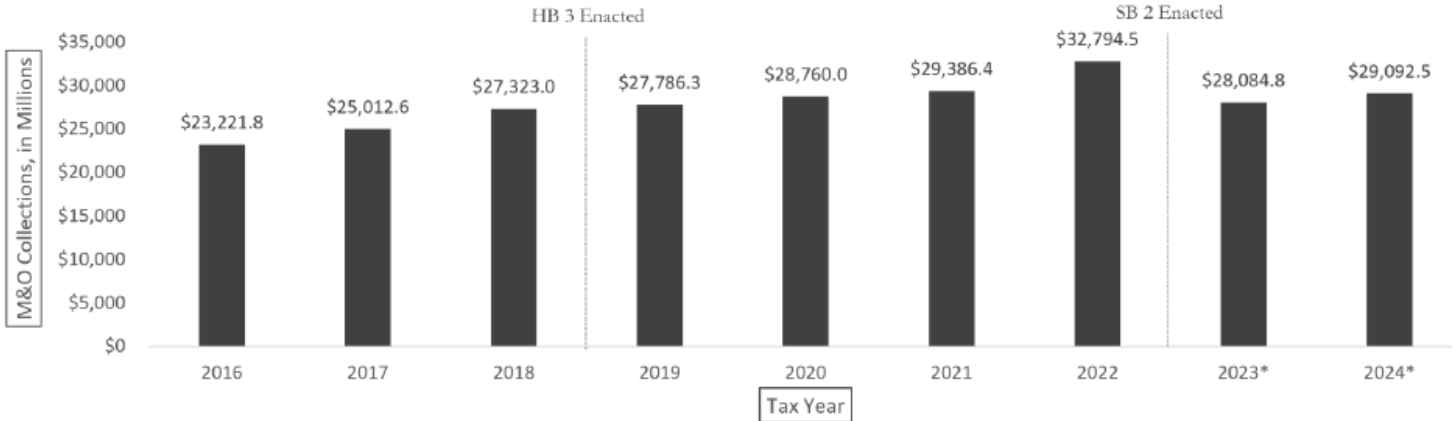
Figure 5



Source: LBB

²⁹ Property Tax Relief Charge: Hearing Before S. Comm on Finance, 88th Interim (Tex. 2024) (testimony of Mike Morath, TEA).

Figure 6
School District M&O Property Tax Collections, Tax Years 2016-24



Source: LBB

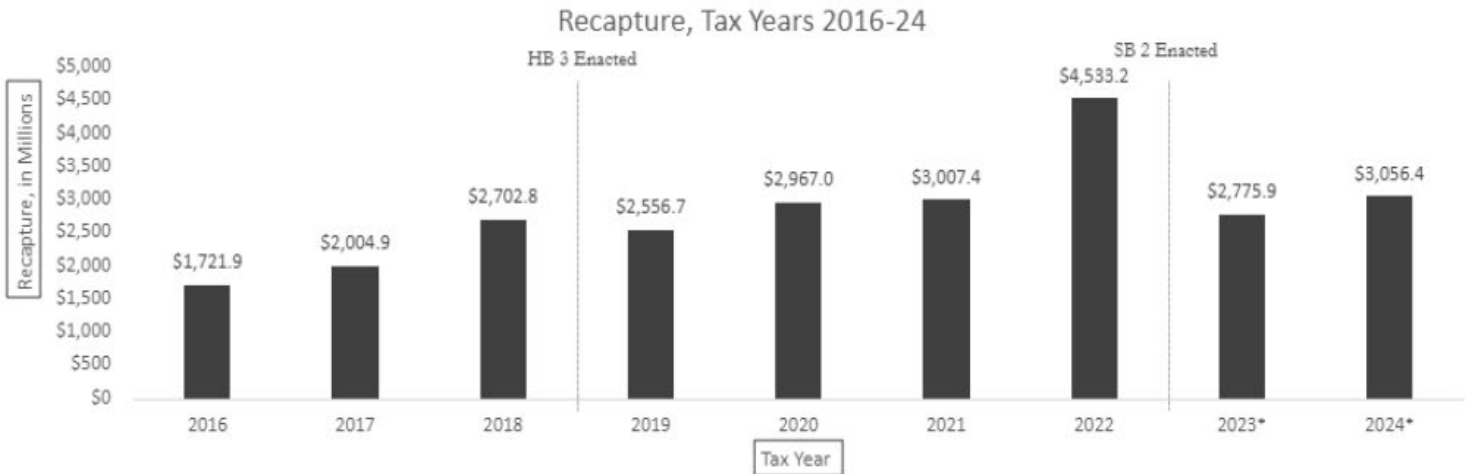
Effects on Recapture

As school district local tax collections decrease as a result of statewide tax relief efforts, both the number of districts locally raising funds in excess of student entitlement and the amount of local funding raised in excess of district entitlement decrease. Figure 7 below shows the effect of recent tax relief legislation on recapture payments, with payments decreasing by \$1.76 billion following the passage of SB 2. As the Legislature continues to lower the property tax burden through rate compression over 2.5 percent, recapture will continue to be driven down. This has the effect of balancing the state and local shares of public education funding automatically. However, as local revenues are allowed to increase by 2.5 percent before compression takes place, both collections and recapture will begin to grow once again.

Furthermore, TEA has stated that the property tax relief efforts of the Legislature since 2019 have led to a decrease in recapture of \$7.3 billion in 2024, as compared to funds recaptured with no legislative action.³⁰

³⁰ Property Tax Relief Charge: Hearing Before S. Comm on Finance, 88th Interim (Tex. 2024) (testimony of Mike Morath, TEA).

Figure 7



Source: Legislative Budget Board

Eliminating Property Taxes

Although HB 3 and SB 2 will continue to compress M&O property taxes in future years, some proposals go as far as fully eliminating property taxes in the state. Collections in 2023 for all types of property taxes, including school districts, cities, counties, and special purpose districts, totaled \$81.5 billion.³¹ For that same year, school district property tax collections totaled \$39.5 billion; (\$28.3 billion for M&O and \$11.2 billion for I&S).³² Furthermore, local non-school district collections totaled \$42 billion in tax year 2023.³³

Property tax is the largest revenue source for many local jurisdictions. Removing the ability of locals to levy their own property taxes would disrupt revenue sources for important local services and projects, such as police and fire protection, water projects, and road maintenance, thereby placing responsibility on the State to fund these vital services and projects or permit locals on an individual basis to levy a tax for a specific purpose.

Replacing local property taxes would require the State to generate significant additional revenue, repurpose funds currently appropriated elsewhere, or a combination of the two. Using the state's Sales and Use Tax (sales tax) to generate the revenue necessary to replace all property taxes, the State would need to raise the sales tax rate from 6.25 percent to approximately 21.5 percent.³⁴ Replacing only school district M&O taxes would require approximately 10.75 percent tax rate and an additional 8 percent to replace I&S.³⁵ Raising the sales tax to these levels would place Texas as a stark outlier from other states (current state sales tax rates range from 0 percent to 7.25 percent³⁶)

³¹Property Tax Relief Charge: Hearing Before S. Comm on Finance, 88th Interim (Tex. 2024) (testimony of Korry Castillo, Texas Comptroller of Public Accounts).

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ <https://taxfoundation.org/data/all/state/2024-sales-taxes/>

and would likely limit economic activity and growth throughout Texas.

Furthermore, replacing all local property tax revenue with state funding would require more than doubling our state's General Revenue expenditures.³⁷ Replacing school district M&O taxes alone would require a General Revenue commitment of roughly \$56.6 billion over a biennium³⁸ – more than the state's current General Revenue appropriation for Public Education, or the equivalent of current General Revenue funding for all articles of the state budget apart from Articles II and III.³⁹ Redirecting existing appropriations to replace M&O property taxes would require eliminating hundreds of essential state programs and would remove the state's ability to address vital needs of millions of Texans moving forward. Proponents of eliminating the M&O tax also point to the possibility of removing existing tax exemptions, but eliminating every tax exemption would only produce \$17.45 in additional revenue collections.⁴⁰

Any state investment made towards buying down M&O must be done in a fiscally responsible manner which allows the state to meet ongoing obligations to its citizens and respond to immediate circumstances and natural disasters. Due to meticulous budgeting and fiscally conservative governance, the state has recently benefited from a large projected surplus, a thriving economy, and a healthy economic stabilization fund. Lawmakers have wisely used these opportunities to provide historic property tax relief to Texans for several sessions. However, these significant commitments toward tax relief will have to be supported even in times when the state's fiscal outlook is not as positive, which is why budget writers must carefully balance the need for property tax relief with all other needs of taxpayers.

Recommendations

For years, rising property taxes have been a growing concern for many Texans as the state's population and property values increase annually. The tax rate and the property's taxable value are determined annually, making it routinely visible to taxpayers. In response, the Texas Legislature has enacted several measures over recent sessions to provide property tax relief, even though the state does not control the rates set by local taxing jurisdictions or the appraised values. The most recent tax relief package, SB 2 and HJR 2, passed by the 88th Legislature and approved by voters on November 7, 2023, delivered significant school district property tax relief to homeowners. While balancing all of the state's needs, the Legislature should continue to use surplus funds to provide additional property tax relief and prioritize measures that will preserve the affordability of living and doing business in Texas.

³⁷ General Revenue expenditures in the FY 24-25 GAA total \$144.1 billion. Replacing all property taxes for a biennium would require approximately \$163 billion in additional collections (using tax year 2023 collections of \$81.5 billion carried forward).

³⁸ 2023 collections of \$28.3 billion carried forward into a second year

³⁹ *Tex. H.B. 1, 88th Leg. R.S (2023)*

⁴⁰ <https://comptroller.texas.gov/transparency/reports/tax-exemptions-and-incidence/>

Charge No. 2

Mental Health Services and Inpatient Facilities: Monitor the implementation of Senate Bill 30, 88th Legislature, Regular Session, with regard to appropriations made for expanding mental health services and inpatient facilities across the state. Report on the progress of inpatient facility construction projects. Assess and report on the effectiveness of spending on mental health services.

Background

Mental health has been a top funding priority of the Texas Legislature for several sessions. Over the last decade, funding for behavioral health has increased from \$6.7 billion in the 84th Legislative Session to \$11.7 billion in the 88th Legislative Session, a 73 percent or \$4.9 billion increase.⁴¹ Despite the state's investments, multiple challenges emerged prior to the 88th Regular Session which prompted the Legislature to take further action. Following isolation restrictions during the COVID-19 pandemic, and exacerbated by staff shortages and deferred maintenance, over 900 State Hospital beds were offline in Fall 2022.⁴² Salary levels for State Hospital employees, especially direct care workers, were not competitive with other similar positions, leading to high levels of turnover and vacancies for employees at existing inpatient facilities. Prior to the onset of COVID-19, the Health and Human Services Commission (HHSC) reported a 96.2 percent fill rate for employees working in State Hospitals and State Supported Living Centers. By March of 2022, the fill rate dropped to 78.9 percent.⁴³

The lack of available State Hospital beds led to significant waitlists, especially for maximum security unit (MSU) beds and non-MSU forensic beds, with a peak of 2,571 individuals on the forensic state hospital waitlist in December of 2022.⁴⁴ Long waitlists put a considerable strain on local jails holding individuals waiting to receive competency restoration at a State Hospital. Further, some areas of the state were wholly without inpatient beds, requiring law enforcement to travel long distances to drop off individuals at existing facilities.

Actions by the 88th Legislature

In response, the 88th Legislature – through House Bill (HB) 1, the General Appropriations Act, and Senate Bill (SB) 30, the Supplemental Appropriations Act – increased behavioral health funding by \$2.8 billion from appropriations made by the 87th Legislature, bringing the total funding for behavioral health across state government to \$11.7 billion in All Funds.⁴⁵ New behavioral health funding provided during the 88th Legislative Session constitutes the largest investment into behavioral health made by the Texas Legislature to date. *Figure 1* below shows historical appropriations for behavioral health by Legislative Session. SB 30 alone, appropriated \$2.25

⁴¹ *Mental Health Charge: Hearing Before the S. Comm. On Finance, 88th Interim (Texas 2024)* (written testimony from the Legislative Budget Board).

⁴² *Mental Health Delivery Charge: Hearing Before the S. Comm. On Finance, 87th Interim (Texas, 2022)* (written testimony from the Texas Health and Human Services Commission)

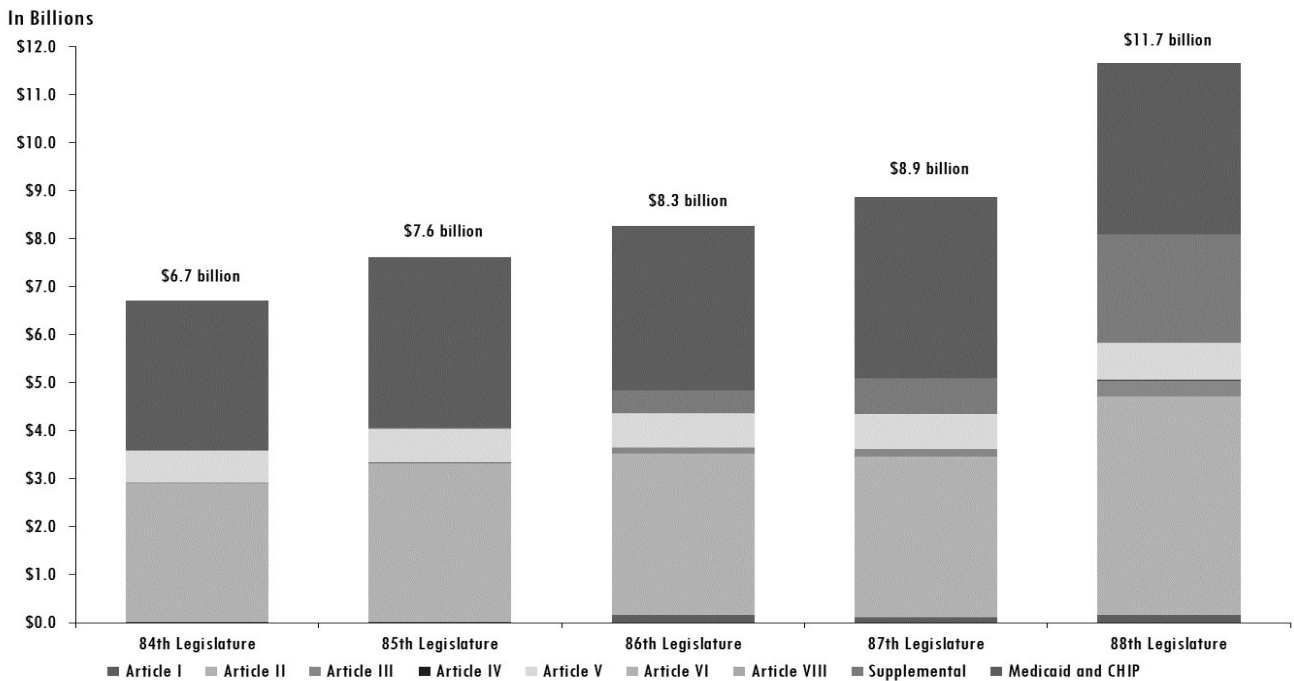
⁴³ *Legislative Appropriations Request for Fiscal Year 2024 and 2025*, TEXAS HEALTH AND HUMAN SERVICES COMMISSION. <https://www.hhs.texas.gov/sites/default/files/documents/hhsc-legislative-appropriations-request-2024-2025.pdf>

⁴⁴ *State Hospital Forensic Waitlist Report Fiscal Year 2024*, Texas Health & Human Services Commission, [State Hospital Forensic Waitlist Report Fiscal Year 2024 \(texas.gov\)](https://www.hhs.texas.gov/sites/default/files/documents/hhsc-legislative-appropriations-request-2024-2025.pdf).

⁴⁵ *Mental Health Charge: Hearing Before the S. Comm. On Finance, 88th Interim (Texas 2024)* (written testimony from the Legislative Budget Board).

billion in one-time General Revenue (GR) primarily to HHSC to reduce waitlists by increasing inpatient bed capacity.⁴⁶

Figure 1: Behavioral Health Funding by Legislature⁴⁷



Inpatient Facility Construction

Inpatient facilities in Texas vary in ownership and operations. State-owned inpatient psychiatric facilities are known as State Hospitals. Of the \$2.25 billion appropriated in SB 30 for behavioral health, \$1.59 billion was directed towards state hospital construction projects across the state, such as the Terrell State Hospital and the El Paso State Hospital, which are detailed further below. Other facilities, such as the Texas Behavioral Health Center at University of Texas Southwestern (UTSW) Medical Center are owned by the state, and will function as a State Hospital upon completion, but operations will be managed by a health-related institution (HRI) of higher education. Certain facilities are “partner-owned” meaning HHSC contracts with facilities in the community to utilize additional inpatient bed capacity but does not operate the facility. Examples of “partner-owned” facilities include the Sunrise Canyon Facility located in Lubbock, Texas and the Montgomery County Mental Health Treatment Facility. The Legislature directed more than \$535 million dollars of the \$2.25 billion dollars in SB 30 for behavioral health towards community construction projects at facilities such as these and for multiple grant programs aimed construction for additional mental health inpatient beds.

In developing funding projects in SB 30, the 88th Legislature took an inventory of existing inpatient bed capacity across the state to determine where additional capacity was needed and in what amount. Some existing facilities either needed significant structural renovations in order to bring

⁴⁶ *Id.*

⁴⁷ Tex. H.B. 1, 88th Leg., R.S. (2023).

additional beds online or were in such disrepair as to require the tear-down and new construction of buildings. Other areas of the state lacking inpatient capacity altogether required a new campus, such as the Texas Panhandle region and in Uvalde. Due to staffing challenges, particularly in rural regions, bed capacity at certain inpatient facilities such as Terrell State Hospital and the North Texas State Hospital in Wichita Falls were “right-sized” in order to maintain necessary staffing levels.

Facility projects funded in SB 30 vary by location depending on whether a renovation or new construction was required, the location of new construction projects, the number of beds to be constructed, and types of new beds (forensic, MSU, civil, youth, etc.).⁴⁸ Once all projects are complete, HHSC projects an additional 972 inpatient beds will come online by 2030.⁴⁹ This number will increase as contracts are finalized for the SB 30 Community Mental Health and Children’s Hospital grants. Details on each funding project are outlined further below.

Other Facility Grants and Funding Items

SB 30 provided \$100 million to establish a one-time community mental health grant program for county-based collaboratives to support the construction of jail-diversion facilities, step-down facilities, permanent supportive housing, crisis stabilization units, and crisis respite units.⁵⁰ Grantees are required to provide local matching funds at least equal to 25 percent of the grant amount if the collaborative includes a county with a population of less than 100,000, 50 percent if the collaborative includes a county with a population of at least 100,000 but less than 250,000, or 100 percent if the collaborative includes a county with a population of 250,000 or more.⁵¹

SB 30 also provided \$175 million in GR to establish a one-time grant program to construct or expand a mental health inpatient facility to have at least 50 percent forensic capacity, using only donated land, to increase inpatient bed availability for forensic patients ordered to a state hospital for competency restoration.⁵² Of this grant pool, \$85 million is directed to the Rio Grande Valley, \$50 million to expand the Montgomery County Mental Health Facility, and \$40 million for inpatient beds in Victoria County. SB 30 also funded several information technology and maintenance projects supporting the state hospital and mental health system at HHSC.⁵³

Figure 2 below shows the locations of current State Hospitals and other inpatient facility projects funded through SB 30.

⁴⁸ Tex. S.B. 30, 88th Leg., R.S. (2023).

⁴⁹ *Mental Health Charge: Hearing Before the S. Comm. On Finance*, 88th Interim (Texas 2024) (written testimony from the Health and Human Services Commission)

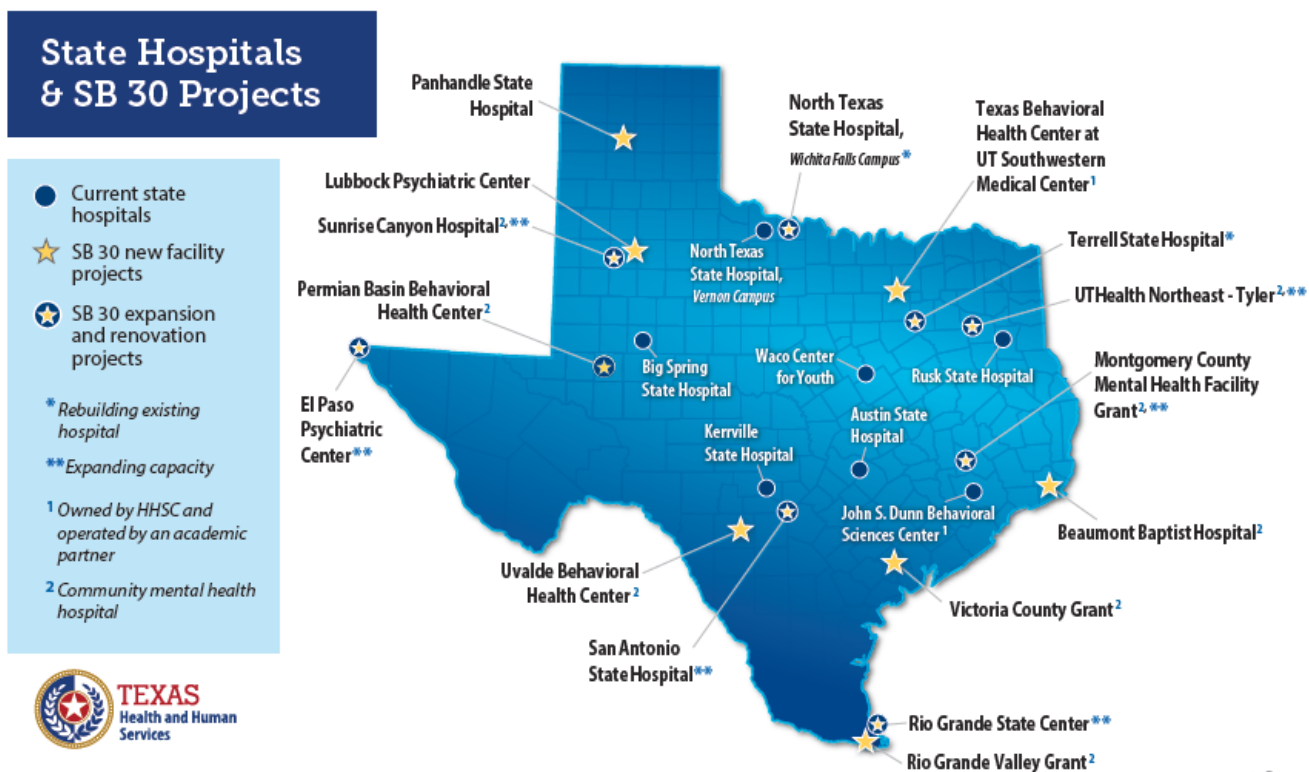
⁵⁰ Tex. S.B. 30, 88th Leg., R.S. (2023).

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

Figure 2: Location of State Hospitals and SB 30 Projects⁵⁴



Related House Bill 1 Funding for Behavioral Health

HB 1 appropriated an additional \$134.7 million over the biennium to HHSC to maintain salary increases for State Hospital employees provided during the 88th Legislative Interim and for other targeted increases for staff recruitment and retention.⁵⁵ In March 2022 and early 2023, HHSC used existing funding to increase salaries for State Hospital employees to mitigate turnover and bring additional inpatient beds online. Through these actions, State Hospital employees were given an average increase of \$925.27, or 29 percent, to their existing average monthly salary.⁵⁶ In addition to these targeted raises, the 88th Legislature provided a five percent increase to all state employee salaries with a minimum \$3,000 per year in Fiscal Year 2024 followed by another five percent increase with a minimum of \$3,000 per year in Fiscal Year 2025, which will help address staff turnover.⁵⁷

The Legislature also made significant investments in community mental health programs through HB 1. \$2.5 million per fiscal year was appropriated to establish State Hospital Transition teams to support individuals who are at risk of state hospital readmission by providing coordination and

⁵⁴ *Mental Health Charge: Hearing Before the S. Comm. On Finance, 88th Interim (Texas 2024)* (written testimony from the Health and Human Services Commission)

⁵⁵ Tex. H.B. 1, 88th Leg., R.S. (2023).

⁵⁶ *Information obtained through email from the Health and Human Services Commission to Senate Finance Committee on October 31, 2024*

⁵⁷ Tex. H.B. 1, 88th Leg., R.S. (2023).

support to address mental health needs at the community level.⁵⁸ \$8.5 million per fiscal year was appropriated to expand Step-Down Housing services to identify, assess, and transition patients with acute mental health and/or medical needs from hospitals to community settings with appropriate supports. As a result, step-down housing bed capacity has increased by 50 beds since the 88th Legislative Session.⁵⁹ \$14 million per fiscal year was appropriated to fund Crisis Stabilization Facilities at local mental health authorities in Montgomery, Walker, Liberty, and Galveston counties.⁶⁰ Crisis services, such as diversion centers or crisis respite facilities, at local mental health authorities provide short-term alternatives to hospital admission to reduce symptoms of acute symptoms of mental illness.

Mental health services for youth were also a funding priority. \$5.75 million per fiscal year was appropriated for Crisis Respite Units for Youth as well as \$7 million per year for Youth Mobile Crisis Outreach Teams to reduce the risk of hospitalization from acute mental health illness and transition youth into care.⁶¹ This investment led to an increase of seven Crisis Respite Units for Youth and eight Youth Mobile Crisis Outreach Teams.⁶² The Legislature expanded programs for high-risk youth, including funding multisystemic therapy (MST), which provides community-based treatment for at-risk youth with intensive needs and their families, for \$15.2 million per fiscal year.⁶³ Prior to the 88th Legislative Session, only seven providers with seven MST teams were serving 17 counties. Because of investment by the 88th Legislature, 16 providers with 22 MST teams are now serving 39 counties across the state.⁶⁴

Implementation of SB 30 Funding Initiatives

Figure 3 below provides information on projects funded through SB 30, including the appropriation amount, the purpose of the project, and the project's implementation status as of October 29, 2024.

⁵⁸ *Id.*

⁵⁹ *Mental Health Charge: Hearing Before the S. Comm. On Finance, 88th Interim (Texas 2024)* (written testimony from the Health and Human Services Commission)

⁶⁰ Tex. H.B. 1, 88th Leg., R.S. (2023)

⁶¹ *Id.*

⁶² *Mental Health Charge: Hearing Before the S. Comm. On Finance, 88th Interim (Texas 2024)* (written testimony from the Health and Human Services Commission)

⁶³ Tex. H.B. 1, 88th Leg., R.S. (2023)

⁶⁴ *Mental Health Charge: Hearing Before the S. Comm. On Finance, 88th Interim (Texas 2024)* (written testimony from the Health and Human Services Commission)

Figure 3: Senate Bill 30 Funding Initiatives and Implementation Status⁶⁵

Project	Appropriation	Project Purpose	Implementation Status as of October 29, 2024
<i>State Hospital Construction Projects</i>			
Panhandle (Amarillo) State Hospital	\$159M	Construction of a 75-bed state hospital, with at least 50 forensic beds.	A land lease agreement between Texas A&M and HHSC is nearing completion. The architecture and engineering (A/E) contract was executed in December 2023, and the construction manager at risk (CMR) contract was executed in July 2024. HHSC estimates construction will begin in Spring 2025 and reach substantial completion in April 2027.
Texas Behavioral Health Center at UTSW (Dallas State Hospital)	\$101.9M	Additional construction funding for the 200-bed adult unit (originally funded in 87R), with at least 75 percent* of the beds to be used for forensic purposes. <i>*Legislative intent was to direct 75 beds be reserved for forensic purposes, not 75 percent.</i>	This funding is intended to finish construction of the Texas Behavioral Health Center at UTSW. This new 292-bed inpatient psychiatric hospital will have 200 adult beds, 75 of which will serve the forensic population, and 92 pediatric beds. The adult unit is under construction with completion estimated for July 2025, and the pediatric unit is under construction with completion estimated for April 2026.
El Paso State Hospital	\$50M	For pre-planning, planning, land acquisition, and initial construction of a new 50-bed hospital, with 50 percent of the beds to be forensic.	New build is planned as an expansion of the existing hospital to leverage existing administrative staff and auxiliary services. The architecture and engineering (A/E) contract was executed in March 2024, sites are being studied to acquire land, and construction manager at risk (CMR) selection will occur closer to final site selection. HHSC asserts that a construction timeline will depend on land acquisition and Legislative appropriations to complete construction.

⁶⁵ Compiled using information obtained via communications with the Texas Health and Human Services Commission, The Texas Facilities Commission, The University of Texas at Tyler, and The University of Texas Health Science Center Houston, and using information from Tex. S.B. 30, 88th Leg., R.S. (2023).

Rio Grande Valley Max Security State Hospital	\$120M	Construction of a new 50-bed MSU facility at the existing Rio Grande Center campus.	The architecture and engineering (A/E) contract was executed in February 2024, and the construction manager at risk (CMR) contract was executed in August 2024. HHSC estimates construction will begin in spring 2025 and reach substantial completion in March 2027.
Lubbock Maximum Security State Hospital	\$121M	Construction a 50-bed MSU facility, to be located on the Texas Department of Criminal Justice (TDCJ) Montford Unit property.	The land lease agreement between TDCJ and HHSC is nearing completion. The architecture and engineering (A/E) contract was executed in February 2024, and the construction manager at risk (CMR) contract was executed in July 2024. HHSC estimates construction will begin Spring 2025 and reach substantial completion in March 2027.
North Texas State Hospital - Wichita Falls	\$452M	Construction of a 200-bed replacement hospital, including 24 MSU beds, 136 forensic beds, 24 adolescent beds, and 16 civil beds.	The architecture and engineering (A/E) contract was executed in December 2023, and the construction manager at risk (CMR) contract was executed in May 2024. The groundbreaking ceremony took place on September 24, 2024. HHSC estimates construction began in Fall 2024 and is estimated to reach substantial completion in June 2027.
San Antonio State Hospital - Max Security Facility	\$15M	Rehabilitate the Alamo Unit into a 40-bed MSU facility.	HHSC is converting the 40-bed Alamo Hall at San Antonio State Hospital (SASH) to a maximum-security unit, which HHSC is designating to serve the geriatric MSU population. The architecture and engineering (A/E) contract was executed in August 2023, and the construction contract is estimated to be procured by the end of the 2024 calendar year. HHSC estimates construction will begin by Spring 2025 and reach substantial completion in spring 2026.

Terrell State Hospital	\$573M	Construction of a 250-bed replacement campus, including 50 MSU beds, 140 forensic beds, 35 adolescent beds, and 25 civil beds.	The architecture and engineering (A/E) contract was executed in January 2024, and the construction manager at risk (CMR) contract was executed in July 2024. The groundbreaking ceremony took place on August 28, 2024. Construction began in Fall 2024 and is estimated to reach substantial completion in June 2027.
Subtotal	\$1.59B		
<i>Other Facility Construction Projects funded in SB 30</i>			
Beaumont Baptist Hospital	\$64M	Construction of an additional 72 beds, with 36 forensic beds and 36 civil beds, at the Beaumont Baptist Hospital.	Beaumont Baptist Hospital is a private hospital receiving a construction grant for inpatient mental health beds from HHSC. The direct award grant contract was executed August 2024 and the first draw payment has been made. Baptist Beaumont estimates substantial completion in June 2029.
Permian Basin Behavioral Health Center – Midland	\$86.7M	Construction of another 100-bed comprehensive behavioral health center, with 40 forensic beds. Upon completion of construction, ownership of the building must transfer to the Permian Basin Behavioral Health Center controlled by the Ector County Hospital District and the Midland County Hospital District. Appropriations are contingent upon a signed agreement guaranteeing the ongoing operations of the center by the Permian Basin Behavioral Health Center. <i>Note: The 87th Legislature provided \$40M in federal funding from the American Rescue Plan Act for a 100-bed hospital. Similarly, funding was contingent on the local hospital district guaranteeing</i>	This funding was appropriated to the Texas Facilities Commission (TFC). TFC has coordinated with the Ector County Hospital District and the Midland County Hospital District to develop plans that would ensure the behavioral health center continues to benefit the people of the Permian Basin region and the State. Construction of the center is underway, and it is expected to be operational by the Spring/Summer of 2026.

		<i>to support ongoing operations and the transfer of ownership of the building to the Permian Basin Behavioral Health Center.</i>	
Sunrise Canyon Facility in Lubbock	\$45M	Construction of 30 additional beds, with at least 50 percent of the beds having forensic capacity. <i>Note: Construction funding for the 30-bed adult unit partially funded in 87th Regular Session.</i>	This project broke ground on March 28, 2024. Significant recent improvements enforcing structural integrity have been completed, as well as plumbing and electrical work. Construction completion is estimated by December 2025.
The University of Texas at Tyler Inpatient Facility “Partner-Owned”	\$7M	Renovate the facility to add an additional 44 forensic and civil complex medical needs inpatient beds.	Phase I of the inpatient facility project, which included installation of solid monolithic ceilings on both floors of the behavioral health unit, is complete. Phase II, which includes of the construction project is a much larger project and includes renovation of two entire floors of inpatient psychiatric units, is currently underway. The renovation will create psychiatric patient-safe, ligature-free rooms, common areas, and the creation of a safe outdoor courtyard space for patients. The current expected project completion date is February 2027.
University of Texas Health Science Center at Houston (UTHealth Houston): Harris County Psychiatric Hospital (HCPC)	\$7.97M	Funds indigent inpatient care, renovation of patient areas, deferred maintenance, and building renovation at the Harris County Psychiatric Center.	Projects to address deferred maintenance at HCPC are underway including replacement of boilers; renovation of cooling towers; expansion and renovation of the inpatient pharmacy; and upgrades of communication systems. UTHealth Houston has expended \$2.3M of SB 30 funds for interior HCPC updates. The remaining \$5.6M will support exterior improvements to HCPC including new siding, paint, and a complete renovation of the patient outdoor courtyards. The project is expected to be completed by the end of 2025.

Uvalde Behavioral Health Campus	\$33.6M	Construction of a 32-bed behavioral health campus (16 non-MSU, 8 civil adult, and 8 youth).	This campus will be operated by the Hill Country Mental Health and Developmental Disabilities Center (MHDD). Groundbreaking was held on October 17, 2024. Construction is set to begin October 2024 with an expected completion timeline of 18 months. Hill County MHDD has located space in the community to operate outpatient services until the clinic is built. \$10M was also included in GAA for additional LMHA services in Uvalde.
Subtotal	\$244M		
<i>Other Projects Funded through SB 30</i>			
Children's Hospitals Construction Grant Program	\$15.85M	One-time children's hospitals construction grant program to construct inpatient mental health beds for children.	As of October 2024, HHSC has awarded \$4.1M in grant funding to two recipients to build an estimated 14 additional inpatient mental health beds for children. A Request for Applications (RFA) is currently posted with an additional \$9.75M available. The agency anticipates contracts for this RFA will be awarded by April 2025.
Community Mental Health Grant Program	\$100M	One-time community mental health program for county-based collaboratives. Funds may only be spent on construction of jail-diversion facilities, step-down facilities, permanent supportive housing, crisis stabilization units, & crisis respite units. Projects require local match; percentage based on county-size.	This project is in active procurement. Applications have been evaluated, apparent awardees have been identified, and negotiations are underway.
Mental Health Inpatient Grant Facility Program	\$175M	One-time grant program to construct or expand a mental health inpatient facility to have at least 50 percent forensic capacity, using only donated land, to increase inpatient bed availability for forensic patients ordered to a state hospital for competency restoration.	Updates for projects funded through the Mental Health Grant program are listed below.

		<p><i>Rio Grande Valley - \$85M</i> Construction of up to 100 inpatient beds by a hospital located in the Rio Grande Valley region that has fewer than 100 licensed psychiatric beds, at least 50 percent forensic.</p>	<p>Grant for construction awarded to Doctor’s Hospital Renaissance (DHR) on August 22, 2024, and the first draw payment has been made. DHR estimates substantial completion in August 2026.</p>
		<p><i>Montgomery County - \$50M</i> Construction of no more than 100 inpatient beds by Montgomery County to expand the existing Montgomery County Mental Health Facility.</p>	<p>Direct award grant contract was executed September 2024 and the first draw payment has been made. Montgomery County estimates substantial completion in February 2027.</p>
		<p><i>Victoria County - \$40M</i> Construction of up to 60 inpatient beds by Victoria County.</p>	<p>The grant agreement is still in development. SB 30 requires land to be provided by the grantee or via donation; Victoria County is still in the process of identifying land for the project. Once the location is finalized, the grant agreement will be completed.</p>
Grants Management System	\$21.4M	<p>A grants management system for improving mental health outcomes.</p>	<p>HHSC is developing a system-wide solution for grant management that can work broadly across the agency which will provide for a more efficient management of funding through the automation of key grant activities. User testing of the system is expected to begin during the first quarter of calendar year 2025. IT projects of this size require state agencies to submit information about the project to a Quality Assurance Team (QAT) led by Department of Information Resources (DIR). The QAT monitors projects for quality, budget, and timeliness. Updates on this project are submitted monthly to the QAT. As of October 2024, there have been no identified risks on this project.</p>

State Hospitals Electronic Health Record (EHR) System Upgrade	\$38.87M	Upgrade the EHR for both State Hospitals and State Supported Living Centers.	HHSC is currently in the procurement phase of this project and preparing for negotiation discussions. HHSC will be procuring one system across all State Hospitals and State Supported Living Centers will be on the same platform in the future.
Deferred Maintenance for State Facilities	\$50M	Deferred maintenance for state facilities at HHSC.	HHSC reports that approximately \$47M (94 percent) of \$50M appropriated is obligated. There are 36 projects in various stages of completion ranging from negotiations to complete/closed (two projects overlap with emergency repairs).
Emergency Facility Repairs	\$14M	Emergency repairs for both State Hospitals and State Supported Living Centers.	Approximately \$9.3M (67 percent) of \$14M appropriation is obligated. HHSC wishes to have a significant amount of emergency repair funds unobligated going in to the second year of the biennium to cover unexpected maintenance issues throughout the year. There are 9 projects in various stages of completion ranging from negotiations to complete/closed (two projects overlap with deferred maintenance).
Psychiatric Residential Youth Treatment Facility Voluntary Quality Standards Implementation	\$4.17M	Enhancements to Child Care Licensing Automated Support Systems (CLASS), as required by HB 3121, 87R.	HHSC's Regulatory Division adopted childcare rules for Psychiatric Residential Youth Treatment Facilities, effective October 15, 2024. Providers were sent communication detailing the new rules. The IT project for CLASS was completed in two phases, with the second phase set to be released on November 15, 2024.
Subtotal	\$419M		
Total	\$2.25B		

Impact of New Mental Health Funding

While several renovation and new construction projects funded through SB 30 are well underway, it will take time for new beds to be operational. At the earliest, the adult wing of the Texas Behavioral Health Center at UTSW is set to open in late 2025, however, it will not be until early-to mid-2028 before other major construction projects are completed. Fortunately, efforts to raise

salaries for State Hospital employees have already made a positive impact on turnover rates, available bed capacity, and forensic waitlists.

As shown in *Figures 4 and 5* below, the turnover rate for State Hospital employees has been reduced from a peak of 34.3 percent in Fiscal Year 2021 to 20.6 percent in Fiscal Year 2024. Forensic waitlists have dropped from a peak of 2,571 individuals in December 2022 to 1,790 individuals at the end of August of 2024, a decrease of 781 individuals or 30.4 percent.⁶⁶ 2,025 total mental health beds are online and operational as of October 2024, compared to 1,858 in October 2023. Average Daily Census totals across all State Hospitals have increased from 1,706 individuals in September 2023 to 1,909 individuals in August 2024.⁶⁷ As employee turnover continues to stabilize and new inpatient beds come online, the number of individuals waiting for a State Hospital bed should drop.

Figure 4: State Hospital Employee Turnover Rate⁶⁸

FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024
28.4%	31.5%	30.4%	34.3%	33.9%	25.4%	20.6%

Figure 5: Average Forensic State Hospital Waitlist⁶⁹

Type of Bed	June 2022	December 2022	August 2023	August 2024
MSU	900	1,034	990	582
Non-MSU	1,495	1,511	1,260	1,208
Total	2,395	2,545	2,250	1,790

Recommendations

The 88th Legislature, through SB 30, made a historic funding commitment to improve and expand inpatient psychiatric bed capacity in targeted regions throughout the State. Several of these funded projects are well underway and will have a positive impact on the entire state’s mental health system. HHSC’s ability to hire and retain State Hospital employees will play a critical role in the State’s ability to preserve sufficient inpatient psychiatric capacity and reduce waitlists. As part of the appropriations process moving forward, the Legislature should continue to monitor implementation of SB 30 projects and plan for future operational costs that the state will face when construction projects are complete and new inpatient beds come online.

⁶⁶ *State Hospital Forensic Waitlist Report Fiscal Year 2024*, Texas Health & Human Services Commission, [State Hospital Forensic Waitlist Report Fiscal Year 2024 \(texas.gov\)](#)

⁶⁷ *Id.*

⁶⁸ Information obtained through email from the Health and Human Services Commission to Senate Finance Committee on November 7, 2024

⁶⁹ Information obtained through email from the Health and Human Services Commission to Senate Finance Committee on November 7, 2024

Charge No. 3

School Enrollment Trends: Study post-pandemic student enrollment trends, and examine the possible causes behind the shift in student enrollment, including the rise in homeschooling, micro-schools, and other parental choice options. Make recommendations to ensure parents and educators have the tools and resources needed to respond to the projected enrollment changes and ensure that every child has the best educational options available to learn.

Background

The Foundation School Program (FSP) formula funding for public schools is a shared obligation of the state and local school districts. District and charter school FSP entitlements are determined by statutory formulas based primarily on student attendance and student and district characteristics. Section 48.269 of the Texas Education Code (TEC) requires the Texas Education Agency (TEA) to submit estimates of school district tax rates and student enrollment for the following biennium to the Legislature; with initial estimate due October 1 of even-numbered years and updated estimates due March 1 of odd-numbered years. Legislative Budget Board (LBB) staff work with TEA to review estimates for reasonableness and to develop FSP cost projections to be considered for the General Appropriations Act (GAA). FSP funds are appropriated to the TEA, who distributes funds to school districts based on TEC § 48.269, or otherwise specified within the GAA. Furthermore, TEA Rider 3 specifies the estimates (tax values, tax rates, enrollment) used to generate the state aid portion of FSP distributions.⁷⁰

There are roughly 5.5 million students currently enrolled in Texas public schools.⁷¹ However, Texas does not fund districts based on student enrollment, but on average daily attendance (ADA), and weighted average daily attendance (WADA). ADA refers to the number of actual students in attendance on a given day drawing funding through FSP and is used to calculate Tier One Allotments. WADA refers to the characteristic of students that draw additional funding, such as a student receiving special education supports, which are used to determine Tier Two allotments.⁷² As a result, there will always be more students in WADA than in ADA. In the previous biennium, there were 7.4 million students in WADA but only 5 million in ADA.

Budgeted Versus Actual Data and Settle-Up

TEA Rider 3 also requires that when appropriations for the FSP (based on *estimated* ADA, tax rates, property values and tax collection data) differ from *actual* district entitlement, districts “settle-up,” or reconcile FSP payments, with the State at the end of each fiscal year.⁷³ TEC § 48.269 requires TEA and the Texas Comptroller to submit estimated data, known as legislative payment estimates (LPEs), to the Legislature in the Fall before each biennial legislative session. LPEs include tax, attendance, and property value data. A district’s scheduled payments for a school year are based on its initial allocation as calculated using LPEs. At certain points throughout the year, TEA receives revised data, known as district planning estimates (DPEs). A school district’s

⁷⁰ Enrollment Charge: Hearing Before S. Comm on Finance, 88th Interim (Tex. 2024)(testimony of Maggie Jebson, LBB).

⁷¹ Enrollment Charge: Hearing Before S. Comm on Finance, 88th Interim (Tex. 2024) (testimony of Mike Morath, TEA).

⁷² Texas Education Code (TEC) §48.269

⁷³ https://www.lbb.texas.gov/Documents/GAA/General_Appropriations_Act_2024_2025.pdf

final allocation, or “earnings,” for the year are calculated using DPEs, once all revised data are available. Throughout the year as revised data become available, TEA produces a series of state aid reports, known as Summary of Finances (SOF), for each school district. The SOF show both LPE and DPE information, as well as initial and revised allocation amounts. Districts can use these reports to determine whether their FSP appropriation is above or below actual district entitlement, and can budget accordingly in anticipation of settle-up.⁷⁴

The settle-up process begins after the close of each state fiscal year on August 31 and is made up of two steps: near-final settle-up and final settle-up. The “near-final” settle-up occurs when Public Education Information Management System (PEIMS) attendance data and final property values become available. At this time, tax collection data that are used to estimate districts’ FSP state aid are updated with revised estimates of tax collections that have been reported by districts through the online FSP System. The updated attendance, property value, and tax collection data are used to produce a “near-final” SOF, showing the actual amount of state aid each district or school was due.⁷⁵ The post-audit, or “final,” settle-up occurs after the release of data from school district and charter school audits, using final tax collections each district reported in the J-1 schedule of its annual financial audit report and any other updates or changes to data elements that have occurred since the year-end settle-up.

Following each settle-up process, TEA pays out additional aid to any districts and charter schools that were underpaid and recovers aid from districts and charter schools that were overpaid, as required by the TEC § 48.272. Districts and charter schools that have been underpaid during a school year receive a lump-sum payment for the funds that are owed them, typically in late September following the close of the fiscal year. Usually, overpayments are recovered from a district’s or charter school’s scheduled FSP payments over the remainder of the current fiscal year (the fiscal year following the year for which the district or charter school was overpaid). If the overpayment cannot be recovered from a district’s or charter school’s scheduled FSP payments over the remainder of the current fiscal year, TEA will request and obtain a refund.⁷⁶

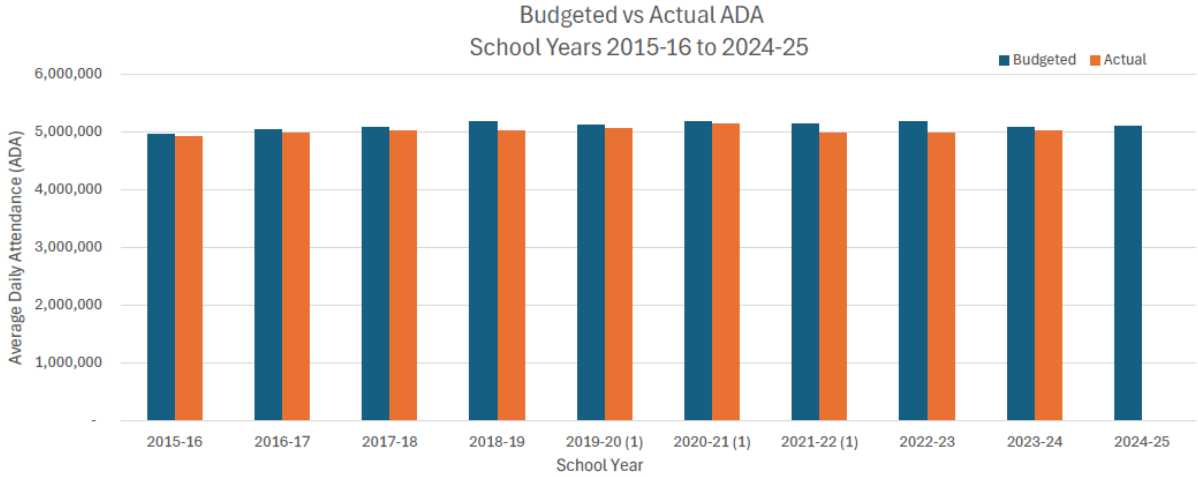
As shown in Figure 1 below, historical state projections for ADA exceed actual attendance. As a result, settle-up processes tend to remove funding initially appropriated through the FSP to account for students who did not attend school. WADA will always be higher than ADA as it represents weighted calculation applied to student attendance. Figure 2 below shows that WADA has sometimes overperformed projections, likely related to increased identifications of students entitled to special education services.

⁷⁴ <https://tea.texas.gov/finance-and-grants/state-funding/state-funding-manuals/settle-up-one-pager.pdf>

⁷⁵ *Id.*

⁷⁶ *Id.*

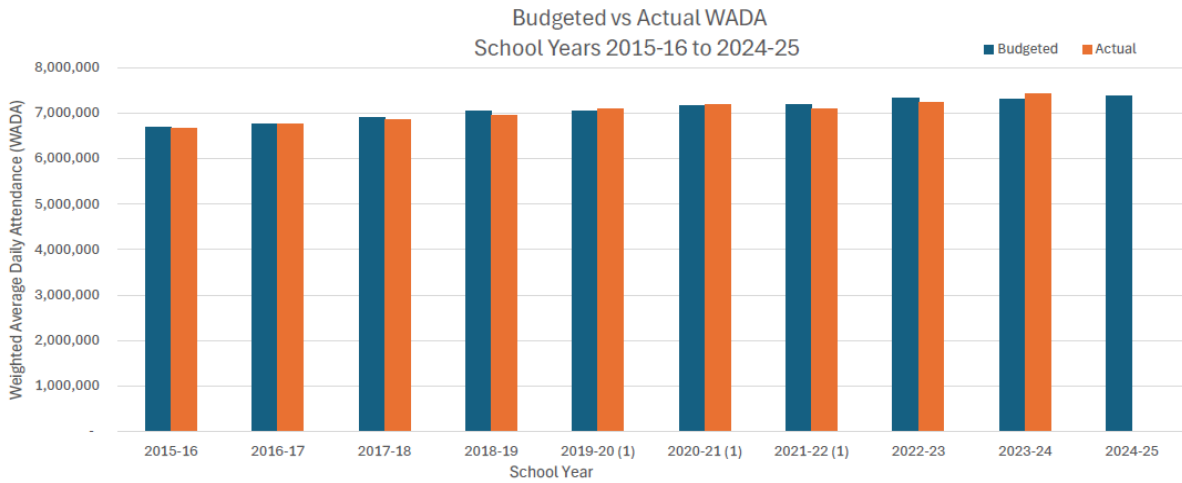
Figure 1: Budgeted vs Actual ADA, School Years 2015-16 to 2024-25⁷⁷



School Year	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
Variance	(0.6%)	(1.3%)	(1.4%)	(2.8%)	(0.9%)	(0.7%)	(3.2%)	(3.6%)	(1.2%)
Difference (2)	(32,000)	(66,000)	(71,000)	(146,000)	(48,000)	(36,000)	(162,000)	(186,000)	(63,000)

- 1) Actual Average Daily Attendance (ADA) for school years 2019-20 and 2020-21 includes additional student attendance to maintain district funding during the COVID-19 pandemic. ADA for school year 2021-22 includes the Operational Minutes Adjustment to hold districts harmless for decreased attendance rates due to the pandemic for the first four six-week periods of the school year.
- 2) Difference in student counts rounded to the thousands.

Figure 2: Budgeted vs Action WADA, School Years 2015-16 to 2024-25⁷⁸



School Year	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
Variance	(0.2%)	(0.2%)	(0.6%)	(1.2%)	0.7%	0.2%	(1.1%)	(1.4%)	1.7%
Difference (2)	(14,000)	(14,000)	(43,000)	(86,000)	46,000	17,000	(80,000)	(103,000)	121,000

- 1) Actual Weighted Average Daily Attendance (WADA) for school years 2019-20 and 2020-21 includes additional student attendance to maintain district funding during the COVID-19 pandemic. ADA for school year 2021-22 includes the Operational Minutes Adjustment to hold districts harmless for decreased attendance rates due to the pandemic for the first four six-week periods of the school year.
- 2) Difference in student counts rounded to the thousands.

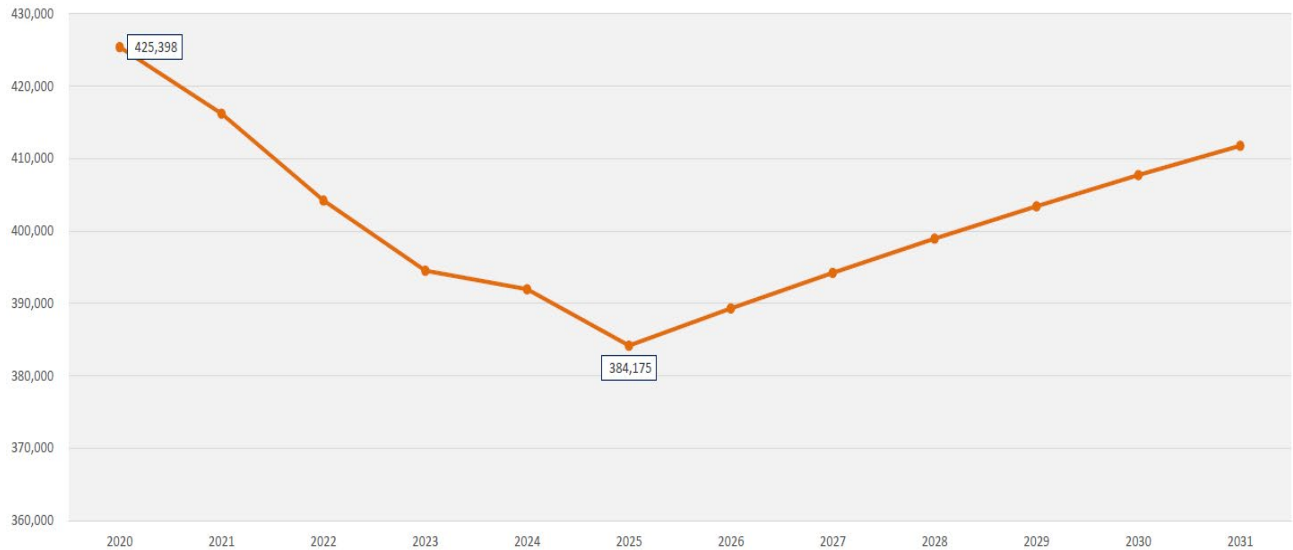
⁷⁷ Enrollment Charge: Hearing Before S. Comm on Finance, 88th Interim (Tex. 2024)(testimony of Maggie Jebson, LBB).

⁷⁸ *Id.*

Enrollment Trends and Demographic Shifts

The Texas State Demographer is estimating a significant decline in the number of four-year-olds in Texas, likely due to lower births during the COVID-19 pandemic which will affect public school enrollment.⁷⁹ As shown in Figure 3, the number of four-year-olds is forecast to decline from 425,398 in 2020 to a low of 384,175 in 2025, a loss of over 40,000.

Figure 3: State Demographer Projections for Texas Four-Year-Olds⁸⁰



Taking into consideration this dip in births, Figure 4 below shows TEA's projected enrollment numbers forecasted through 2031. Additionally, TEA projects that enrollment for public schools will peak in 2025, then decline for a few years and eventually begin to increase again in 2028 as smaller birth cohorts work through the system. Again, although enrollment projections are used to develop initial FSP appropriations, districts ultimately receive funding based on attendance, therefore districts need to account for the forecasted enrollment dip, but also consider post-COVID attendance decline. Pre-COVID, student attendance rates hovered around 92 percent; however, attendance rates are now closer to 91 percent.⁸¹ For reference, one percentage point change in attendance rates changes FSP funding statewide by around \$380 million.⁸²

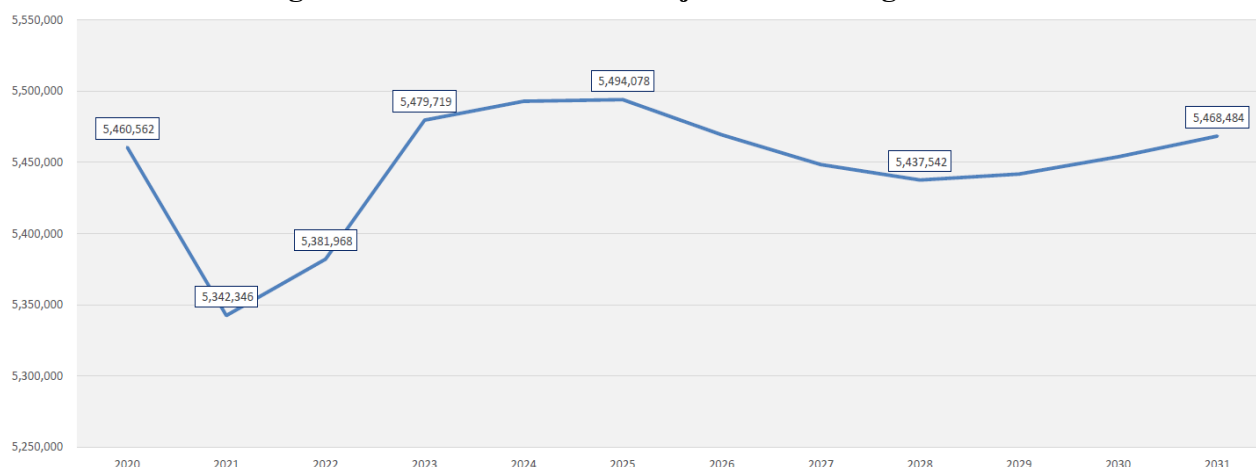
⁷⁹ Enrollment Charge: Hearing Before S. Comm on Finance, 88th Interim (Tex. 2024) (testimony of Mike Morath, TEA).

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² *Id.*

Figure 4: TEA Enrollment Projections Through 2031⁸³



During the Senate Committee on Finance’s October 2024 hearing, TEA also highlighted that since the 2014-2015 school year, there has been a 72 percent increase in the number of students served through special education,⁸⁴ with additional growth forecasted due to an increased push by the agency and districts to ensure that all students in need of accommodation are identified. The increasing number of identified students provide districts and students with increased weights in the FSP funding formula.

Enrollment changes may also be impacted by the availability of alternative educational settings; however, the state tracks limited data in this regard. According to TEA, roughly 5.5 million students are currently enrolled in over 9,000 public school campuses.⁸⁵ No data is collected by TEA on the current number private or homeschool students; however, the Texas Private School Association reports that 286,624 students are enrolled in private schools. Furthermore, the United States Census Bureau Pulse Survey in June 2024 calculated that 494,251 students were using homeschool learning options for the 2023-24 school year.⁸⁶

Pursuant to state and federal requirements, TEA tracks the number of Grade 7-12 students leaving Texas public schools and the reason for departure based on submissions from school systems. These data are used in annual dropout rates and longitudinal graduation rates used for state and federal accountability and reporting purposes. School systems can submit one of 19 codes for why students leave, and these codes are grouped into the four primary categories shown below in Figure 5.⁸⁷ Data submitted by school districts show that students leaving public school for another educational setting (e.g., private school, homeschool) has been consistent over the last five school years – averaging roughly 2.6 percent of total enrolled students. TEA does not track similar data for kindergarten through Grade 6 as it is not required by either the state or the United States Department of Education.

⁸³ Enrollment Charge: Hearing Before S. Comm on Finance, 88th Interim (Tex. 2024) (testimony of Mike Morath, TEA).

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ *Id.*

Figure 5: Five-Year Trends in Student Leavers⁸⁸

Year	Enrolled Students in Grades 7-12	Of enrolled students, the number and percent who left by reason:							
		Graduated or Received an Out-of-State High School Equivalency Certificate		Moved to Another Educational Setting (e.g., private school, home school)		Other Reasons (e.g., deceased, returned to home country)		Dropouts	
		N	%	N	%	N	%	N	%
2018-19	2,375,656	355,724	15.0	62,130	2.6	13,016	0.5	34,504	1.5
2019-20	2,422,503	360,289	14.9	55,092	2.3	11,845	0.5	30,941	1.3
2020-21	2,454,123	358,931	14.6	69,132	2.8	9,850	0.4	46,319	1.9
2021-22	2,479,389	368,830	14.9	69,745	2.8	12,127	0.5	43,940	1.8
2022-23	2,503,185	377,505	15.1	68,623	2.7	12,496	0.5	41,621	1.7

The Texas Private School Accreditation Commission testified in the Committee’s October 2024 hearing that private school enrollment has increased from 235,590 in the 2019-2020 school year to 308,241 in the 2023-2024 school year, or roughly a 30 percent increase.⁸⁹ The Commission also estimated that there were currently 70,570 open private school seats in Texas. The Texas Homeschool Coalition also testified to the increasing number of homeschool students, estimating that 800,000 students are currently served in a homeschool setting, with an average 50,000 families withdrawing from public education every year.⁹⁰ However, it is important to note that no official state data is kept on students enrolled in private or homeschool settings; therefore, TEA is unable to verify these numbers provided to the Committee.

Recommendations

Enrollment for public education is expected to decline over the next several years due to birth trends, which will inherently impact total appropriations for the Foundation School Program. However, due to lag between entitlement calculation and periodic data updates, and the settle-up process based on actual attendance, districts will still have predictability in managing their own budgets and will not face sudden or unforeseen fiscal cliffs.

In addition to demographic changes that the state is experiencing, private school providers and homeschool associations report that families are increasingly leveraging alternative models for education, which may also contribute to the slowing of public school enrollment. Because TEA does not collect or track data for private and homeschool providers, the Legislature is unable to fully analyze enrollment trends across different educational settings. However, it remains clear that Texas needs to continue to offer students and families a variety of educational setting options so that every child has the best opportunity to learn and succeed.

⁸⁸ Enrollment Charge: Hearing Before S. Comm on Finance, 88th Interim (Tex. 2024) (testimony of Mike Morath, TEA).

⁸⁹ Enrollment Charge: Hearing Before S. Comm on Finance, 88th Interim (Tex. 2024) (testimony of Laura Colangelo, Texas Private School Accreditation Commission)

⁹⁰ Enrollment Charge: Hearing Before S. Comm on Finance, 88th Interim (Tex. 2024) (testimony of Jeremy Newman, Texas Home School Coalition).

Charge No. 4

Texas Moving Image Industry Incentive Program: Review the expenditure of funds appropriated to the Texas Film Commission for the Texas Moving Image Industry Incentive Program (TMIIP) by the 88th Legislature and assess the effectiveness of the program in promoting media production and stimulating local economies through job creation and business growth. Analyze application trends before and after the appropriation, with attention to high-profile or large-budget productions. Additionally, review other states and international incentive programs and evaluate Texas's workforce and educational needs in media production. Provide recommendations to improve the TMIIP's transparency and enhance Texas's competitive position.

Background

Legislative History

The Texas Film Commission (TFC) was established in 1971 and made part of the Office of the Governor (OOG).⁹¹ The TFC supports Texas's position as a premier production destination across media industries by: acting as a liaison between various state agencies and production companies, administering requests pertaining to the use of state-owned properties for filming, overseeing the Texas Moving Image Industry Incentive Program (TMIIP), and encouraging productions to hire locally.⁹²

The TMIIP was established in 2007 by the 80th Legislature and received its first appropriation in 2009.⁹³ The Program's purpose is to provide performance-based grants to projects in the moving image industry which are produced in Texas, grow the State's economy, and create jobs for Texans.⁹⁴ Qualifying projects include: film, television, commercial, animation, visual effects, video games, and extended reality, among others.⁹⁵

Government Code, Chapter 485, Subchapter B codifies the TMIIP structure.⁹⁶ Statute provides that the OOG shall administer the grant program and develop procedures for the submission of grant applications. According to statute, the program must require applicants to submit: an estimate of total in-state spending, the shooting script or story board, the estimated number of jobs for cast and production crew, and any other information considered useful and necessary to analyze in-state spending.⁹⁷

TMIIP Qualifications

To qualify for a grant, a production company must have spent a minimum of \$250,000 in in-state spending for a film or TV program, or \$100,000 in in-state spending for a commercial, series of

⁹¹ TMIIP Charge: *Hearing Before the S. Comm. On Finance*, 88th Interim (Texas 2024) (written testimony from the Office of the Governor).

⁹² *Id.*

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ TEX. GOV'T CODE, Ch. 485, Subchapter B.

⁹⁷ TEX. GOV'T CODE § 485.022.

commercials, an educational or instructional video or series, or a digital interactive media production.⁹⁸ At least 55 percent of the production crew, actors, and extras working on a project must be Texas residents unless the OOG determines that a sufficient number of cast and crew are not available at the time.⁹⁹ Originally, the threshold for residency was 70 percent, but it was lowered to the current threshold of 55 percent in the 88th Legislative Session.¹⁰⁰ At least 60 percent of the project must be filmed in Texas and the production company must submit an expended budget to the OOG.¹⁰¹ The OOG has implemented a rubric for how TMIIP grants shall be awarded. For film and TV projects: if the applicant has spent between \$250,000 and \$1,000,000, the OOG may award the applicant grant funding in an amount equal to five percent of the applicant's expenditures. If the applicant has spent between \$1,000,000 and \$3,500,000, the OOG may award the applicant grant funding in an amount equal to ten percent of the applicant's expenditures. And, if the applicant has spent \$3,500,000 or more, the OOG may award the applicant grant funding in an amount equal to 20 percent of the applicant's expenditures.¹⁰²

In addition to the percentage-based grants provided above, applications can earn an additional 2.5 percent of their in-state spend through certain "uplifts."¹⁰³ Projects may receive an additional 2.5 percent if the applicant completes at least 25 percent of their total filming days or man hours, as applicable, in Underutilized or Economically Distressed Areas (UEDAs).¹⁰⁴ The TFC is responsible for identifying the areas that qualify for designation as UEDAs.¹⁰⁵ An applicant may also be eligible for an extra 2.5 percent if they demonstrate that 5 percent of the combined total of paid cast and crew, including extras, are Texas resident veterans.¹⁰⁶ Finally, an applicant may be eligible for an additional 2.5 percent if they expend 10 percent of their total eligible in-state spending during postproduction, including labor, vendors, and music costs.¹⁰⁷ The only uplift that may be stacked with others is an uplift available for Texas Heritage Projects.¹⁰⁸ When evaluating a project as a Texas Heritage Project, the Commission shall consider the project's: current and likely future effect on the promotion of Texas' historic, cultural, natural, or man-made resources; current and likely future economic impact on Texas communities through direct production spending and tourism; inclusion of Texas residents in positions of significant creative or economic influence; and portrayal of Texas and Texans in a positive fashion.¹⁰⁹

Certain projects are deemed ineligible for any grant funding, such as: pornography or obscene material; news, current event or public access programming, political advertising, or public service announcements which advance a public policy or political position; local events or religious

⁹⁸ TEX. GOV'T CODE § 485.023.

⁹⁹ *Id.*

¹⁰⁰ Tex. H.B. 4539, 88th Leg., R.S. (2023).

¹⁰¹ TEX. GOV'T CODE § 485.023.

¹⁰² TEX. ADMIN. CODE § 121.6. For digital interactive media productions, the tiers are the same except that the minimum threshold spend is \$100,000 instead of \$250,000. For reality television projects, if an applicant spends between \$250,000 and \$1,000,000, they may receive a grant equal to five percent of in-state spending; if the applicant spends at least \$1,000,000, they may receive a grant equal to 10% of total in-state spending. For commercials, educational or instructional videos, and visual effects projects, if the applicant spends between \$100,000 and \$1,000,000, they may receive a grant equal to 5% of in-state spending and if the applicant spends \$1,000,000 or more, they may receive a grant equal to 10% of total in-state spending.

¹⁰³ TEX. ADMIN. CODE § 121.7.

¹⁰⁴ *Id.*

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ TEX. ADMIN. CODE § 121.13. Designation of a project and funding for the incentive is discretionary and determined solely by the Texas Film Commission. Projects must meet all other qualifying criteria of TMIIP. Texas Heritage Project additional incentive grant funding is capped at \$2.5 million per biennium.

¹⁰⁹ *Id.*

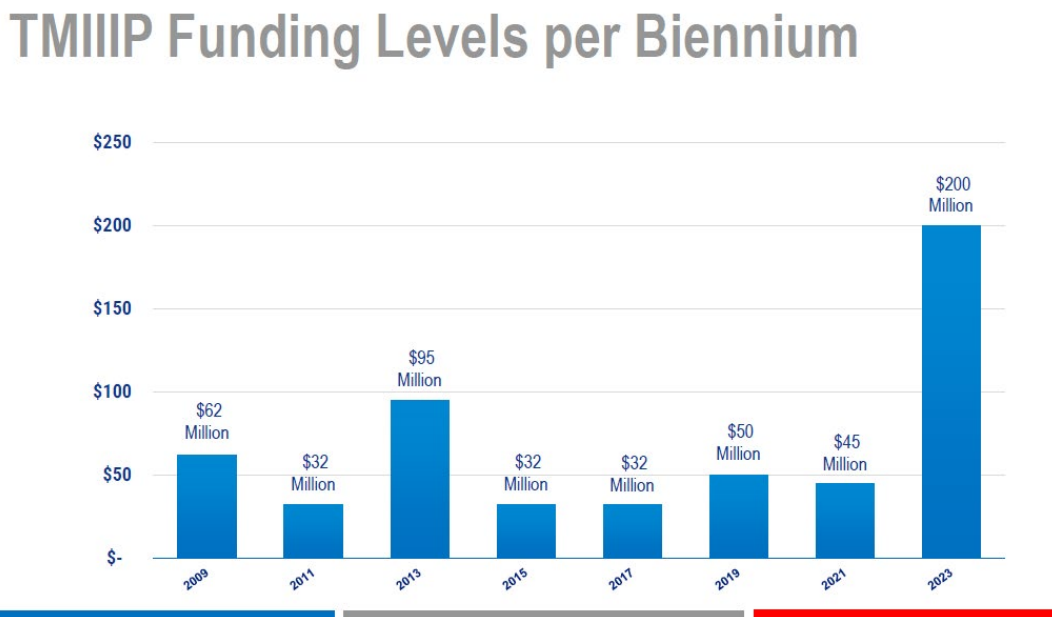
services; sporting events or activities; casino-type video games and interactive digital media experiences used in a gambling device; and commercials or advertising for the State of Texas or any Texas state agency or department.¹¹⁰

Furthermore, the TFC has specified what expenditures count as “in-state spending” for purposes of awarding grants. Eligible expenditures include: wages paid to Texas residents for work performed in Texas;¹¹¹ workers compensation insurance premiums for Texas residents, if paid to a Texas-based insurance company or broker; payments made to Texas-domiciled entities or individuals for goods and services used in Texas for the production of the project; air travel to and from Texas on a Texas-based airline; rentals of vehicles registered and licensed in Texas or rented from a Texas-domiciled entity; legal fees attributable to production that are paid to Texas-based lawyers; internet purchases, if purchased from a Texas-domiciled entity and shipped directly to Texas.¹¹²

Ultimately, the TFC is not required to act on any grant application and may deny an application because of inappropriate content or content that portrays Texas or Texans in a negative fashion.¹¹³

Funding History

As mentioned, the first tranche of funding to TMIIP was appropriated by the Legislature in 2009. The initial investment to the Program was \$62 million, with funding levels varying every session after. The 88th Legislature appropriated \$45 million in House Bill 1 (the General Appropriations Act) for the Program and \$155 million in Senate Bill 30 (the Supplemental Appropriation Act), resulting in a historic \$200 million appropriation for the Fiscal Year 2024-2025 biennium. A visual depiction of prior funding may be seen in the table below.¹¹⁴



¹¹⁰ TEX. ADMIN. CODE § 121.4.

¹¹¹ Up to \$1,000,000 per individual.

¹¹² TEX. ADMIN. CODE § 121.5.

¹¹³ TEX. ADMIN. CODE § 121.4.

¹¹⁴ *TMIIP Charge: Hearing Before the S. Comm. On Finance, 88th Interim (Texas 2024)* (written testimony from the Office of the Governor).

Discussion

Success of the Program

Executive Director Adriana Cruz of the Texas Economic Development & Tourism Office, located within the OOG, testified to the Texas Senate Committee on Finance on October 9, 2024, that since the start of the Program, TMIIP has received 2,037 applications and a full list of the paid projects may be found on the OOG’s website.¹¹⁵ Paid projects have generated \$2.5 million in in-state spending since the start of the program and have created more than 189,000 Texas jobs. For every \$1 paid in grant funding, \$4.69 is spent in Texas – a 469 percent return on investment – as confirmed by the TFC through careful collection and review of invoices submitted by the applicants.¹¹⁶ In Fiscal Year 2024, the TFC processed 96 applications, ultimately approving 62.¹¹⁷ 19 applications were either denied or withdrawn by the applicant and 15 were pending at the time of the Committee’s hearing.¹¹⁸

City of Fort Worth Mayor Mattie Parker also gave testimony to the Committee. Mayor Parker was able to illustrate the local impact that film productions can have on a city or county. She testified that since 2015, the Fort Worth Film Commission has worked with hundreds of projects to drive more than \$700 million in local economic impact and support over 30,000 local jobs.¹¹⁹ Mayor Parker emphasized the excellent collaboration Fort Worth has with 101 Studios and director Taylor Sheridan.¹²⁰ 101 Studios has worked on producing at least four programs in Fort Worth: *1883*, *Lawman: Bass Reeves*, *Special Ops: Lioness*, and *Landman*.¹²¹ 101 Studios has poured \$325 million directly into the North Texas region, including over 70,000 hotel room nights in the past three years.¹²² Mayor Parker testified that the “Texas Moving Image Industry Incentive Program has laid a monumental foundation for incentivizing film, television, and commercial projects for [the City of Fort Worth] and our State...”¹²³

Potential Concerns

Although the TMIIP has had a positive economic impact on the State, there are some limitations to the current program. Several witnesses from the film industry gave testimony to the Committee, including filmmaker Taylor Sheridan and award-winning actor Dennis Quaid. Sheridan stated that due to the fact that Texas’s program is not as robust as other state programs, he often has difficulty convincing the capital management–side of film production companies to allow filming in Texas.¹²⁴ According to Sheridan, the only reason he has been permitted to film his recent television projects in Texas is due to our existing incentive program and the fact that money was available at the time he needed it.¹²⁵ Sheridan stated that certain executives would state that, but for the film incentive,

¹¹⁵ *Id.* Full list available at: <https://gov.texas.gov/film/page/impact>.

¹¹⁶ *TMIIP Charge: Hearing Before the S. Comm. On Finance, 88th Interim (Texas 2024)* (written testimony from the Office of the Governor).

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *TMIIP Charge: Hearing Before the S. Comm. On Finance, 88th Interim (Texas 2024)* (oral testimony from City of Fort Worth Mayor Mattie Parker).

¹²⁰ *Id.*

¹²¹ *Id.*

¹²² *Id.*

¹²³ *Id.*

¹²⁴ *TMIIP Charge: Hearing Before the S. Comm. On Finance, 88th Interim (Texas 2024)* (oral testimony from Taylor Sheridan).

¹²⁵ *Id.*

he would have “filmed all of this in New Mexico.”¹²⁶ Others in the industry testified that Texas has the most strict film incentive program in the globe to date.¹²⁷ Compared to other states, only Texas requires 55 percent of the cast and crew to be residents of the State and 60 percent of the project to be filmed in the State.¹²⁸ Various witnesses testified that Texas’s grant tier structure is not as generous as the percentage-based incentives given by other state programs – putting Texas at a disadvantage.¹²⁹ More information on how Texas compares to other states is provided below.

Further, Sheridan, Quaid, and others testified that the inconsistent biennial funding levels for the TMIIP has made pitching Texas as a filming location difficult for producers.¹³⁰ Sheridan testified that getting a project into production typically takes a year and a half to two years.¹³¹ From a network accounting standpoint, uncertainty about how much, if any, incentive will exist years in the future poses a challenge when deciding whether or not to film in Texas.¹³² Witnesses suggested that instead of, or in addition to, a cash grant incentive for filmmakers, the State could provide a tax incentive that would provide a more continuous funding stream to program applicants.¹³³

Other Existing Film Programs

According to the National Conference of State Legislatures, 37 states currently offer incentives for film production.¹³⁴ According to Cast & Crew, 27 United States jurisdictions offer rebate or grant programs which return a cash payment to the eligible production company, while 14 jurisdictions offer transferable tax credits.¹³⁵ 13 jurisdictions offer refundable tax credits, in which the production company must file the appropriate tax return claiming the credit and, to the extent the credit exceeds the company’s tax liability, a refund will be issued.¹³⁶ Generally, states offering a refundable tax credit do not allow the credit to be transferred.¹³⁷ Four jurisdictions offer a tax credit that is neither transferable nor refundable.¹³⁸ Sheridan testified to the Committee that New Mexico and Georgia are most likely Texas’s largest competitors; New Mexico due to geographic proximity and Georgia due to the sizeable grant percentages and minimal restrictions.¹³⁹

Georgia offers transferable tax credits equal to up to 30 percent of the applicant’s eligible spending.¹⁴⁰ An applicant must spend a minimum of \$500,000.¹⁴¹ The program does not have a threshold residency requirement for the cast and crew.¹⁴² New Mexico offers a refundable tax credit

¹²⁶ *Id.*

¹²⁷ *Id.*

¹²⁸ *Id.*

¹²⁹ *TMIIP Charge: Hearing Before the S. Comm. On Finance, 88th Interim (Texas 2024).*

¹³⁰ *TMIIP Charge: Hearing Before the S. Comm. On Finance, 88th Interim (Texas 2024)* (oral testimony from Taylor Sheridan and Dennis Quaid).

¹³¹ *Id.*

¹³² *Id.*

¹³³ *TMIIP Charge: Hearing Before the S. Comm. On Finance, 88th Interim (Texas 2024)* (oral testimony from Chase Musslewhite, Media For Texas).

¹³⁴ *State Film and Television Incentive Programs*, NAT’L CONF. OF STATE LEGIS., <https://www.ncsl.org/fiscal/state-film-and-television-incentive-programs>.

¹³⁵ *The Incentives Program*, CAST & CREW, <https://www.castandcrew.com/wp-content/uploads/2024/03/2024-TIP-Guide.pdf>. Note that some states have multiple jurisdictions with distinct film incentive programs.

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ *TMIIP Charge: Hearing Before the S. Comm. On Finance, 88th Interim (Texas 2024)* (oral testimony from Taylor Sheridan).

¹⁴⁰ *Incentives and Applications*, GEORGIA FILM & TELEVISION PRODUCTION, <https://georgia.org/industries/film-entertainment/georgia-film-tv-production/production-incentives>.

¹⁴¹ *Id.*

¹⁴² *Id.*

equal to 25 percent of the applicant’s eligible spending, as well as additional uplifts for series with six or more episodes, for productions utilizing qualified production facilities,¹⁴³ and for projects filming in certain geographic regions.¹⁴⁴ The program has no minimum spend requirement and no threshold residency requirement.¹⁴⁵

Workforce and Educational Needs

Another challenge that Taylor Sheridan discussed with the Committee is scarcity of training a cast and crew in the State.¹⁴⁶ To assist with this challenge, Texas academic institutions have implemented educational programs capable of turning out a skilled workforce for the film industry. Mayor Parker discussed Fort Worth’s success with “create[ing] a talent pipeline right here in Texas.”¹⁴⁷ Parker informed the Committee that the Fort Worth Film Commission, in partnership with Tarrant County College and 101 Studios, launched the Fort Worth Film Collaborative Certificate Program, offering fast-track certifications.¹⁴⁸ The Program offers three certifications: hair and makeup, gaffer and grip, and light commercial construction.¹⁴⁹ Since the launch of the Program, enrollment has risen from less than 20 students to 200.¹⁵⁰ The University of Texas at Arlington is also looking to expand their efforts, working alongside 101 Studios to create a Production Design Assistant curriculum.¹⁵¹ During the 88th Session, the Texas Legislature supported the development of the Texas A&M Virtual Production Institute, the nation’s first institute of its kind.¹⁵² Students at the Institute “will learn the art and science of the development and applied use of extended reality — which incorporates augmented and virtual reality, display technology, sensing technology, artificial intelligence, real-time 3D graphics and simulation — using the latest technology that will prepare them for an expanding Texas job market.”¹⁵³

Dr. John Fleming, Dean of the College of Fine Arts and Communication at Texas State University provided testimony to the Committee regarding the College’s curriculum and enrollment. The University’s School of Theater, Dance, and Film was ranked by *The Hollywood Reporter* as 25th out of all global drama programs.¹⁵⁴ Dr. Fleming testified that the Bureau of Labor Statistics projects a 10-12 percent job growth in theater, broadcast, sound, and video technicians by 2029.¹⁵⁵ In the Fall of 2019, Texas State had 56 film majors, whereas this Fall, Texas State will have 311 film majors.¹⁵⁶ The Film Program’s graduates have been working in Los Angeles, New York, Atlanta, New Orleans, New Mexico, and other locations, but when surveyed, 92 percent of alums say they would prefer to build their career in Texas, 96 percent of those who are currently working

¹⁴³ Meaning a building or complex in which films are or are intended to be regularly produced and that meet certain requirements.

¹⁴⁴ *The Incentives Program, CAST & CREW*, <https://www.castandcrew.com/wp-content/uploads/2024/03/2024-TIP-Guide.pdf>. Note that some states have multiple jurisdictions with distinct film incentive programs.

¹⁴⁵ *Id.*

¹⁴⁶ *TMIIP Charge: Hearing Before the S. Comm. On Finance, 88th Interim (Texas 2024)* (oral testimony from Taylor Sheridan).

¹⁴⁷ *TMIIP Charge: Hearing Before the S. Comm. On Finance, 88th Interim (Texas 2024)* (oral testimony from City of Fort Worth Mayor Mattie Parker).

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

¹⁵⁰ *Id.*

¹⁵¹ *Id.*

¹⁵² *About the Virtual Production Institute*, TEXAS A&M UNIV., <https://vpi.tamu.edu/about/index.html>.

¹⁵³ *Id.*

¹⁵⁴ *TMIIP Charge: Hearing Before the S. Comm. On Finance, 88th Interim (Texas 2024)* (oral testimony from Dr. John Fleming, Texas State University).

¹⁵⁵ *Id.*

¹⁵⁶ *Id.*

outside of Texas want to return to Texas, and 70 percent of those who left state that they left because the job prospects in film were better elsewhere.¹⁵⁷

Recommendations

Texas has created a strong infrastructure to incentivize moving image production in our State. The OOG has carefully promulgated rules for the TMIIP which have created new economic and job opportunities for Texas residents and businesses, and at the same time, safeguarded Texas taxpayer dollars. While the Program has been successful and the OOG has diligently awarded grant dollars to meritorious applicants, the Legislature could examine different or additional funding mechanisms to provide more consistency and predictability for future applicants. Regardless of how financial incentives are granted in the future, it is imperative that the Program incentivizes in-state spending and spurs job growth for Texans to ensure Texas is receiving a positive return on investment. Any changes to the Program must be designed with the goal of producing more economic opportunities for the state and additional content that showcases the values of Texas and Texans.

¹⁵⁷ *Id.*

Charge No. 5 (b)

Monitor Property Tax Relief and Infrastructure Funds: Monitor the appropriations supporting, and implementation of, the following legislation passed during the 88th Legislature, Regular or Special Sessions, and approved by voters, amending the Texas Constitution:

- *Texas Energy Fund: Senate Bill 2627 and Senate Joint Resolution 93, 88th Legislature, Regular Session.*

Background

In February of 2021, Texas was struck by Winter Storm Uri. Across the state, extreme temperatures caused power plant equipment to freeze and halted the production and delivery of natural gas – reducing available electric generation supply for the Electric Reliability Council of Texas (ERCOT) grid.¹⁵⁸ Simultaneously, demand for electricity increased dramatically as Texans sought refuge from some of the coldest temperatures ever recorded in certain parts of the state.¹⁵⁹ Controlled outages were initiated to prevent complete failure of the grid and a statewide blackout,¹⁶⁰ and millions of Texans were without power for extended time periods over multiple days.¹⁶¹ The Federal Reserve Bank of Dallas estimated resulting direct and indirect losses to the state’s economy between \$80 and \$130 billion.¹⁶² More significantly, several hundred Texans lost their lives over the course of the event due largely to hypothermia, perilous road conditions, and carbon monoxide exposure.¹⁶³

In response, state legislators conducted hours of deliberation – and heard extensive testimony from agency leadership, industry stakeholders, and the public to better understand the storm’s impact and causes of the grid’s failure to supply enough power to meet demand.¹⁶⁴ These efforts culminated in passage of Senate Bill (SB) 3 and numerous other legislation during the 87th Regular Legislative Session, enacting reforms to the governance structures of ERCOT and the Public Utility Commission of Texas (PUC); strengthening the PUC’s oversight role; improving disaster preparedness planning and weatherization requirements for the electric supply chain; instructing review of the grid’s needs; requiring the PUC to establish and leverage a reliability standard for the ERCOT market to ensure sufficient dispatchable generation; and more to improve the overall reliability and resilience of the state’s electricity infrastructure.

Legislation passed by the 87th Legislature addressed many critical issues and needed improvements exposed by Winter Storm Uri. At the commencement of the 88th Legislative Session, legislators determined that further action would be needed to more directly encourage additional dispatchable generation resources in a timely and cost-effective manner.¹⁶⁵ Dispatchable generation generally

¹⁵⁸ Public Utility Commission of Texas Legislative Appropriations Request for Fiscal Years 2026 and 2027.

¹⁵⁹ Public Utility Commission of Texas Sunset Staff Report with Final Results, 2022-23, 88th Legislature.

¹⁶⁰ https://www.ercot.com/files/docs/2021/02/24/2.2_REVISIED_ERCOT_Presentation.pdf.

¹⁶¹ Public Utility Commission of Texas Sunset Staff Report with Final Results, 2022-23, 88th Legislature.

¹⁶² FERC, NERC, and Regional Entity Staff (2021). The February 2021 Cold Weather Outages in Texas and the South Central United States. <https://www.ferc.gov/media/february-2021-cold-weather-outages-texas-and-south-central-united-states-ferc-nerc-and>.

¹⁶³ Public Utility Commission of Texas Sunset Staff Report with Final Results, 2022-23, 88th Legislature.

¹⁶⁴ Bill Analysis for Tex. S.B. 3, 87th Leg., R.S. (2021).

¹⁶⁵ Letter from Senate Business & Commerce Committee to the Public Utility Commission, December 1, 2022.

refers to sources of electricity that can be brought on-line or adjusted to match supply with need.¹⁶⁶ Under SB 3 (87R), dispatchable generation is addressed as follows – “a generation facility is considered to be non-dispatchable if the facility’s output is controlled primarily by forces outside of human control.”¹⁶⁷

In order to target reliability concerns related specifically to the availability of adequate dispatchable power generation, the 88th Legislature passed Senate Bill 2627 – entitled the “Powering Texas Forward Act” – and Senate Joint Resolution (SJR) 93, which together authorized the creation of the Texas Energy Fund (TEF), contingent upon voter approval.¹⁶⁸ In anticipation of the TEF’s creation, legislators also appropriated \$5 billion in General Revenue to capitalize the TEF in the 2024-2025 state budget, and directed that the TEF and its programs be administered by the PUC.¹⁶⁹ Additionally, the PUC received \$1.1 million in General Revenue and authority for seven additional full-time equivalents (FTEs) to support implementation.¹⁷⁰ The TEF’s creation was authorized by voters in a constitutional election on November 7, 2023.¹⁷¹

Discussion

According to the bill author’s statement, the purpose of SB 2627 is to address increased reliability related specifically to dispatchable generation for Texas.¹⁷² Upon voter approval of SJR 93, the TEF is established as a fund in the state treasury – outside of General Revenue – to provide loans and grants to finance or incentivize the construction, maintenance, modernization, and operation of electric generating facilities (including associated infrastructure) necessary to ensure the reliability or adequacy of the state’s electric power grid.¹⁷³ To realize these objectives, SB 2627 establishes four programs to be funded out of the TEF:

- 1) the In-ERCOT Generation Loan Program,
- 2) the Completion Bonus Grant Program,
- 3) the Outside ERCOT Grant Program, and
- 4) the Texas Backup Power Package Program.¹⁷⁴

SB 2627 states that the PUC may provide up to \$1 billion in grants for the Outside ERCOT Grant Program; up \$7.2 billion in loans and grants for the In-ERCOT Generation Loan and Completion Bonus Grant programs; and up to \$1.8 billion in loans or grants for the Backup Power Package Program.¹⁷⁵ Considered together, the legislation contemplates up to \$10 billion in total funding to be allocated across the TEF’s four programs. SB 2627 directs that the TEF be held and invested by the Texas Treasury Safekeeping Trust Company.¹⁷⁶ According to the Trust Company, the TEF had accrued over \$121 million in interest earnings as of June 30, 2024.¹⁷⁷ Passage of SJR 93

¹⁶⁶ <https://www.eia.gov/todayinenergy/detail.php?id=61444>.

¹⁶⁷ Tex. S.B. 3, 87th Leg., R.S. (2021).

¹⁶⁸ Tex. S.B. 2627, 88th Leg., R.S. (2023).

¹⁶⁹ Tex. H.B. 1, 88th Leg., R.S. (2023).

¹⁷⁰ Tex. H.B. 1, 88th Leg., R.S. (2023).

¹⁷¹ <https://www.sll.texas.gov/spotlight/2023/11/texas-voters-approve-new-constitutional-amendments/>.

¹⁷² Bill Analysis for Tex. S.B. 2627, 88th Leg., R.S. (2023).

¹⁷³ Texas Constitution, Art. III, Sec. 49-q.

¹⁷⁴ https://www.puc.texas.gov/industry/electric/business/texas-energy-fund/#Bonus_Grant_Program.

¹⁷⁵ Tex. S.B. 2627, 88th Leg., R.S. (2023).

¹⁷⁶ *Id.*

¹⁷⁷ *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance, 88th Interim (Tex. 2024)* (testimony of Mike Reissig and Anca Ion, Texas Treasury Safekeeping Trust Company, CPA).

likewise certified all funds within, or subsequently allocated to, the TEF as dedicated by the state constitution.¹⁷⁸ Finally, SB 2627 established the Texas Energy Fund Advisory Committee to hold hearings, meetings, and work sessions in order to provide comments and recommendations regarding adoption of rules and review the TEF's operation, function, and structure. Current membership includes:

- Senator Charles Schwertner, Co-Chair;
- Senator Joan Huffman;
- Senator Nathan Johnson;
- Representative David Spiller, Co-Chair;
- Representative Ana Hernandez; and
- Representative Todd Hunter.¹⁷⁹

To further facilitate implementation of SB 2627, the PUC has engaged a contractor to assist with management of the TEF programs. On February 5, 2024, a contract was formally awarded to Deloitte & Touche with a listed completion date of February 4, 2028.¹⁸⁰

In-ERCOT Generation Loan Program

Under SB 2627, the In-ERCOT Generation Loan Program is established to provide low-interest loans to qualifying entities for expansion of existing dispatchable electric generation facilities or construction of new dispatchable electric generation facilities in the ERCOT power region.¹⁸¹ SB 2627 states that outstanding In-ERCOT Generation loans and grants provided through the Completion Bonus Grant Program may not support the addition or construction of more than 10,000 megawatts (MWs) of generation capacity.¹⁸² The legislation requires that a loan under the program bear an interest rate of 3 percent; have a term of 20 years; cover no more than 60 percent of project costs; and result in a net increase of at least 100 MWs of new capacity for the ERCOT grid.¹⁸³ The legislation also dictates, for purposes of the program's implementation, that a generating facility is considered to be dispatchable if the facility's output can be controlled primarily by forces under human control.¹⁸⁴ The legislation further directs that an electric energy storage facility is not eligible for an In-ERCOT Generation Loan under the program.¹⁸⁵

In November of 2023, the PUC initiated rule development for the program.¹⁸⁶ Formal adoption of 16 TAC §25.510 occurred on March 21, 2024 – further outlining the application process, eligibility, evaluation criteria, and loan terms.¹⁸⁷ Under 16 TAC §25.510, interested applicants were required to notify the PUC of their intent to apply for funding between May 1 and May 31 of 2024.¹⁸⁸ In their Notice of Intent (NOI) submission, interested applicants had to include their name;

¹⁷⁸ Tex. S.J.R. 93, 88th Leg., R.S. (2023).

¹⁷⁹ https://www.puc.texas.gov/industry/electric/business/texas-energy-fund/#Bonus_Grant_Program.

¹⁸⁰ *Id.*

¹⁸¹ Tex. S.B. 2627, 88th Leg., R.S. (2023).

¹⁸² *Id.*

¹⁸³ *Id.*

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

¹⁸⁶ https://interchange.puc.texas.gov/Documents/55826_2_1348127.PDF.

¹⁸⁷ https://ftp.puc.texas.gov/public/puct-info/agency/resources/pubs/news/2024/PUCT_Adopts_First_Rule_for_Implementing_Texas_Energy_Fund.pdf.

¹⁸⁸ 16 TAC §25.510.

the facility name; anticipated MWs; whether or not the facility would serve an industrial load or Private Use Network, and the net capacity dedicated to the ERCOT grid; the commercial operations date of each generation resource in the facility; the loan amount requested; a non-binding attestation that any project costs not supported by a TEF loan could be financed (if an applicant planned to contribute equity); and a public letter filed with the agency.¹⁸⁹ On June 1, 2024, PUC announced that 125 NOI submissions had been received, representing \$38.9 billion in total requested financing and 55,908 MWs across proposed projects.¹⁹⁰ Only those who had submitted an NOI were eligible to submit a final application between June 1¹⁹¹ and July 27.¹⁹² On July 29, the PUC announced the results of the application period – confirming that 72 full applications had been received including \$24.41 billion in requested financing for 38,379 MWs of proposed dispatchable generation projects in the ERCOT region.¹⁹³

From the end of July through August 28, PUC staff (in collaboration with Deloitte)¹⁹⁴ reviewed all 72 applications¹⁹⁵ in order to deliver a portfolio of recommended applications to move on to a due diligence examination.¹⁹⁶ The program application contained over 60 questions¹⁹⁷ and required submission of numerous documents related to the project proposal.¹⁹⁸ Application questions were “correlated to four major categories: (1) project technical and regional attributes, (2) project financial attributes, (3) application sponsor history, and (4) application sponsor financial characteristics.”¹⁹⁹ PUC staff ranked every application within each category and assessed each project’s viability.²⁰⁰ During this time, PUC staff likewise solicited commissioner priorities for the project portfolio – ultimately including (1) diversity among applicant types, (2) diversity in siting location, (3) speed to market, (4) ability to relieve transmission constraints, and (5) diversity of generation resource types.²⁰¹ After ranking each project across the four application categories, projects were reviewed against two of the highlighted commissioner priorities – (1) speed to market (for which each application was ranked by the year of its proposed date to come online) and (2) ability to relieve known transmission constraints (for which ERCOT conducted a grid benefit analysis for all 72 applications to evaluate how they might address load growth and transmission constraints).²⁰² Utilizing these rankings, the recommended project portfolio was developed – first by selecting the top ranked projects across the four major categories in the application, and then by assessing how and whether projects responded to the commissioner priorities (this process involved first elevating those projects most beneficial to the ERCOT region, then those that could come online quickest, and finally by considering how projects would perform across the remaining three commissioner priorities).²⁰³ While all application information

¹⁸⁹ *Id.*

¹⁹⁰ https://ftp.puc.texas.gov/public/puct-info/agency/resources/pubs/news/2024/PUCT_Sees_Strong_Industry_Response_to_Texas_Energy_Fund_Loan_Program.pdf.

¹⁹¹ Tex. S.B. 2627, 88th Leg., R.S. (2023).

¹⁹² 16 TAC §25.510.

¹⁹³ https://ftp.puc.texas.gov/public/puct-info/agency/resources/pubs/news/2024/PUCT_Receive_72_Applications_for_Texas_Energy_Fund_Loan_Program.pdf.

¹⁹⁴ *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Tex. 2024) (testimony of Thomas Gleeson and Connie Corona, PUC).

¹⁹⁵ https://interchange.puc.texas.gov/Documents/56896_49_1423702.PDF.

¹⁹⁶ https://interchange.puc.texas.gov/Documents/56896_3_1417668.PDF.

¹⁹⁷ *Id.*

¹⁹⁸ https://txenergyfund.my.salesforce.com/sfc/p/#820000008gaQ/a/82000000x8rt/CBu6u_3b_4uXXtCgk4INM0y.3B92cKe_IAdv6WkaZH0.

¹⁹⁹ https://interchange.puc.texas.gov/Documents/56896_49_1423702.PDF.

²⁰⁰ *Id.*

²⁰¹ https://interchange.puc.texas.gov/Documents/56896_3_1417668.PDF.

²⁰² https://interchange.puc.texas.gov/Documents/56896_49_1423702.PDF.

²⁰³ https://interchange.puc.texas.gov/Documents/56896_49_1423702.PDF.

submitted for the In-ERCOT Generation Loan program is confidential per SB 2627,²⁰⁴ PUC staff outlined the process for selection in a public memorandum published on August 29, 2024 including a list of the projects within the recommended portfolio.²⁰⁵ The 17 projects within the portfolio – representing a total of 9,781 MWs and \$5.28 billion in requested loans – were each approved for due diligence examination by the PUC in an open meeting on August 29, 2024.²⁰⁶ Per the PUC, the due diligence examination for each project will require four to eight months and include an evaluation of whether an applicant can prove up the assertions in its project proposal.²⁰⁷ Per SB 2627, the PUC must approve or deny each loan application for the program and disburse initial loan funds for each approved applicant by December 31st, 2025.²⁰⁸

On September 4, the PUC announced that one of the projects included in the approved portfolio was denied for failure in the due diligence phase.²⁰⁹ The project was submitted as a collaboration between two entities – one of which filed a letter with the PUC on September 3 indicating that its name was utilized in the application submission without knowledge or consent.²¹⁰ Due diligence evaluation continues for the other 16 projects included in the approved portfolio, during which PUC staff and Deloitte will continue to vet each project’s financial viability; plans for construction; interconnection capabilities; an applicant’s ability to complete the project and pay back a loan authorized under the program; and more.²¹¹

Completion Bonus Grant Program

The Completion Bonus Grant Program established under SB 2627 allows for new dispatchable electric generation resources that meet certain ERCOT planning requirements²¹² after June 1, 2023, and interconnect to the ERCOT power grid before June 1, 2029, to be eligible for a completion bonus grant.²¹³ Additionally, an applicant's new dispatchable generating resources must provide at least 100 MWs of new capacity in the ERCOT region.²¹⁴ Recipients must meet performance standards set by the PUC to earn their annual grant payments (paid out over a 10-year period).²¹⁵ Per SB 2627, completion bonus award amounts are subject to certain caps related to the amount of new generation and the date of interconnection:

- up to \$120,000 per MW of capacity provided by a facility interconnected in the ERCOT power region before June 1, 2026; or
- up to \$80,000 per MW of capacity provided by a facility interconnected in the ERCOT power region on or after June 1, 2026, and before June 1, 2029.²¹⁶

²⁰⁴ Tex. S.B. 2627, 88th Leg., R.S. (2023).

²⁰⁵ https://interchange.puc.texas.gov/Documents/56896_49_1423702.PDF.

²⁰⁶ https://ftp.puc.texas.gov/public/puct-info/agency/resources/pubs/news/2024/PUCT_Selects_Texas_Energy_Fund_Loan_Applicants_to_Advance_in_Review_Process.pdf.

²⁰⁷ https://interchange.puc.texas.gov/Documents/56896_49_1423702.PDF.

²⁰⁸ Tex. S.B. 2627, 88th Leg., R.S. (2023).

²⁰⁹ https://ftp.puc.texas.gov/public/puct-info/agency/resources/pubs/news/2024/PUCT_Denies_Application_for_Texas_Energy_Fund_Loan_Program.pdf.

²¹⁰ https://interchange.puc.texas.gov/Documents/56896_52_1424857.PDF.

²¹¹ https://ftp.puc.texas.gov/public/puct-info/agency/resources/pubs/news/2024/PUCT_Denies_Application_for_Texas_Energy_Fund_Loan_Program.pdf.

²¹² Email communication from Jess Heck, Director of Government Relations, Public Utility Commission of Texas, August 7, 2024 (on file with the author).

²¹³ Tex. S.B. 2627, 88th Leg., R.S. (2023).

²¹⁴ *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Tex. 2024) (testimony of Thomas Gleeson and Connie Corona, PUC).

²¹⁵ *Id.*

²¹⁶ Tex. S.B. 2627, 88th Leg., R.S. (2023).

Ultimately, the amount of a completion bonus grant award is based on program funding availability (as funding allocated across both these grants and In-ERCOT Generation Loans cannot exceed \$7.2 billion), the capacity and interconnection date of the electric generating facility for which an applicant requests a grant, and performance during each test period.²¹⁷

In November of 2023, the PUC initiated rule development for the program.²¹⁸ Formal adoption of 16 TAC §25.511 implementing the program and establishing procedures for application, terms for annual payments, and performance standards took place on April 25, 2024.²¹⁹ Per 16 TAC §25.511, applications for the program cannot be submitted before January 1, 2025.²²⁰ Per SB 2627, grants may not be provided for facilities that interconnect on or after June 1, 2029. The PUC is currently building out the structure for administering the grants, and indicates that the application window will open on January 1, 2025.²²¹

Outside ERCOT Grant Program

Under SB 2627, the Outside ERCOT Grant Program is established to provide grants for transmission and distribution infrastructure or electric generating facilities in Texas outside of the ERCOT power region for modernization of infrastructure, weatherization, reliability and resiliency enhancements, and vegetation management.²²² Per legislation, grant funding awarded under this program may not be used to fund debt or activities related to coming into compliance with weatherization standards adopted before December 1, 2023.²²³ As of September of 2024, the PUC is developing rule language to implement the program and has published a draft of the proposed rule for review and public comment.²²⁴ Comments received will inform the program's design; final rule adoption for implementation is anticipated in the Spring of 2025.²²⁵

Texas Backup Power Package Program

The Texas Backup Power Package Program established under SB 2627 will provide grants and loans to qualifying entities for the design, procurement, installation, or use of backup power packages at facilities necessary to support a community's health, safety, and wellbeing.²²⁶

According to the legislation, a backup power package refers to a “stand-alone, behind-the-meter, multiday backup power source”.²²⁷ SB 2627 directs that backup power packages funded through the program must be engineered to minimize costs; utilize interconnection technology and controls that enable immediate islanding from the grid and stand-alone operation for the host facility; be

²¹⁷ https://www.puc.texas.gov/industry/electric/business/texas-energy-fund/#Bonus_Grant_Program.

²¹⁸ Public Utility Commission of Texas Interchange Filing Search, Filings for Project No. 55812.

²¹⁹ https://ftp.puc.texas.gov/public/puct-info/agency/resources/pubs/news/2024/PUCT_Adopts_Second_Rule_for_Implementation_of_the_Texas_Energy_Fund.pdf.

²²⁰ 16 TAC §25.511.

²²¹ *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Tex. 2024) (testimony of Thomas Gleeson and Connie Corona, PUC).

²²² *Id.*

²²³ Tex. S.B. 2627, 88th Leg., R.S. (2023).

²²⁴ https://interchange.puc.texas.gov/Documents/57004_4_1430775.PDF.

²²⁵ *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Tex. 2024) (testimony of Thomas Gleeson and Connie Corona, PUC).

²²⁶ Tex. S.B. 2627, 88th Leg., R.S. (2023).

²²⁷ *Id.*

capable of operating for at least 48 continuous hours without refueling or connecting to another power source; be designed so that one or more backup power packages can be aggregated on-site to serve a specified amount of load; provide power sourced from specified sources; and not be used for the sale of energy or ancillary services.²²⁸ In this context, “islanding” refers to a system through which local generation (such as an independent, backup power source) can continue to serve local need upon disconnection from the main grid (due to or during large-scale outages or weather events).²²⁹

SB 2627 directs the PUC to establish the Texas Backup Power Package Advisory Committee, which is directed to recommend criteria for the program.²³⁰ The membership of the Advisory Committee (announced in January 2024) includes:

- Senator Nathan Johnson;
- Senator Mayes Middleton;
- Representative Jay Dean;
- Representative Ana Hernandez;
- Chief Nim Kidd, Texas Dept. of Emergency Management;
- Kevin Knippa, Health and Human Services Commission;
- Alison Silverstein, Alison Silverstein Consulting;
- Matthew Boms, Texas Advanced Energy Business Alliance; and
- Ivan Velasquez, Oncor.²³¹

The PUC states that the Advisory Committee is expected to report on its recommendations by October 1, 2024.²³² SB 2627 also directs the PUC to contract with a research entity experienced in microgrid design to help develop specifications for the backup power packages, interconnection, controls, and more.²³³ The PUC indicates that reporting from the Advisory Committee and the research entity will inform rulemaking, with final rule adoption anticipated in the Spring of 2025.²³⁴

Recommendations

Ensuring that electricity infrastructure in Texas is reliable and resilient is paramount in upholding the state’s economic dominance and reputation as the best place to raise a family. The Legislature took swift and decisive action through the passage of SB 2627 and by allocating \$5 billion to capitalize the TEF. As Texas’ energy demands increase due to population growth, weather events, use of Artificial Intelligence, cryptocurrency mining, and the proliferation of data center facilities, the Legislature should consider making additional appropriations to the TEF to help meet demand forecasts.

²²⁸ Tex. S.B. 2627, 88th Leg., R.S. (2023).

²²⁹ <https://www.energy.gov/eere/solar/solar-integration-distributed-energy-resources-and-microgrids>.

²³⁰ Tex. S.B. 2627, 88th Leg., R.S. (2023).

²³¹ https://interchange.puc.texas.gov/Documents/55407_13_1359682.PDF.

²³² *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Tex. 2024) (testimony of Thomas Gleeson and Connie Corona, PUC).

²³³ Tex. S.B. 2627, 88th Leg., R.S. (2023).

²³⁴ *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Tex. 2024) (testimony of Thomas Gleeson and Connie Corona, PUC).

Further, in order to maximize the potential of the TEF, the Legislature should continue to closely monitor each program's implementation and ensure that the PUC has adequate resources to successfully administer funding and monitor awardees. The PUC should aggressively monitor any contractors or third-parties engaged for the TEF's administration, not only to ensure that all are adhering to the letter and spirit of the law, but also to prevent overreliance on external supports. The PUC should continue to engage with stakeholders and consumers across industry to monitor the TEF's impacts. Finally, the PUC should prioritize careful stewardship of TEF dollars – approved for use by the citizens of Texas – by ensuring that due diligence performed on potential awardees and monitoring for recipients in each program is extremely rigorous and thorough to prevent waste and misuse.

Charge No. 5 (c)

Monitor Property Tax Relief and Infrastructure Funds: Monitor the appropriations supporting, and implementation of, the following legislation passed during the 88th Legislature, Regular or Special Sessions, and approved by voters, amending the Texas Constitution:

- *Texas Water Fund: Senate Bill 28 and Senate Joint Resolution 75, 88th Legislature, Regular Session.*

Background

Numerous factors are increasing pressures on the state's water infrastructure and supply. The 2022 State Water Plan adopted by the Texas Water Development Board (TWDB, or the Board) in the summer of 2021 states that Texas' population is anticipated to increase 73 percent between 2020 and 2070; water demands are projected to increase by 9 percent over that time, while the state's existing water supplies (those that may be relied upon in a drought) are projected to decline by approximately 18 percent.²³⁵ The 2022 Water Plan reports that without aggressive conservation and water management strategies to expand supply, roughly one-quarter of the state's population in 2070 would have less than half the municipal water supplies required during a drought of record.²³⁶ In addition to pressures from population growth and limited supply, weaknesses in the state's existing water infrastructure have been exposed. During Winter Storm Uri in February of 2021, loss of pressure, damaged equipment within treatment and distribution systems, and other factors resulted in numerous boil water notices and left over 16 million Texans without access to potable water.²³⁷ In addition, the TWDB estimated in 2022 that over a hundred billion gallons of water are lost annually in Texas, primarily due to aged or faulty infrastructure (such as breaks or leaks in water mains, connections, or pipes).²³⁸

In response, the Texas Legislature has authorized the creation and funding of numerous financial assistance programs administered by the TWDB – resulting in approval of tens of billions of dollars in financial support²³⁹ to local entities to address challenges related to supply and infrastructure, flood planning and mitigation, and more.²⁴⁰ Despite significant financial assistance facilitated through state and federal programs, the TWDB states that it continues to experience high demand, often in excess of available funding capacity.²⁴¹ The 88th Legislature responded through passage of Senate Bill (SB) 28 and Senate Joint Resolution (SJR) 75, which together authorized the creation of the Texas Water Fund (TWF) to facilitate long-term investment in the state's water infrastructure and supply needs, contingent upon voter approval.²⁴² These legislation also created the New Water Supply for Texas Fund to finance projects that would lead to the creation of new water supplies.²⁴³ In anticipation of the TWF's creation, legislators appropriated

²³⁵ 2022 State Water Plan, Texas Water Development Board.

²³⁶ 2022 State Water Plan, Texas Water Development Board.

²³⁷ <https://www.tceq.texas.gov/downloads/publications/gi/gi-598.pdf>.

²³⁸ *Interim Charge #1*, Water, Agriculture, and Rural Affairs Report to the 88th Legislature.

²³⁹ *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Tex. 2024) (testimony of Bryan McMath and Brooke Paup, TWDB).

²⁴⁰ Texas Water Development Board Legislative Appropriations Request for Fiscal Years 2026 and 2027.

²⁴¹ *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Tex. 2024) (testimony of Bryan McMath and Brooke Paup, TWDB).

²⁴² Bill Analysis for Tex. S.J.R. 75, 88th Leg., R.S. (2023).

²⁴³ Tex. S.B. 28, 88th Leg., R.S. (2023).

\$1 billion in General Revenue to capitalize the TWF in Senate Bill 30, the Supplemental Appropriations Act.²⁴⁴ The Texas Water Fund's creation was authorized by voters in a constitutional election on November 7, 2023.

Discussion

Upon voter approval of SJR 75, the TWF was established as a special fund in the state treasury – outside of General Revenue – to be administered by the TWDB. According to the bill author, the purpose of SB 28 is to authorize the creation of the TWF, from which funds may be disbursed to certain existing TWDB program funds²⁴⁵ in order to rehabilitate the state's aging water infrastructure; fund a statewide water conservation awareness program; and finance supply projects through the New Water Supply for Texas Fund.²⁴⁶ SB 28 directs that the TWF be held and invested by the Texas Treasury Safekeeping Trust Company.²⁴⁷ According to the Trust Company, the TWF had accrued over \$23 million in interest earnings as of June 30, 2024.²⁴⁸ Passage of SJR 75 likewise certified all funds within or subsequently allocated to the TWF as dedicated by the state constitution.

To realize the Fund's objectives, SB 28 directs that the TWF may not be utilized to fund loans or grants directly, but may only be utilized for transfers in or out of the following funds and accounts:

- the Water Assistance Fund;
- the New Water Supply for Texas Fund (also created under SB 28);
- the State Water Implementation Fund for Texas (SWIFT) and the State Water Implementation Revenue Fund for Texas, which support the SWIFT financial assistance program providing low-cost financing for projects in the state water plan;²⁴⁹
- the Clean Water or Drinking Water State Revolving Funds (SRFs);
- the Rural Water Assistance Fund;
- the Statewide Water Public Awareness Account (also created under SB 28);
- the Water Development Fund II water financial assistance account; and
- the Water Development Fund II state participation account.²⁵⁰

SJR 75 requires that of funds initially appropriated to the TWF, a minimum of 25 percent must be transferred to the New Water Supply for Texas Fund.²⁵¹ Under SB 28, the Board is directed to finance projects (such as marine or brackish groundwater desalination, produced water treatment, and water acquisition or transport)²⁵² out of the TWF that will lead to seven million acre-feet of new water supply by December 31, 2033.²⁵³ SB 28 enables TWDB to make transfers to any of the

²⁴⁴ Tex. S.B. 30, 87th Leg., 3rd C.S. (2021).

²⁴⁵ *SB 28 & SJR 75: Texas Water Fund & New Water Supply Fund*, Office of State Senator Charles Perry (on file with the author).

²⁴⁶ Letter from Senator Charles Perry and Representative Tracy O. King to Jeff Walker, Executive Administrator of the Texas Water Development Board, November 8, 2023.

²⁴⁷ Tex. S.B. 28, 88th Leg., R.S. (2023).

²⁴⁸ *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Tex. 2024) (testimony of Mike Reissig and Anca Ion, Texas Treasury Safekeeping Trust Company, CPA).

²⁴⁹ *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Tex. 2024) (testimony of Bryan McMath and Brooke Paup, TWDB).

²⁵⁰ *Id.*

²⁵¹ Tex. S.J.R. 75, 88th Leg., R.S. (2023).

²⁵² Letter from Chairman Charles Perry, Senate Committee on Water, Agriculture, and Rural Affairs to Brooke T. Paup, Chairwoman, Texas Water Development Board, March 1st, 2024.

²⁵³ Tex. S.B. 28, 88th Leg., R.S. (2023).

authorized funds or accounts by resolution, and requires that the Board ensure that a portion of funds transferred from the TWF be utilized for the following:

- water infrastructure projects, prioritized by risk or need, for rural political subdivisions and municipalities with a population less than 150,000;
- projects for which all required state or federal permitting has been substantially completed;
- the statewide water public awareness program;
- water conservation strategies; and
- water loss mitigation projects.²⁵⁴

SB 28 and SJR 75 authorize appropriation authority for the TWDB for funds transferred between the TWF and other funds and accounts,²⁵⁵ as well as unexpended balance authority for the TWF itself.²⁵⁶ SB 28 allows reasonable and necessary costs incurred in administering the TWF to be paid out of the TWF not to exceed two percent. Finally, SB 28 directs the existing SWIFT Advisory Committee to provide comments and recommendations to TWDB regarding use of the TWF to inform rulemaking and to review the TWF's operation, structure, and function; however, the Advisory Committee is prohibited from recommending specific projects for funding.²⁵⁷

To support development of an implementation plan, the TWDB first encouraged water and wastewater systems interested in receiving assistance to submit projects aligned with the TWF (in particular those targeting conservation or water loss mitigation, per the directives in SB 28) to the agency's Drinking Water and Clean Water SRF State Fiscal Year 2025 solicitation between December of 2023 and March 1, 2024.²⁵⁸ The TWDB states that this was done as a means of evaluating demand for certain types of assistance that could be addressed through the funds and programs eligible for transfers from the TWF.²⁵⁹ To further inform implementation and rulemaking, the agency sought feedback from stakeholders through a variety of methods. The agency issued three surveys, each soliciting feedback on a different topic – including financial assistance for water infrastructure projects, the New Water Supply for Texas Fund, and the new Statewide Public Awareness Program – both to gain insight on how projects might be evaluated as well as to better understand local priorities and barriers to assistance.²⁶⁰ The TWDB also hosted a stakeholder meeting to discuss the Fund in Austin on March 20; a work session in Lubbock on April 10; and invited public comment on implementation during a number of regular Board meetings.²⁶¹

Utilizing information gleaned from this outreach and responses to the SRF solicitation, a proposed implementation plan with six suggested allocations of the \$1 billion appropriation to the TWF was presented to the Board in a public hearing on July 23, 2024. The TWDB states that the allocations

²⁵⁴ *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Tex. 2024) (testimony of Bryan McMath and Brooke Paup, TWDB).

²⁵⁵ Tex. S.B. 28, 88th Leg., R.S. (2023).

²⁵⁶ Tex. S.J.R. 75, 88th Leg., R.S. (2023).

²⁵⁷ Tex. S.B. 28, 88th Leg., R.S. (2023).

²⁵⁸ Texas Water Fund FAQs and Implementation Timeline.

²⁵⁹ *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Tex. 2024) (testimony of Bryan McMath and Brooke Paup, TWDB).

²⁶⁰ *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Tex. 2024) (testimony of Bryan McMath and Brooke Paup, TWDB).

²⁶¹ *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Tex. 2024) (testimony of Bryan McMath and Brooke Paup, TWDB).

were recommended in order to meet both statutory directives and respond to stakeholder engagement.²⁶²

Funding Description	Target Amount
Rural Water Assistance Fund	
<i>100 percent grant for conservation/water loss projects from SRF solicitation (under 1,000 population)</i>	\$45,000,000
<i>90 percent grant/10 percent loan or local match for conservation/water loss projects from SRF solicitation (1,000 to 10,000 in population)</i>	\$130,000,000
<i>High risk or need projects (100 percent grant)</i>	\$20,000,000
Rural Water Assistance Fund subtotal	\$195,000,000
Water Loan Assistance Fund	
<i>70 percent grant/30 percent loan or local match for conservation/water loss projects from 2025 SRF solicitation (10,001 to 150,000 in population)</i>	\$90,000,000
Statewide water public awareness program	\$15,000,000
SWIFT program support	\$300,000,000
Potential bond leveraged funding through existing financial assistance programs	\$150,000,000
New Water Supply for Texas Fund	\$250,000,000
Grand total	\$1,000,000,000

The first component includes a \$195 million allocation to the Rural Water Assistance Fund to address three different categories –

- \$45 million to fund grants for conservation and water loss projects received in response to the 2025 SRF solicitation (communities with populations under 1,000);
- \$20 million to fund grants for high-risk or need projects (based on applications for assistance, legislative mandates, significant compliance issues, targeting extremely low-income and low-population service areas, and more); and
- \$130 million to fund mixed assistance (combining majority grant assistance with either a 10 percent local match or loan component) to fund water conservation and loss projects likewise submitted in response to the 2025 SRFs solicitation for communities with populations ranging from 1,001 to 10,000 (\$50 million of which will be reserved for shovel-ready projects with substantial completion of permitting requirements).²⁶³

The second component includes a \$90 million transfer to the Water Loan Assistance Fund to support mixed assistance (combining 70 percent grant assistance with either a 30 percent local match or loan component) to fund water conservation and loss projects, again, submitted to the 2025 SRFs solicitation by larger communities (10,001 to 150,000 in population) with \$25 million reserved for mature projects (shovel-ready and largely permitted).²⁶⁴ The third component includes a \$300 million transfer to the SWIFT to enable issuance of nearly \$1.7 billion in State Water Implement Revenue Fund for Texas bonds.²⁶⁵ The TWDB states that this allocation responds to directives in SB 28 to use a portion of the TWF to prioritize need in small or rural communities, provides ongoing support for State Water Plan projects, and enables the fund balance in the SWIFT to grow and generate additional investment revenues.²⁶⁶ The fourth and fifth components fund the directives in SB 28 related to the newly established State Water Public Awareness Program and the New Water Supply for Texas Fund.²⁶⁷ The sixth component includes a potential transfer of \$150 million to enable bond issuance through other existing TWDB programs, such as the Development Fund or the SRFs.²⁶⁸

²⁶² *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance, 88th Interim (Tex. 2024)* (testimony of Bryan McMath and Brooke Paup, TWDB).

²⁶³ *Id.*

²⁶⁴ *Id.*

²⁶⁵ *Id.*

²⁶⁶ *Id.*

²⁶⁷ *Id.*

²⁶⁸ *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance, 88th Interim (Tex. 2024)* (testimony of Bryan McMath and Brooke Paup, TWDB).

On July 23, the Board authorized the proposed \$300 million SWIFT program support transfer and minor reimbursement of administrative costs.²⁶⁹ At a hearing on August 15, the Board approved several prioritized project lists (targeting systems serving various population ranges) for the Water Loan Assistance Fund and Rural Water Assistance Fund allocations.²⁷⁰ The prioritized project lists (focused on water conservation and loss mitigation) contain projects that are eligible for either or both the TWF allocations to the Water Loan Assistance Fund and the Rural Water Assistance Fund; prioritization was based on a variety of factors (including service area median income, the type of water loss addressed, whether or not the project would serve a rural entity, and more).²⁷¹ The TWDB will utilize full financial application submissions for these projects to determine final eligibility.²⁷² Throughout the remainder of 2024 and into the spring of 2025, the TWDB intends to evaluate projects for the remaining TWF allocations contemplated in the implementation plan and evaluate grant applications for the Statewide Water Public Awareness Campaign.²⁷³

The TWDB indicates that the only rulemaking required for the TWF implementation was limited to minor changes to two existing programs eligible for TWF transfers; more substantive rulemaking is planned for implementing the New Water Supply for Texas Fund in the Fall of 2024, with final adoption anticipated early in 2025.²⁷⁴

Recommendations

Water supply development is expensive, requires long-term planning, and often not realized due to water still available to the end user. Passage of SB 28 and approval of the Texas Water Fund by voters represent a huge step forward in securing the state's water future – both in addressing infrastructure and growing supply needs. In order to support the continued administration of the TWF, the Legislature should ensure that the TWDB is adequately staffed and resourced to administer TWF dollars and monitor all the financial commitments issued under its programs. In order to continue to address the increasing pressures on our water systems and enable continued development of new water supply, the Legislature should also evaluate the benefit of further appropriations for these purposes. Finally, in order to assess the long-term impacts of these investments, the TWDB should provide frequent updates regarding the impacts of the TWF and the New Water Supply for Texas Fund.

²⁶⁹ Minutes of the Texas Water Development Board Meeting, July 23, 2024, at 9:30 AM.

²⁷⁰ Minutes of the Texas Water Development Board Meeting, August 15, 2024, at 9:30 AM.

²⁷¹ Agenda Item Memo – Texas Water Fund Prioritized Water Loss Mitigation Projects, Texas Water Development Board Meeting, August 15, 2024.

²⁷² *Id.*

²⁷³ *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance, 88th Interim (Tex. 2024)* (testimony of Bryan McMath and Brooke Paup, TWDB).

²⁷⁴ *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance, 88th Interim (Tex. 2024)* (testimony of Bryan McMath and Brooke Paup, TWDB).

Charge No. 5 (d)

Monitor Property Tax Relief and Infrastructure Funds: Monitor the appropriations supporting, and implementation of, the following legislation passed during the 88th Legislature, Regular or Special Sessions, and approved by voters, amending the Texas Constitution:

- *Centennial Parks Conservation Fund: Senate Bill 1648 and Senate Joint Resolution 74, 88th Legislature, Regular Session.*

Background

In 2023, the Texas State Parks system celebrated 100 years.²⁷⁵ Throughout the system’s history, the Legislature has taken significant action to support its growth and ensure its success – including passage of Senate Joint Resolution (SJR) 24 by the 86th Legislature, authorizing a constitutional dedication of certain sales taxes collected on sporting goods to both the Texas Parks and Wildlife Department (TPWD) and the Texas Historical Commission (approved by voters in November of 2019).²⁷⁶ This revenue dedication has resulted in a more predictable and more robust funding stream to support state park operations, local park grants, and state park-related capital construction.²⁷⁷ However, with explosive population growth, pressures on the parks, natural areas, and historic sites have increased dramatically (with nearly 10 million visitors annually).²⁷⁸ TPWD reports that many parks reach capacity on weekends and holidays – resulting in visitors being turned away – and that in 2023, Texas was ranked only 35th in the nation in state park acreage per capita.²⁷⁹ In response, the 88th Texas Legislature passed Senate Bill (SB)1648 and Senate Joint Resolution 74, together authorizing creation of the Centennial Parks Conservation Fund (CPCF or Trust Fund) to serve as a sustainable funding source for acquisition of real property for state parks, contingent upon voter approval.²⁸⁰ The Legislature also appropriated \$1 billion in General Revenue to capitalize the CPCF in the 2024-2025 state budget.²⁸¹ The CPCF’s creation was authorized by voters in a constitutional election on November 7, 2023.²⁸²

Discussion

Upon voter approval of SJR 74, the CPCF was established as a trust fund outside the state treasury.²⁸³ Passage of SJR 74 likewise certified all funds within or subsequently allocated to the CPCF as dedicated by the state constitution. According to the bill author, the Trust Fund was envisioned as a permanent endowment to support ongoing investment in the state park system by enabling purchase of land to expand existing state parks or create new state parks.²⁸⁴ SB 1648 directs that that the CPCF be held and invested by the Texas Treasury Safekeeping Trust Company and administered by the TPWD.²⁸⁵ According to the TPWD, the CPCF has been invested in the

²⁷⁵<https://tpwd.texas.gov/newsmedia/releases/?req=20240112b>.

²⁷⁶ <https://tpwd.texas.gov/newsmedia/releases/?req=20191106a>.

²⁷⁷ https://tpwd.texas.gov/publications/pwdpubs/media/pwd_rp_a0900_0679_12_20.pdf.

²⁷⁸ https://tpwmagazine.com/archive/2024/jan/scout5_news/index.phtml.

²⁷⁹ <https://tpwd.texas.gov/state-parks/park-information/parks-fund/>.

²⁸⁰ Bill Analysis for Tex. S.B. 1648, R.S. (2023).

²⁸¹ Tex. H.B. 1, 88th Leg., R.S. (2023).

²⁸² <https://tpwd.texas.gov/newsmedia/releases/?req=20231108a>.

²⁸³ Tex. S.J.R. 74, R.S. (2023).

²⁸⁴ Bill Analysis for Tex. S.B. 1648, R.S. (2023).

²⁸⁵ Tex. S.B. 1648, R.S. (2023).

state's treasury pool but remains outside of the state treasury itself – accruing just over \$4 million in interest earnings per month.²⁸⁶ Per the Texas Safekeeping Trust Company, the CPCF had accrued over \$24 million in total interest earnings as of June 30, 2024.²⁸⁷

SB 1648 requires that prior to drawing down and expending funds from the CPCF, the TPWD must submit a request for approval to the Legislative Budget Board (LBB), outlining the proposed acquisition.²⁸⁸ SB 1648 and SJR 74 direct that the CPCF may only be used to acquire real property for the creation of state parks and to address any expenses associated with the management of the Trust Fund and its assets;²⁸⁹ the CPCF may not be used to pay for salaries, employee benefits, costs associated with employee benefits, administration costs, operating or program costs of the department, or the maintenance or operation of state parks.²⁹⁰ SB 1648 also requires the TPWD to report on any acquisitions funded through the Trust Fund in its biennial strategic plan.²⁹¹

To begin to identify tracts of land for potential acquisition, TPWD collected feedback from various stakeholders – including land realtors, local government, private landowners, land trusts, conservation groups, recreation groups, and the public regarding potential tracts to target for acquisition.²⁹² The agency notes that since January of 2024 and the Trust Fund's establishment, over 80 tracts have been nominated for consideration.²⁹³ The agency states that its goal in utilizing the CPCF is to acquire land to develop new state parks or expand existing sites in strategic areas in order to have the most beneficial impact for current and future generations of Texans. The TPWD notes that strategic areas may include geographic areas that are currently absent of state parks and regions that do not have enough existing parks to meet demand. Additionally, the agency notes that it plans to target population centers (such as the Texas Triangle or the Rio Grande Valley) and tracts with iconic landscapes and physical features.²⁹⁴ The agency maintains an information page on its website where interested parties can review the TPWD's priorities for CPCF-funded land acquisition, potential barriers to acquisition (such as cost, local sentiment, and legal issues), and contact information.²⁹⁵ On this webpage, the agency notes that tracts identified for consideration should:

- be scenic and represent iconic Texas landscapes and waters;
- be large enough to provide great visitor experiences (usually at least 500 acres);
- have natural, cultural and/or historic value;
- be near populated areas or areas lacking state parks; and
- offer nature-based recreation.²⁹⁶

²⁸⁶ *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance, 88th Interim (Tex. 2024)* (testimony of Rodney Franklin, TPWD).

²⁸⁷ *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance, 88th Interim (Tex. 2024)* (testimony of Mike Reissig and Anca Ion, Texas Treasury Safekeeping Trust Company, CPA).

²⁸⁸ Tex. S.B. 1648, R.S. (2023).

²⁸⁹ Tex. S.J.R. 74, R.S. (2023).

²⁹⁰ Tex. S.B. 1648, R.S. (2023).

²⁹¹ *Id.*

²⁹² *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance, 88th Interim (Tex. 2024)* (testimony of Rodney Franklin, TPWD).

²⁹³ *Id.*

²⁹⁴ *Id.*

²⁹⁵ <https://tpwd.texas.gov/state-parks/park-information/parks-fund/>.

²⁹⁶ *Id.*

In developing formal scoring criteria for the evaluation process, the TPWD reports that it utilized existing Texas Administrative Code – specifically a Natural Resources and Conservation rule related to land acquisition. The agency also leveraged existing land and water conservation and recreation plans²⁹⁷ that the agency is required to develop per state law²⁹⁸ and in order to be eligible for certain federal funding.²⁹⁹ Finally, TPWD notes that ideal CPCF-funded parks would be similar to existing state parks categorized as Tier III to specifically include day-use facilities, nature-based recreation opportunities, and a variety of overnight camping options (whether sites or lodging).³⁰⁰

The TPWD indicates that the evaluation process it has developed prior to pursuing acquisition is broken down into two phases. Under Phase One, the agency poses a series of questions that work to initially prioritize or eliminate proposed tracts – particularly if they demonstrate any “red flags”, such as inaccessibility, ownership constraints, insufficient acreage, or a history of environmentally damaging land use.³⁰¹ The TPWD states that as of August of 2024, 40 of the 80 nominated tracts had completed Phase One review. If a tract scores successfully under Phase One, evaluation will continue onto Phase Two, during which the TPWD staff evaluate a tract’s performance across a number of “mission critical categories”, such as a property’s resource value, location, recreational opportunities, economic and development feasibility, outstanding legal considerations, and stakeholder support.³⁰² Upon completion of these phases, additional site investigations are planned for confirmation and additional information gathering; the agency reports that as of August, over 30 site visits had taken place.³⁰³

Though no acquisitions utilizing the CPCF have taken place as of September of 2024, TPWD has likewise outlined a process for acquisition itself, subsequent to evaluating a property’s characteristics and suitability. If a tract is successfully reviewed, it may be formally recommended by agency staff for acquisition (and negotiations related to purchase), followed by notification to the TPWD Commission of intent to initiate a formal request for approval to acquire.³⁰⁴ Next, in alignment with legislative directives, the agency must seek review and approval of the proposed acquisition and requested CPCF disbursement from the LBB.³⁰⁵ If approval is granted, the final step includes obtaining approval from the TPWD Commission for the agency Executive Director to complete the acquisition. The TPWD notes that this last step in the process will also include a public hearing component.³⁰⁶ The agency notes that the CPCF-funded state park delivery process will include two disbursement requests – one for acquisition, as described, and a second for development.³⁰⁷

TPWD has also outlined the development process and timeline (including design and construction) for new parks subsequent to land acquisition. This process will include advanced planning and preliminary design, including permitting and environmental review (ranging from 18-24 months);

²⁹⁷ *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance, 88th Interim (Tex. 2024)* (testimony of Rodney Franklin, TPWD).

²⁹⁸ <https://tpwd.texas.gov/publications/land-and-water-plan>.

²⁹⁹ https://tpwd.texas.gov/business/grants/pwd_rp_p4000_1673_TORP.pdf.

³⁰⁰ *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance, 88th Interim (Tex. 2024)* (testimony of Rodney Franklin, TPWD).

³⁰¹ *Id.*

³⁰² *Id.*

³⁰³ *Id.*

³⁰⁴ *Id.*

³⁰⁵ *Id.*

³⁰⁶ *Id.*

³⁰⁷ *Id.*

design (ranging from six to 12 months); and finally construction, including – at a minimum – roads, utilities, restrooms, headquarters and maintenance facilities, camping facilities, and trails (ranging from 12-36 months to complete).³⁰⁸ TPWD states that timelines could vary depending on planned components, the level of existing development (properties may or may not be equipped with utilities, roads, buildings, or park-like features), and terrain.³⁰⁹ Historically, the timeline for developing a new state park, including acquisition, development, and opening, has ranged from eight to over 15 years due to less predictable and less robust funding dedicated for these purposes.³¹⁰ In order to expedite this process for CPCF parks, TPWD has organized a state park development team, including park planners and resource specialists, to work alongside the agency’s acquisition team. Additionally, the TPWD has entered into a number of blanket contracts to support projects as they move from planning to the design phase. The agency has stated its intention to consider phased openings for certain sites, if possible, to facilitate access for the public to new parks as quickly as possible.³¹¹

Projected Costs for a New State Park	
Component	Total Cost
Land Acquisition	\$25 - \$50M
Park Planning	\$1M - \$2M
Advanced Planning and Design	\$12 – \$15M
Construction	\$62 – \$73M
Total	\$100M – \$140M

*Costs reflect a stand-alone property (not adjacent to existing park) acquisition, design and construction.

TPWD estimates that total costs for the acquisition and development of a new standalone state park (including land purchase, planning, design, and construction) may range from \$100 million to \$140 million.³¹² The agency likewise estimates that the average staffing level for similar existing Tier III parks requires 11.5 FTEs, with annual operating budgets (excluding salary costs) ranging from \$94,000 to \$234,000 (though annual revenues are estimated to range from \$165,000 to \$775,000).³¹³ In light of precedent, the agency’s suggested budgeting “template” for operating a new park acquired and developed through the CPCF contemplates 13 FTEs, \$1 million in one-time start-up costs, \$175,000 annually for operations, and revenues and visitation amounts in line with other existing Tier III parks.³¹⁴

Recommendations

Voter approval of the Centennial Parks Conservation Fund offers a critical opportunity to develop a long-term strategy for acquiring and developing recreational spaces in Texas. Capitalized with a significant appropriation, and under thoughtful stewardship of the TPWD and the Texas Treasury Safekeeping Trust Company, the CPCF will provide a resource that can be leveraged for decades

³⁰⁸ *Monitor Infrastructure Funds Charge: Hearing Before the S. Comm. on Finance, 88th Interim (Tex. 2024)* (testimony of Rodney Franklin, TPWD).

³⁰⁹ *Id.*

³¹⁰ *Id.*

³¹¹ *Id.*

³¹² *Id.*

³¹³ *Id.*

³¹⁴ *Id.*

to enable the creation of new state parks across Texas. In order to ensure the CPCF's longevity, the Legislature must carefully review any requests for disbursements from the Trust Fund, and ensure that any proposed acquisitions adhere to the highest standard. Also, in addition to reporting currently required on completed acquisitions, the Legislature may consider requesting an annual or biennial report from TPWD outlining its broader strategy and mission for land acquisition and park development planning to ensure those objectives are aligned with legislative intent and achievable based upon the CPCF's balance and growth. These actions will ensure that Texans and visitors can continue to enjoy the beauty of Texas' parks for generations to come.

Charge No. 5 (e)

Monitor Property Tax Relief and Infrastructure Funds: Monitor the appropriations supporting, and implementation of, the following legislation passed during the 88th Legislature, Regular or Special Sessions, and approved by voters, amending the Texas Constitution:

- *Broadband Infrastructure Fund: House Bill 9 and House Joint Resolution 125, 88th Legislature, Regular Session.*

Background

According to U.S. Census Bureau data, 2.8 million Texas households and 7 million people lack broadband access.³¹⁵ The Texas Broadband Development Office (the “BDO”) states: “Twenty three percent of Texans are unable to attend online classes, see a healthcare provider from their living room, fill out a job application online, start a business or access online marketplaces from their kitchen table. These barriers negatively affect Texans’ quality of life and limit economic opportunities for people and the state overall.”³¹⁶

To assist with this problem, the 88th Legislature passed House Bill (HB) 9 and House Joint Resolution (HJR) 125, which created the Texas Broadband Infrastructure Fund (the “BIF”), to be administered by the Texas Comptroller of Public Accounts (the “CPA”). The creation of the BIF was authorized by Texas voters in November 2023 through approval of Proposition 8, which passed with 69.45 percent of the vote.³¹⁷ The BIF is a special fund in the treasury outside the General Revenue Fund. The CPA is charged with promulgating rules to administer the BIF and HB 9 limits the use of the BIF to certain categories: administering grants through the Broadband Development Program; funding 9-1-1 and Next Generation 9-1-1 upgrades and services; funding for the Pole Replacement Program created by the 87th Legislature; providing matching funds for federal money including the Broadband Equity, Access, and Development Program (BEAD); creating and updating the broadband maps; and providing outreach to communities regarding the expansion, adoption, affordability, and use of broadband services.³¹⁸ Within the CPA’s Office, the BIF is to be administered by the BDO, which was originally created by House Bill 5 during the 87th Regular Session.

The 88th Legislature appropriated \$1.5 billion in General Revenue in Fiscal Year 2024 to capitalize the BIF.³¹⁹ Funds appropriated to the BIF are considered constitutionally dedicated³²⁰ and the fund’s assets are managed by the Texas Treasury Safekeeping Trust Company. Of the \$1.5 billion appropriated, HB 9 directs two “one-time transfers” out of the BIF: \$155.2 million to the Next Generation 9-1-1 Service Fund and \$75 million to the Broadband Pole Replacement Fund.³²¹

³¹⁵ *Texas Broadband Plan*, TEX. BROADBAND DEV. OFF., <https://comptroller.texas.gov/programs/broadband/about/what/plan.php>.

³¹⁶ *Id.*

³¹⁷ *Election Results*, TEX. SEC. OF STATE, <https://results.texas-election.com/races>.

³¹⁸ Tex. H.B. 9, 88th Leg., R.S. (2023).

³¹⁹ Tex. H.B. 1, 88th Leg., R.S. (2023).

³²⁰ Tex. H.J.R. 125, 88th Leg., R.S. (2023).

³²¹ Tex. H.B. 9, 88th Leg., R.S. (2023).

Discussion

Looking Back

The 87th Legislature passed House Bill 5 to set the framework for broadband expansion in Texas. HB 5 established the BDO within the CPA's Office and tasked the BDO with preparing a state broadband plan, creating a map of areas with limited access to broadband service, and awarding financial incentives in those eligible areas to expand access. The 87th Legislature also appropriated \$5 million in General Revenue for this purpose.

During the 87th Third-Called Special Session, Texas appropriated \$500.5 million in Coronavirus Capital Projects Fund (CPF) funds from the federal American Rescue Plan Act (ARPA) to the CPA through Senate Bill 8.³²² CPF funds are administered by the U.S. Treasury and are intended to fund critical capital projects for states, with an emphasis on broadband infrastructure.³²³ Additionally, the National Telecommunications and Information Administration (NTIA) was tasked with administering the Broadband Equity, Access, and Deployment Program (BEAD), which was authorized by the Infrastructure Investment and Jobs Act (IIJA) and intended to fund projects that expand high-speed internet access and use.³²⁴ The NTIA has since allocated over \$3.3 billion in funding for Texas.³²⁵ It is critical to note that each of these funding sources have varying requirements. For example, all CPF funds must be expended no later than December 31, 2026.³²⁶ In contrast, BEAD subgrantees will have four years to complete projects following the date on which they entered into an agreement with the BDO.³²⁷

On June 15, 2022, the CPA released the Texas Broadband Plan to support the expansion of broadband access for underserved and unserved Texans.³²⁸ The BDO crafted the plan after receiving feedback from Texans through 12 public town halls, 60 virtual regional roundtable discussions and more than 16,000 survey responses.³²⁹ At the time the Broadband Plan was created, federal agencies had not yet finalized program guidance and funding allocations, however, the BDO was able to lay out three next steps for its work: establish a broadband-focused, federally compliant grant program; produce a broadband availability map; and manage recurring coordination and communication opportunities across stakeholder groups.³³⁰

³²² Tex. S.B. 8, 88th Leg., 3d C.S. (2023). Note that in addition to the BOOT Program, CPF dollars went toward the following programs and projects: \$7.8 million for the Infrastructure and Facility Access Improvement Program, administered by the Texas State Library and Archives Commission; \$6 million for the El Paso District Safety Rest Area Broadband Infrastructure Project, administered by the Texas Department of Transportation; and \$22.8 million for the Rural Hospital Broadband Program, administered by the Texas Department of Agriculture.

³²³ <https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/capital-projects-fund>

³²⁴ *Broadband Equity Access and Deployment Program*, BROADBANDUSA, <https://broadbandusa.ntia.doc.gov/funding-programs/broadband-equity-access-and-deployment-bead-program>.

³²⁵ *Broadband Equity, Access, and Deployment (BEAD) Program*, TEX. BROADBAND DEV. OFF., <https://comptroller.texas.gov/programs/broadband/funding/bead/>.

³²⁶ *Broadband Monitoring Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Texas. 2024) (written testimony from the Texas Broadband Development Office).

³²⁷ *Id.*

³²⁸ *Comptroller Glen Hegar Releases Texas Broadband Plan*, TEX. COMPTROLLER OF PUB. ACCOUNTS,

<https://comptroller.texas.gov/about/media-center/news/20220615-comptroller-glen-hegar-releases-texas-broadband-plan-1654892529367>.

³²⁹ *Id.*

³³⁰ *Texas Broadband Plan*, TEX. BROADBAND DEV. OFF., <https://comptroller.texas.gov/programs/broadband/about/what/plan.php>.

On January 12, 2023, the CPA released the Texas Broadband Development Map,³³¹ which uses data collected from internet service providers to show the availability of various types of high-speed internet access across Texas.³³² The process for creating the map follows the same process used by the Federal Communications Commission (FCC) to create the national broadband map and met the statutory guidelines established in HB 5.³³³ Broadband service is defined by the FCC as 25 Megabits per second download speed and three Megabits per second upload speed.³³⁴ Reliable broadband service is delivered using the following technologies: fiber-optic, cable modem/hybrid fiber-coaxial, digital subscriber line and terrestrial fixed wireless, encompassing licensed spectrum, unlicensed spectrum, and hybrid models.³³⁵

With respect to the broadband-focused, federally-compliant grant program, the BDO rolled out the Bringing Online Opportunities to Texas (BOOT) program in March of 2023.³³⁶ This grant program was designed to fund last mile broadband infrastructure projects in areas throughout the State. It was funded with \$438.8 million from the CPF.³³⁷ Ultimately, the first phase of BOOT (BOOT I) awarded \$11.9 million to fund 20 applications that are expected to bring broadband to 1,729 locations across the State.³³⁸ The BDO states that the number of eligible locations for this phase was severely limited due to the project areas being determined by an incomplete state broadband map.³³⁹ Texas Comptroller Glenn Hegar testified to the Senate Committee on Finance (Committee) that while BOOT I had its challenges, the BDO has incorporated the lessons learned into the second round of funding (discussed in the next section).³⁴⁰

Surveying Current Projects

The Bringing Online Opportunities to Texas (BOOT) Program, Phase II

As stated, the BDO dedicated \$438.8 million from the CPF to support BOOT and expended \$11.9 million during the first round of funding. The BDO rolled over the remaining CPF funds into BOOT II and also allocated up to \$303 million of state BIF dollars to the program.³⁴¹ The combination of federal and state funds brings the total funding amount for BOOT II to \$729.9 million.³⁴² The BDO selected two counties in each of the CPA's 12 economic regions based on demonstrated need,

³³¹ Available at: <https://experience.arcgis.com/experience/84f818b8ff304a96b0a1f5c08e581d06/page/County-Summaries/>.

³³² *Comptroller Glenn Hegar Releases Texas Broadband Development Map Identifying Areas Eligible for Funding*, TEX. COMPTROLLER OF PUB. ACCOUNTS, <https://comptroller.texas.gov/about/media-center/news/20230112-comptroller-glenn-hegar-releases-texas-broadband-availability-map-identifying-areas-eligible-for-funding-1672261638679>.

³³³ *Id.*

³³⁴ *Id.*

³³⁵ Broadband Development Maps, TEX. BROADBAND DEV. OFF., <https://comptroller.texas.gov/programs/broadband/outreach/maps/>.

³³⁶ *Notice of Funds Availability*, TEX. COMPTROLLER OF PUB. ACCOUNTS, available at <https://www.txsmartbuy.gov/esbd/BDO-NOFA-001>.

³³⁷ *Broadband Monitoring Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Texas. 2024) (written testimony from the Texas Broadband Development Office).

³³⁸ *Id.*

³³⁹ *Id.*

³⁴⁰ *Broadband Monitoring Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Texas. 2024) (testimony from the Texas Comptroller of Public Accounts).

³⁴⁰ *Id.*

³⁴¹ *Broadband Monitoring Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Texas. 2024) (written testimony from the Texas Broadband Development Office).

³⁴² *Id.*

measured by the percentage of eligible locations lacking broadband service. Applicants were able to bid on one or more counties to serve.³⁴³ Projects eligible for BOOT II funding are limited to projects that will deploy service to all unserved and underserved locations within an eligible county.³⁴⁴ The BDO testified to the Committee that they had over 100 applications for BOOT II at the time the application period closed.³⁴⁵ The CPA's Office expects to notify awardees on a rolling basis before the end of 2024.³⁴⁶ The Comptroller testified to the Committee that the "quick rollout is because we must expend all CPF fund dollars before Dec. 31 of 2026, and we want to award these projects before BEAD subgrantee selection begins to ensure that those locations are removed from the BEAD applications."³⁴⁷ If a location has been awarded a BOOT grant, it is not an eligible location for a BEAD grant. The same is also true in the inverse. Senate Bill 1238, passed by the 88th Legislature, makes clear that the BDO may not award a grant for a location that is subject to a federal commitment already.³⁴⁸

The Broadband Equity, Access, and Deployment Program (BEAD)

As mentioned, the NTIA is in the process of administering the BEAD program to support infrastructure deployment, mapping and adoption, including planning and capacity-building.³⁴⁹ The BDO will create a competitive process for potential subgrantees to apply for funding after the NTIA approves its proposal.³⁵⁰ The NTIA approved the CPA's Initial Proposal, Volume I on April 11, 2024.³⁵¹ Currently, the NTIA's approval of the BDO's Volume II, which outlines the CPA Office's subgrantee selection process, is still pending. According to the Office, the BEAD challenge process will begin December 3, 2024.³⁵² It is important to note that, although the formal challenge process has not yet begun, state and local governments; third parties (such as internet service providers or public interest groups); and consumers may challenge the National Broadband Map at any time.³⁵³ The map, created by the FCC, displays location-by-location views of high-speed internet availability across the country, as reported by internet service providers.³⁵⁴ Once the challenge results have been submitted to the NTIA, Volume II has been approved, and the subgrantees have been selected, the BDO will submit its BEAD Final Proposal to the NTIA.³⁵⁵ The BDO expects to do this in the Summer or Fall of 2025.³⁵⁶ Ultimately, following the NTIA's approval, the BDO will

³⁴³ *BOOT II: Bringing Online Opportunities to Texas*, TEX. BROADBAND DEV. OFF., <https://comptroller.texas.gov/programs/broadband/funding/boot-II/>.

³⁴⁴ *Broadband Monitoring Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Texas. 2024) (testimony from the Texas Broadband Development Office).

³⁴⁵ *Id.*

³⁴⁶ *BOOT II: Bringing Online Opportunities to Texas*, TEX. BROADBAND DEV. OFF., <https://comptroller.texas.gov/programs/broadband/funding/boot-II/>.

³⁴⁷ *Broadband Monitoring Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Texas. 2024) (testimony from the Texas Broadband Development Office).

³⁴⁸ Tex. S.B. 1238, 88th Leg., R.S. (2023).

³⁴⁹ *Broadband Equity Access and Deployment Program*, BROADBANDUSA, <https://broadbandusa.ntia.doc.gov/funding-programs/broadband-equity-access-and-deployment-bead-program>.

³⁵⁰ *Id.*

³⁵¹ *Broadband Monitoring Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Texas. 2024) (written testimony from the Texas Broadband Development Office).

³⁵² *Broadband Equity, Access, and Deployment (BEAD) Program*, TEX. BROADBAND DEV. OFF., <https://comptroller.texas.gov/programs/broadband/funding/bead/>.

³⁵³ *The FCC National Broadband Map*, TEX. BROADBAND DEV. OFF., <https://comptroller.texas.gov/programs/broadband/outreach/maps/fcc/>.

³⁵⁴ *Id.*

³⁵⁵ *Broadband Monitoring Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Texas. 2024) (written testimony from the Texas Broadband Development Office).

³⁵⁶ *Id.*

enter into agreements with the awarded subgrantees and those awardees will have four years to complete projects following their agreement dates.³⁵⁷

For almost all BEAD applications, matching funds of not less than 25 percent of project costs must be provided.³⁵⁸ A matching contribution may be provided by the subgrantee applicant themselves (internet service providers), an eligible entity (the state), a unit of local government, a utility company, a cooperative, a nonprofit or philanthropic organization, a for-profit company, regional planning or governmental organization, a federal regional commission or authority, or any combination thereof.³⁵⁹ While the match may be provided by multiple sources, the NTIA encourages states to require a match from the subgrantee providers rather than utilizing other sources where it deems the subgrantee capable of providing matching funds.³⁶⁰

There is an exception to the matching rule—match is not required for areas that are considered “high-cost areas.” A high-cost area is “an unserved area in which the cost of building out broadband service is higher, compared to the average cost of building out broadband service in unserved areas in the United States.”³⁶¹ The NTIA maintains a list of high-cost locations.³⁶²

The Texas Broadband Pole Replacement Program (PRP)

The PRP was established by House Bill 1505, passed by the 87th Legislature.³⁶³ This program provides reimbursement funds to eligible applicants to expedite the deployment of broadband to individuals in rural areas.³⁶⁴ Eligible applicants for reimbursement are pole owners and retail broadband service providers that have incurred costs for replacing poles in eligible areas to affix qualifying broadband facilities.³⁶⁵ HB 9 directed \$75 million to be transferred on a one-time basis from the BIF to the Broadband Pole Replacement Fund.³⁶⁶ That transfer was made on September 15, 2024.³⁶⁷ On July 29, 2024, the CPA announced an intent to solicit grant applications for this program.³⁶⁸ The application window opened on September 3 and closed on September 10.³⁶⁹ Notice of awards were issued on November 4, 2024.³⁷⁰ The initial award of \$18.5 million in grant funding benefits 17 counties.³⁷¹ The BDO has already posted a second Notice of Funding Availability for

³⁵⁷ *Id.*

³⁵⁸ *BEAD Notice of Funding Opportunity*, BROADBAND USA, available at <https://broadbandusa.ntia.doc.gov/sites/default/files/2022-05/BEAD%20NOFO.pdf>.

³⁵⁹ *Id.*

³⁶⁰ *Id.*

³⁶¹ *BEAD Match Primer*, INTERNET FOR ALL, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://broadbandusa.ntia.gov/sites/default/files/2024-05/BEAD_Match_Primer.pdf.

³⁶² *High Cost Census Block Groups (GBGs) Based on the FCC National Broadband Map*, INTERNET FOR ALL, https://www.internetforall.gov/sites/default/files/2023-08/HCBG_Map_230804.pdf.

³⁶³ Tex. H.B. 1505, 87th Leg., R.S. (2021).

³⁶⁴ *Texas Broadband Pole Replacement Program*, TEX. BROADBAND DEV. OFF., <https://comptroller.texas.gov/programs/broadband/funding/pole-replacement/#:~:text=Established%20by%20House%20Bill%201505,to%20individuals%20in%20rural%20areas>.

³⁶⁵ *Id.*

³⁶⁶ Tex. H.B. 9, 88th Leg., R.S. (2023).

³⁶⁷ *Broadband Monitoring Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Texas, 2024) (written testimony from the Texas Broadband Development Office).

³⁶⁸ *Texas Broadband Pole Replacement Program*, TEX. BROADBAND DEV. OFF., <https://comptroller.texas.gov/programs/broadband/funding/pole-replacement/#:~:text=Established%20by%20House%20Bill%201505,to%20individuals%20in%20rural%20areas>.

³⁶⁹ *Id.*

³⁷⁰ *Texas Comptroller Glenn Hegar Announces First Round of Awards for Texas Broadband Pole Replacement Program*, TEX. COMPTROLLER OF PUB. ACCOUNTS, <https://comptroller.texas.gov/about/media-center/news/20241104-texas-comptroller-glenn-hegar-announces-first-round-of-awards-for-texas-pole-replacement-program-1730394782865>.

³⁷¹ *Id.*

the program.³⁷² Applications for the second round will be accepted in January of 2025.³⁷³ Potential applicants may request reimbursement for their pole replacement costs up to the lesser of 50 percent of eligible expenses or \$5,000 per pole.³⁷⁴ Eligible replacement costs include any amount paid or incurred by an applicant after August 31, 2021, to: remove or dispose of an existing pole; purchase or install a new replacement pole; or transfer any existing facilities to the replacement pole.³⁷⁵

The State Digital Equity Capacity Grant Program

Also authorized by the IJA, this program's objective is to expand access to devices and provide digital literacy training to Texans.³⁷⁶ \$55.6 million total is available for this program. Additional funding is expected but has not been announced by the NTIA.³⁷⁷

The Technical Assistance Program (TAP)

The BDO established the TAP to provide additional resources to communities that need help with broadband planning.³⁷⁸ \$6 million total is available for this program. The TAP will aid local governments and communities by providing assistance to identify local broadband development opportunities and prepare for forthcoming state and federal funds.³⁷⁹ All Texas counties that lack the necessary capacity for broadband planning were eligible to participate.³⁸⁰ Leaders of a county's Broadband Planning Committee, as verified by the committee's certification with the BDO, were eligible to apply.³⁸¹ Thirty-two counties were accepted into the program and will have direct access to broadband planning and consulting services at no cost.³⁸²

Looking Ahead

One benefit to creating the BIF is that the state funds appropriated are subject to fewer restrictions than the aforementioned federal dollars. The BDO testified to the Committee that, at this time, the remaining BIF funds total approximately \$1.3 billion.³⁸³ Some possible uses for the BIF funds are as follows:

- **Matching Funds for BEAD:** As discussed, with the exception of entities applying to connect "high-cost areas" as defined by the NTIA, applying entities must provide match funds. While the NTIA encourages eligible entities to require match from the subgrantees,³⁸⁴ there may be scenarios in which it is appropriate for the State to provide assistance to subgrantees. It is critical to note here that HB 9 provides that the BDO "may only provide state matching funds if a state contribution is necessary for the economic

³⁷² *Notice of Funds Availability*, TEX. COMPTROLLER OF PUB. ACCOUNTS, available at <https://www.txsmartbuy.gov/esbd/BDO-NOFA-004>.

³⁷³ *Id.*

³⁷⁴ *Texas Broadband Pole Replacement Program*, TEX. BROADBAND DEV. OFF., <https://comptroller.texas.gov/programs/broadband/funding/pole-replacement/#:~:text=Established%20by%20House%20Bill%201505,to%20individuals%20in%20rural%20areas>.

³⁷⁵ *Id.*

³⁷⁶ *Digital Opportunity Program*, TEX. BROADBAND DEV. OFF., <https://comptroller.texas.gov/programs/broadband/funding/digital-opportunity/>

³⁷⁷ *Broadband Monitoring Charge: Hearing Before the S. Comm. on Finance*, 88th Interim (Texas, 2024) (written testimony from the Texas Broadband Development Office).

³⁷⁸ *Technical Assistance Program (TAP)*, TEX. BROADBAND DEV. OFF., <https://comptroller.texas.gov/programs/broadband/tap/>.

³⁷⁹ *Id.*

³⁸⁰ *Id.*

³⁸¹ *Id.*

³⁸² *Id.*

³⁸³ *Id.*

³⁸⁴ *BEAD Match Primer*, INTERNET FOR ALL, chrome-extension://efaidnbmninnibpcapjpcgclcfndmkaj/https://broadbandusa.ntia.gov/sites/default/files/2024-05/BEAD_Match_Primer.pdf.

feasibility of a proposed project” and “shall consider an applicant’s potential contribution toward matching the funds.”³⁸⁵

- **BOOT II:** The BDO plans to leverage CPF and BIF funds to connect approximately 20 percent of the State’s unserved addresses to high-speed internet by December 31, 2026.³⁸⁶ \$303.4 million in BIF funds have been rolled into this program at this time.
- **Middle Mile Grant Program:** The BDO may consider using BIF funds to provide for the expansion and extension of middle mile infrastructure across Texas to better serve disconnected communities.³⁸⁷
- **BEAD “Clean Up” Initiatives:** The BDO may use BIF funds to connect locations that may not be covered by BEAD funds, such as underserved locations, community anchor institutions (i.e. schools, libraries, medical and healthcare providers, public safety entities), and multi-dwelling units.³⁸⁸ Furthermore, as the BDO testified, they “do not anticipate that [\$3.3 billion] will connect every location in Texas,” and “when the dust settles on BOOT I, BOOT II, and BEAD, we’ll still see we still have pockets of urban, suburban, and rural areas that still lack access.” It is critical that Texas still has BIF funds at the end of those programs so that the State still has resources to connect those locations.
- **Workforce Support Program:** The BDO may utilize state dollars to incentivize schools and training institutions to develop broadband certification programs to support the workforce needs of the state.³⁸⁹

Recommendations

Texas and the federal government have both invested heavily to close the digital divide in the State through robust broadband expansion. However, many of the resulting programs significantly overlap and are running concurrently. It is critical that state and federal agencies responsible for awarding grant funds communicate and cooperate with each other to ensure that funds are distributed in an efficient and fair manner. The Legislature should ensure that the Broadband Development Office has the necessary staffing and resources to manage the administration of the various broadband grant programs. Furthermore, the Legislature should closely monitor the expenditure of state BIF funds, ensuring state dollars are available after CPF and IJA funds have been expended to connect the locations that may have been missed.

³⁸⁵ Tex. H.B. 9, 88th Leg., R.S. (2023).

³⁸⁶ *Broadband Monitoring Charge: Hearing Before the S. Comm. on Finance, 88th Interim (Texas, 2024)* (written testimony from the Texas Broadband Development Office).

³⁸⁷ *Id.*

³⁸⁸ *Id.*

³⁸⁹ *Id.*