

# Emergency Items of the Governor: An Analysis of the 86th Legislature

2019 Bush School Legislative Capstone

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## Executive Summary

The 86th Legislative Session faced many competing priorities and the results were inevitably unpredictable, as legislation tends to be. By analyzing the governor's emergency items and comparing the action to previous sessions, this paper aims to serve as a sort of performance measure for the session from the standpoint of staffers. To begin, each of the Capstone Scholars described their experiences within their placements during session and what the literature explains is the role of legislative staff. Collectively, Scholars saw the roles interest groups and lobbyists have on the legislative process and how Texas' professionalized legislative bodies are able to use their education and knowledge during session.

In order to explain Governor Abbott's emergency items in the 86th Legislature, this paper offers a brief history of the emergency items from Governor George W. Bush and Governor Rick Perry in an attempt to explain how emergency items do not always successfully go through the legislative process. There is also the high possibility that an emergency item will be amended in later sessions in order to correct unintended consequences and to make better policy for Texans.

Our paper begins with a quantitative analysis of the history of legislative sessions. We find that by examining the number of bills filed, passed, and the number of legislators over time that the Texas State Legislature has reached maturity as an institution. We also compared the Texas State Legislature to the other 49 state legislatures. We found that the Texas State Legislature is quite professional in relation to its peers and that its members are quite diverse and educated in comparison to other state legislatures.

In examining the legislative history of governors that have declared school finance as an emergency item, a foundation for analysis of House Bill 3 emerges. The previous emergency declarations include the use of a dedicated interim group of legislators, educators, and state agencies/authorities to form recommendations supported by the Governor, but the determinants

of success appear to be dependent on the Governor's willingness to work with legislators and the non-originating chamber's willingness to avoid partisan theater. Lessons are gleaned from the comparison of these legislative efforts across time to form conclusions that a Governor's authority in declaring an emergency item is not responsible for successful legislation, but rather the governor's willingness to work with legislators and allow them to lead the way to reform.

Throughout the history of the State of Texas, property taxes have almost always been at the forefront of Texans' and Legislators' minds. As property taxes have continued to rapidly increase, many Texans are being forced out of their homes due to their property tax levies. Noticing this, Governor Abbott declared that property tax reform and relief would be an emergency item for the 86<sup>th</sup> Legislative Session. Ultimately, through hours of work and bipartisan compromise, the Texas Legislature produced property tax and appraisal review reform in Senate Bill 2 and some property tax relief through House Bill 3.

Teacher pay became a major topic in Texas in 2019 after Governor Abbott addressed the need for better education for children, stating it starts in the classroom, with teachers. The Senate and the House of Representatives had very different approaches to the emergency. Governor Abbott played a role by voicing his support for merit-based pay, as seen in Dallas Independent School District. The emergency item of teacher pay raises will be determined in the Conference Committee of House Bill 3, with many voices sharing their opinions on the controversial matter.

Following the devastation in Santa Fe on May 18, 2018, at the hands of a 17-year-old gunman, Texas leaders demanded action on the issue of school safety. On May 30, 2018, Governor Abbott released the School and Firearm Safety Action Plan, that provided 24 recommendations for school safety. Senator Larry Taylor worked with Governor Abbott, Lieutenant Governor Patrick, and House Representatives to craft Senate Bill 11, addressing the



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policies, procedures, and measures for school safety and mental health promotion in public schools during this session.

For the first time, Texas has declared mental health an emergency item. Senator Jane Nelson and Representative Senfronia Thompson proposed Senate Bill 10 and House Bill 10 respectively, each tackling the emergency item in their own way. Both authors seek to bolster state research and service delivery for individuals experiencing mental health issues, placing an emphasis on children as to investigate how the issues emerge and address them at the source. This has proven to be a substantial and difficult task, requiring a significant amount of work to allow the two bills to work together without duplicating efforts.

In the aftermath of Hurricane Harvey, many Texas communities suffered devastating consequences and provoked the largest response to a natural disaster in Texas history. Governor Abbott recognized that although the response to Harvey was immediate and strong, there are ways that Texas can improve its emergency preparedness and response. This prompted the declaration of disaster relief as an emergency item, aiming to provide more disaster relief for communities still suffering and better the communication and coordination between entities so that Texas is more effectively prepared to combat any future natural disasters.

## Introduction

The 2019 Capstone Scholars analyzed emergency items presented by Governor Greg Abbott at the start of the 86<sup>th</sup> legislative session. These emergency items include school finance reform and pay raises for teachers, property tax reform, mental health reform, school safety, and disaster relief. These emergency items are considered the most important to the legislature and to the state and are required to be addressed in the legislative session. Some of these emergency items are more controversial than others—disaster relief legislation followed a politically-smooth process while school finance and property tax reform remained in the spotlight throughout the session.

The deliverable begins with the role of the legislative staff within the legislative process followed by an analysis of the Texas legislature in relation to other states. Emergency items are then detailed in their own respective sections. Each of these sections detail the legislative process that individual emergency items went through during the 86<sup>th</sup> session. The sections on emergency item explain and analyze the background and purpose of the emergency item, the history of the issue being declared an emergency item, and how it progressed throughout the legislative section.

By analyzing emergency items and comparing them to past emergency items, this deliverable is able to provide the context and mood for the legislative session. Past sessions have had as many as 12 emergency items and as few as zero, and many of these emergency items have been declared multiple times throughout Texas' legislative history. Occasionally a special session must be called because the legislature did not address the item in an adequate amount of time, but it does not appear that the 86<sup>th</sup> legislature will reconvene in a special session to take care of these emergency items. With the wrap-up of the 86<sup>th</sup> legislative session, all sections of the deliverable correspond with the latest developments available regarding each emergency

item. This deliverable aims to provide an analysis of the role of the legislative staff, the Texas Legislature as a whole, and of how the emergency items declared by Governor Abbott progressed through the 86<sup>th</sup> Texas Legislature.

## Qualitative Analysis of Legislative Staff Roles

ELIZABETH O'CONNOR



## The Role of Legislative Staff

As the role and functions of the Texas Legislature have evolved, so has the role of legislative staff. Previous analyses of the tasks done by the prior legislatures show how the Senate and the House have matured as bodies and as an overall institution. The Texas State Legislature is professional in relation to other states, as well as the staff inside the Capitol. The role of legislative staff in states has gone through multiple periods of transition throughout the history of the United States. There has also been a concurrent dynamic of state legislatures and the United States Congress. Typically, as Congress has developed and shifted in terms of professionalization and roles within the federal government, most state governments have also made that transition, modeling theirs after Congress.

Throughout these transitions, the role of the public servants who staff elected members and committees in state legislatures has also changed. After World War II, many states started to elect and utilize professionalized legislatures. This means that those elected into their positions might not have another job during interim times because their position in their legislature is full-time, or more time consuming than legislatures were prior to World War II.<sup>1</sup> In order to explain the role of public servants in the 86th Texas Legislature, Part II will offer a brief literature review of notable works regarding legislatures and their staff, as well as exploring the roles the Bush School Capstone Scholars in their respective offices. It will discuss the roles legislative staffs have within the context of the 86th Legislative Session, and the internal and external influences that affect each office's decisions. The literature review will be supplemented by the Capstone Scholars' experiences in each of their respective offices, which were compiled through survey questions compiled from April 7 - 9, 2019. Capstone Scholars were required to apply to offices

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<sup>1</sup> Squire, Peverill. *The Evolution of American Legislatures: Colonies, Territories, and States, 1619-2009* (University of Michigan Press, 2012), p. 92

within the Capitol and interview in order to find their placements. Scholars were hired by the following offices:

- Sydney Cerza- Senate Health and Human Services Committee
- Zachary Cochran- Representative Diego Bernal
- Grace Kelly- Representative Gary VanDeaver
- Court Manske- Senator Brandon Creighton
- Leah McKinley- Representative J.M. Lozano
- Elizabeth O'Connor- Senator Donna Campbell
- Samantha Wilkinson- Senator Jane Nelson

Our capstone placements varied in terms of professional backgrounds for our elected officials. Across the seven offices, there were doctors, lawyers, businesspersons, and educators. Their backgrounds have allowed for different policy insights as they make their decisions on bills. For example, Rep. Gary VanDeaver is a retired school superintendent from a rural area, and Capstone Scholar Grace Kelly saw how the Representative's background not only allowed him to connect to his constituency, but how he also was a valued resource on the House Committee on Public Education.

Capstone Scholar Zachary Cochran noticed a similar passion from his office without the traditional experience. Representative Diego Bernal, who is a lawyer by trade, is the Vice Chair of the House Committee on Public Education and his passion for education has led him to tour all of the schools in his district during the interim in order to become informed about their needs. Capstone Scholar Leah McKinley saw how Representative J.M. Lozano, who owns several Wingstop businesses in his district, personally knows many constituents who stop in. She noticed that his position as a small business owner has made him grounded and aware of potentially harmful legislation that can affect the small business community.

Due to the professionalization of legislatures, there are now higher standards for their staffers. The Council of State Government's Committee on Legislative Processes and Procedures recommended that Legislative employees be hired on the basis of merit rather than patronage.<sup>2</sup> This appears to be the case in the Texas Legislature. Within the placements of the capstone scholars during the 86th legislative session, the professionalization of staff was similar across offices. Many of those who were in positions to influence the policy directions of an office had received post-baccalaureate degrees, possibly having completed master's degrees or juris doctorates before entering public service.

However, some of the office colleagues become policy experts on a particular issue area by working with their elected official on the topic for a long time. Looking at the varying education backgrounds, some scholars had the opportunity to continue exploring chosen policy areas if the Senator sat on a particular committee or had authored a number of bills in those areas. Those who did not have this experience, or who had to pick up a second or third committee to track, were able to expand our policy knowledge as the Session went on.

As this type of transition happened, it became evident that legislatures were becoming dependent on staff members who came in with higher levels of research skills, and staff members who specialized in areas. The Citizens Conference on State Legislatures recommended that staff members be as supported similarly to elected members.<sup>3</sup> They should have salaries that make the positions competitive and limit turnover into the private sector, and that resources and research should be readily available. Capstone Scholar Samantha Wilkinson helped the Legislative

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<sup>2</sup> Burns, John. *The Sometime Governments: A critical study of the 50 American Legislatures by the Citizens Conference on State Legislatures*. (Bantam Books, 1972), p.293

<sup>3</sup> Burns, John. *The Sometime Governments: A critical study of the 50 American Legislatures by the Citizens Conference on State Legislatures*. (Bantam Books, 1972), p.113

Director and Senior Policy Analyst in Senator Jane Nelson's office throughout Session, but especially while the senate budget bill was being prepared, with tracking bills in other committees and preparing the bills being heard in committees for Senator Nelson.

In Senator Donna Campbell's office, Capstone Scholar Elizabeth O'Connor noticed that for especially technically bills, such as school finance reform and Senator Campbell's pro-life bills, hours of research and discussions with the office's General Counsel and Chief of Staff were had in order to prepare Senator Campbell for committee layouts and Senate Chamber hearings. Offices in the House and Senate can start filing bills in November, which means that a majority of the scholars started their positions after the fall semester ended with offices already in the midst of getting bills ready to move once Session started. These bill ideas largely came from constituents, rather than paid lobbyists. For example, in Representative VanDeaver's office, Grace was informed that their office did a tour of district schools to discuss school safety, and held focus groups with students and separately with parents, teachers, and administrators, to find out what the residents of the Representative's district actually believe about the proposed legislative items.

As legislators become more specialized, they begin to focus more on the policy making process and have less time to look at their constituencies. State legislators are able to spend less time in session because they have professionalized and educated staff assisting them, as well as having interest groups and lobbyists readily available to provide them with well-researched information.<sup>4</sup> Lobbyists and interest groups begin to play a role in the decision making process of offices when staff has to rely on their expertise on topics that may not be as familiar. Having this

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<sup>4</sup> Herbert, D.G. and Rosenthal, Alan. *Strengthening the States: Essays on Legislative Reform* (New York: Doubleday & Company, Inc., 1972), p.9-10



type of outside influence can ultimately sway the bias of an office.<sup>5</sup> Each of the scholars' offices approached lobbyists and interest groups differently, but shared a common theme of listening to the expertise and knowledge in order to understand the issues that affect each of their districts and the state.

As Session progressed, it became more apparent whom the offices' trusted more for their knowledge and the clients that they brought in. Some offices would also be more willing to accept meals or snacks from lobbyists than others, with the latter's reasoning being that they would be possibly less influenced by any biases. Regardless of efforts, an office is ultimately run by the elected member. If an office does not like a bill, or if it does not align with the priorities of their party or the leadership in each Chamber, they may not be willing to push a bill further.

The Texas Legislature is considered to be a "Gray Legislature" by the National Conference of State Legislatures.<sup>6</sup> Gray Legislatures are a hybrid of Green Legislatures which meet every year, with both the elected members and staff being professionalized and well paid and a Gold Legislature which is a part time body with elected members have another source of income and small staffs. Twenty-six states are considered to be represented by a Gray Legislature, according to the NCSL (Figure 1).<sup>7</sup> Texas meets for 140 days every two years, and each elected official makes \$7,200 per year plus a per diem of \$221 per day during Session.<sup>8</sup> With the exception of some who have retired from their other profession, almost all elected officials in the Texas Legislature have another job that they either take a break from or do part

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<sup>5</sup> Burns, John. *The Sometime Governments: A critical study of the 50 American Legislatures by the Citizens Conference on State Legislatures*. (Bantam Books, 1972), p.113

<sup>6</sup> National Conference of State Legislatures. *Full- and Part- Time Legislatures*. 14 June 2017. <http://www.ncsl.org/research/about-state-legislatures/full-and-part-time-legislatures.aspx>. 25 May 2019.

<sup>7</sup> National Conference of State Legislatures. *Full- and Part- Time Legislatures*. 14 June 2017. <http://www.ncsl.org/research/about-state-legislatures/full-and-part-time-legislatures.aspx>. 25 May 2019.

<sup>8</sup> Texas Ethics Commission. *Chapter 50*. 2019. <https://www.ethics.state.tx.us/legal/ch50.html>. 25 May 2019.

time in addition to Session. However, our offices all had professionalized staffs year-round. During Session, office sizes (excluding elected members) ranged from three people, to as many as ten. During the interim, many staffs retain only the office's Chief of Staff and Legislative Director (or equivalent) and start to repopulate their staffs about six or seven months prior to Session beginning.

As the 86th Session progressed, the scholars' collective opinions changed about the effectiveness of having a shorter session. Each student started this journey wondering whether there would be enough time to get bills heard and passed through two Chambers, possibly conferenced, and then onto the Governor's desk. Collectively, the scholars all began their time in session seeing the 140-day timeline as a tool for efficiency. However, as session progressed, it became clear that this was a tool for members to either use productively or as a way to influence which legislation would actually have a chance being passed.

For example, in the House, it was alleged that Speaker Bonnen held high profile bills for Democrats until the Senate's Property Tax bill was voted out of the House. And on May 17th, the 130th day of session, the Lieutenant Governor held the Senate at a prolonged recess since the House would was filibustering one Senate bill and not hearing more. For Senators, this became frustrating since the Senate Chamber had heard and passed more House bills at that point than the House had passed Senate bills. As May began, the scholars saw bills that each of their offices had filed having no chance of being heard in committees due to the committee chair's preferences. Some offices had to maneuver the politics in a committee in order to have a companion bill heard that had come over from the other chamber. As Sine Die approached, the scholars believed that some more time during regular session could have helped the legislative process move some more bills. However, with more time, it was considered whether that also

meant more empty rhetoric and filibustering would have happened to prevent bills from being heard. The scholars' individual perspectives on this topic are presented below, as collected via survey:

- I'm sure there is benefit to being a part-time body, but I do feel like 140 days is not enough. The budget bill takes up so much time and energy from Senators and staff and outside of that, it is hard to have enough time to focus on bills and priorities. In an ideal world, the budget would have its own dedicated part of session or something. It just doesn't seem efficient to me. (Cerza)
- I think there is a benefit of only meeting for 140 days every two years: not much bad stuff can happen. However, being here for only 140 days every two years makes it really difficult to budget, which is why we always have to make a supplemental appropriation. Overall, though, I think it is beneficial for our constituents that we only meet for a limited time - ultimately, it means that we have more time for them and their issues. (Cochran)
- The benefits of being a part-time body are that lawmakers are forced to be efficient with their time and resources, since they only get a limited window of opportunity to make laws, and they are forced to live underneath the laws they create, with the people most affected by them, in the interim period. If the legislature met more often, then it would be easier for members to put off legislation to the next session, rather than work out the details now. Additionally, Representatives serve two year terms that include one session; if there are multiple sessions then the voters don't have the opportunity to remove a member from office for undesirable policies/behaviors during the first session. Texas should continue to meet at the same rate, but committees should be able to start hearing bills much earlier. (Kelly)
- A big benefit is that the senators get to live in the communities they serve. They know all of the local officials and business leaders. They feel attached to their communities. I do think the legislature should meet more because I find it concerning how little time there is to analyze and research bills, as well as very little time for stakeholders to negotiate (Manske)
- [Having a shorter Session] forces members to be cordial and to pass things that they could end up spending nine months arguing about in a regular year-long session. It does make things more hectic, and if something steals the focus (like the bathroom bill last Session) it could hinder the real and important work from getting done. (McKinley)
- As Session has progressed, it has been interesting to see how less and less interest groups stop into the office; once the Senate filing deadline hit, only a quarter of the groups that would normally show up on a Floor day would stop into the office. I find this to be an interesting part of the Session timeline, since these issues still exist in communities and the bills addressing them are being heard after the filing deadline. Throughout Session, the running joke, or threat really, was that the Governor would call a Special Session and extend the amount of time to hear certain bills. However, these seemed to motivate some Senators to move certain bills along more quickly than they may have wanted to (O'Connor)
- There is a benefit to being a part-time body, allowing legislatures to work in their districts and be a part of their communities. But, Texas state government is one of the most inefficient things I have ever seen or had to be a part of. The mindset of so many staffers is that session is so incredibly hard and has long hours... There is also inefficiency in the way session is setup and how work is distributed throughout the session... Halfway through Session, and

there are so many bills that have not been heard, bills are just going through their first committees, and budgets (to allow bills to pass) are not completed. I have learned that there are many bills that do not pass simply because they ran out of time. (Wilkinson)

Overall, the 86th Legislature has shown scholars the benefits of a professionalized elected body and staff can have on policy outcomes. Various offices may look at topics differently, but the overall theme is that 140 days is not enough time to be wildly inefficient. Scholars have observed how lobbyists and interest groups contribute to the research and decision making of an office, as well as how the elected member may just decide on their actions regardless of what information has been provided to them. As this paper continues to discuss the progression of Governor Abbott's six emergency items, the information presented comes from each scholar's research, stakeholder meetings they were a part of, and scholarly research conducted by those groups that seek to inform the public of the actions of the Texas Legislature.

## Emergency Items of Prior Governors

Since 1931, Governors of Texas have been able to name “emergency items” to the Legislature. These are policy areas and topics that they see as the most important to address in that Session. This deliverable addresses the emergency items that Governor Abbott called for this Session. In this section, the focus is on the emergency items identified by Governors Bush (74th-76th Sessions) and Perry (77th-82nd Sessions). There is no set number of emergency items a Governor can call. Governor Bush declared six items in his first two sessions, and only two in his final session. In five of Governor Perry’s sessions, he called two or fewer emergency items, but declared ten in 2007 and five in 2011.<sup>9</sup> In his first session, Governor Abbott did not have any emergency items, and then had five in his next two, and then six in this current session.<sup>10</sup>

In his six sessions as governor, Governor Perry would rarely declare an emergency item. In his final session as governor, during the 82nd Legislative Session, Governor Perry’s emergency items had not moved through the legislative process by May 1. During that session, he wanted to focus on voter ID, sanctuary cities, sonograms for women getting abortions, a federal balanced budget amendment, and eminent domain protection.<sup>11</sup>

In the end, of the five items he called for, four passed and became law: Senate Bill 14 related to the requirements to vote; Senate Bill 19 related to eminent domain and the development and operation of certain toll projects; House Bill 15 related to requiring a sonogram and a 24 hour waiting period for women wanting an abortion; and House Constitutional Resolution 18 related to urging Congress to propose and submit to the states an amendment to

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<sup>9</sup> Reynolds, J. *Emergency Items Over the Years*. 19 Feb 2019. <https://www.texastribune.org/2015/02/19/emergency-items-over-years/>. 25 May 2019.

<sup>10</sup> Legislative Reference Library. *Governor document search*. 2019. <https://lrl.texas.gov/legeLeaders/governors/emergencyMatters.cfm>. 25 May 2019.

<sup>11</sup> Aguilar, Julian. *Where are Perry’s Emergency Items?* 29 Apr 2019. <https://www.texastribune.org/2011/04/29/where-are-rick-perrys-emergency-items/>. 25 May 2019.

the United States Constitution providing for a federal balanced budget. HB 15 had a comparable bill, Senate Bill 16, with the difference being that the waiting period was 2 hours rather than 24. The only emergency item that session that did not move was House Bill 12, which related to sanctuary cities. It passed through the House and died on the Senate floor after the first reading.

During the 85th Legislative Session, one of Governor Abbott's major emergency items that went through and was signed by Abbott was Senate Bill 5, which amended SB 14 from the 82nd Legislative Session previously mentioned. This bill changed the identification requirements a person needs in order to vote. Hispanic and black advocates claimed that this was a discriminatory bill. The other widely debated topic was sanctuary cities, Senate Bill 4, which ultimately failed.<sup>12</sup>

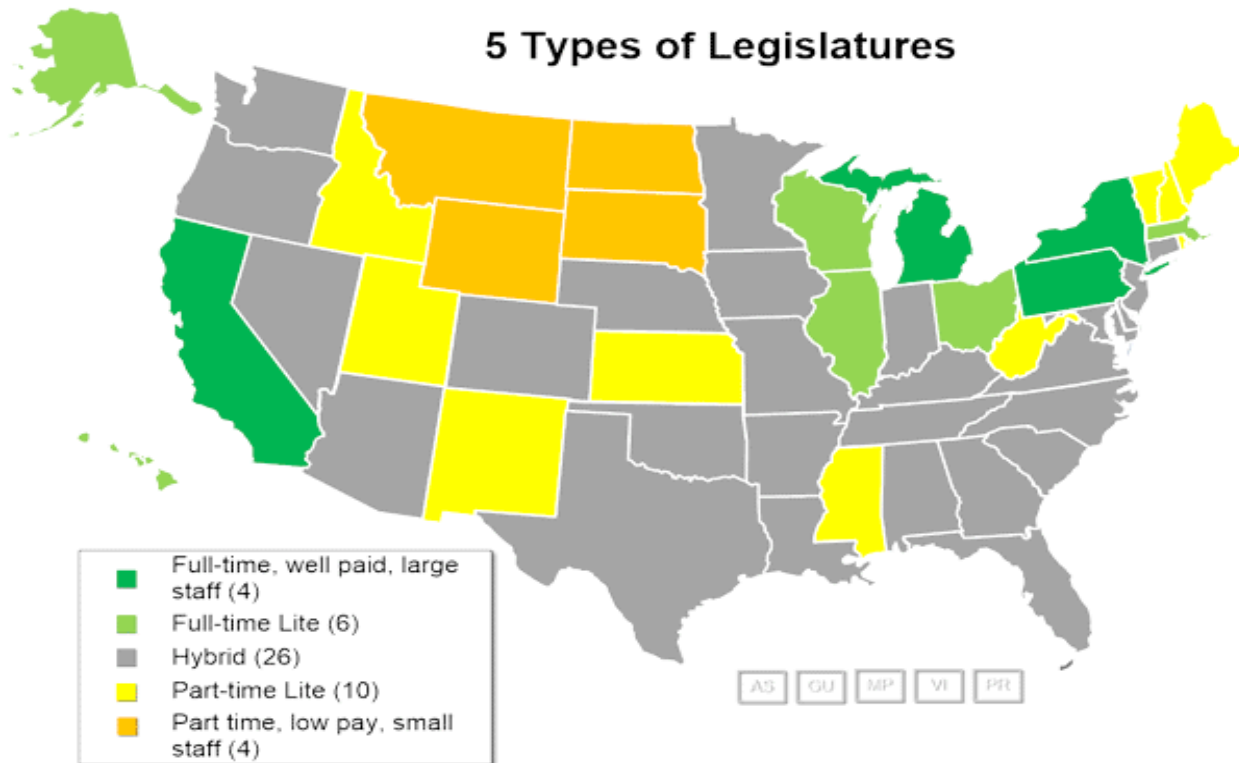
As we approach the end of the 86th Regular Session, no one knows if a special session will be called. A special session is a continuation of the regular session and is called when priority bills for the leadership have not been completed and can only be initiated by the Governor. The prior session only had one special session called by Governor Abbott. In order to complete his bills, Governor Perry called for three special sessions after the 83rd and 79th sessions, and four after the 78th session.<sup>13</sup> Completing, or not completing, certain legislative priorities can reflect on how the current Governor is doing. The rest of this paper will offer an analysis on the emergency items called on by Governor Abbott and how they each moved through the legislative process in the 140 days.

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<sup>12</sup> Gordon, Kristin. *Special Session ends, but did Abbott's agenda make it through?* 18 Aug 2019. <https://www.spartnerships.com/special-session-ends-abbotts-agenda/>. 25 May 2019.

<sup>13</sup> Gordon, Kristin. *Special Session ends, but did Abbott's agenda make it through?* 18 Aug 2019. <https://www.spartnerships.com/special-session-ends-abbotts-agenda/>. 25 May 2019.

Figure 1 5 Types of Legislatures, NCLS



Source: National Conference of State Legislatures. *Full- and Part- Time Legislatures*. 14 June 2017. <http://www.ncsl.org/research/about-state-legislatures/full-and-part-time-legislatures.aspx>. 25 May 2019.

## Quantitative Analysis of the History of Legislative Sessions

COURT MANSKE





## The Roots of the Texas State Legislature: The Legislature of the Republic of Texas

Following Texas' declaration of independence from Mexico, 60 of its citizens assembled to draft a constitution for the new republic. The Texas Constitution drew heavily from the U.S. constitution in the design of the legislative branch. For example, the Republic's vice president was to serve as the president of the Senate and each chamber of the legislature was tasked with writing its own rules.<sup>14</sup>

Other parts of the constitution which were pertinent to the legislature were borrowed from other state constitutions. For instance, similar to the United States' constitution, Texas' constitution allowed for the expulsion of a member of the legislature with a vote of 2/3s of the members; however, an additional clause stating that a member could not be expelled a second time for the same offense was borrowed from the 1812 Louisiana Constitution.

Some of the legislative provisions of the Republic of Texas constitution continue to have relevance to the modern Texas State Legislature. An important provision that continues to this day is the requirement that two-thirds of each house must be in attendance for a quorum to conduct legislative business. This unusually high attendance requirement also appeared in early Tennessee, Indiana, and Arkansas state constitutions.<sup>15</sup>

Although the Republic of Texas was not long-lived, the basic design of the Republic's legislature carried over to the state legislature.<sup>16</sup> Each of the Republic of Texas' legislative chambers carried over their system of standing committees to the new state legislature, although a few committees such as foreign relations and naval affairs were removed for obvious reasons.

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<sup>14</sup> Squire, Peverill. 2012. "The Evolution of American Legislatures." : 170.

<sup>15</sup> Squire, Peverill. 2012. "The Evolution of American Legislatures." : 171.

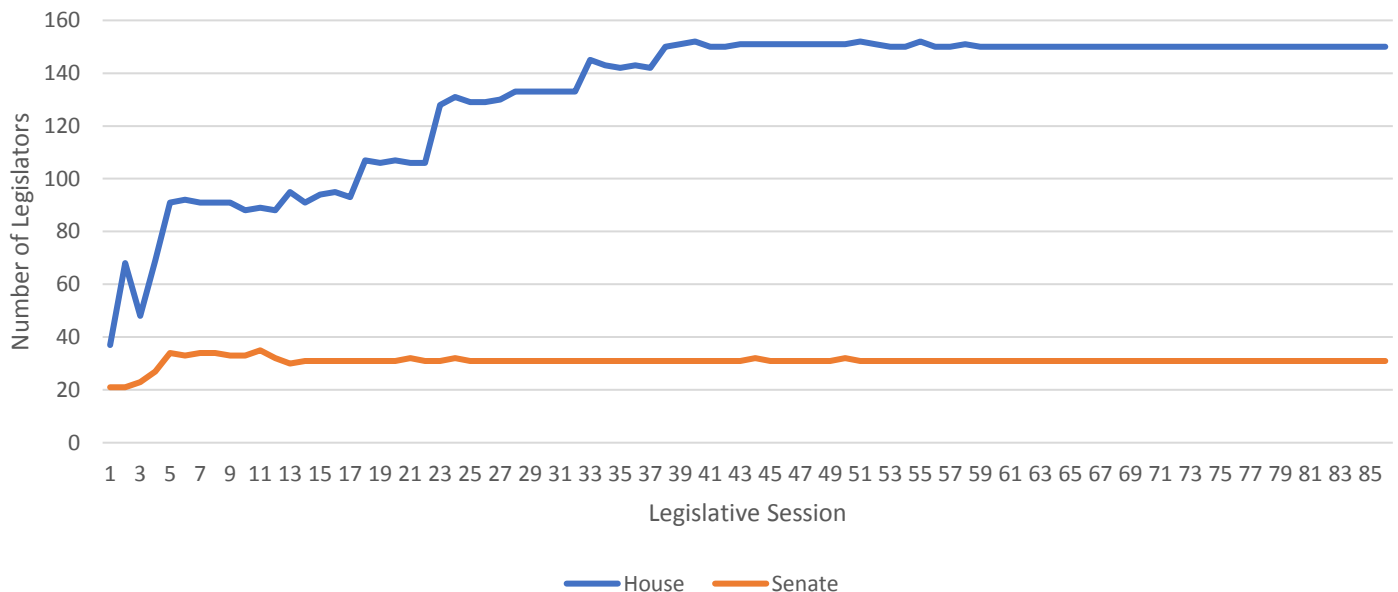
<sup>16</sup> Squire, Peverill. 2012. "The Evolution of American Legislatures." : 157.

Thus, the legislature of the Republic of Texas was largely unaltered when the legislature of the state of Texas came to be. Many of the members remained the same and many of the rules carried forward.<sup>17</sup>

### The Texas State Legislature Over Time

Since the Texas State Legislature first met in 1846, there have been 85 regular legislative sessions. During the first legislative session, there were 37 representatives in the Texas House and 21 senators in the Texas Senate. The number of members in the Texas House continued to grow until about the 38<sup>th</sup> legislative session, when it settled around 150 members, and the number of senators in the Texas Senate settled around 31 senators by the 13<sup>th</sup> legislature. The graph below (Figure 2) details how the number of representatives and senators has changed over time.<sup>18</sup>

*Figure 2 Number of Legislators by Session by Chamber*



<sup>17</sup> Squire, Pevevill. 2012. "The Evolution of American Legislatures." : 174.

<sup>18</sup> "Texas Legislative Sessions and Years." 2019. *Legislative Reference Library / Sessions / Sessions and years*. <https://lrl.texas.gov/sessions/sessionYears.cfm> (May 26, 2019).

Just as the number of legislators per chamber varied in early sessions before the body reached maturity, the length of regular legislative sessions varied widely until the 57<sup>th</sup> legislature when 140 days became the constitutional length of a regular meeting of the legislature. Prior to the constitutional amendment, a regular session could be as short as 45 days or as long as 77 days. The graph below (Figure ) shows the length of each regular session.<sup>19</sup>

Figure 3 Length of Session by Legislative Session

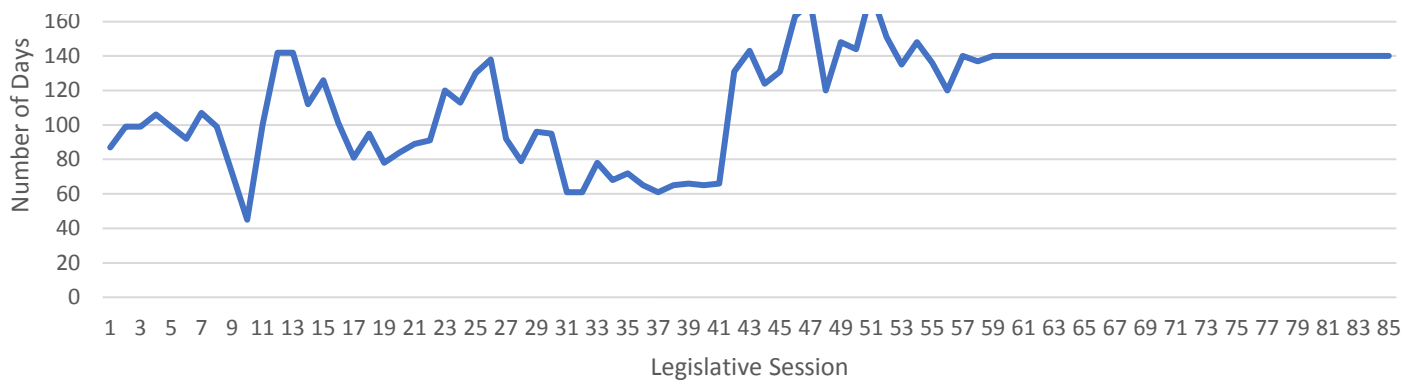
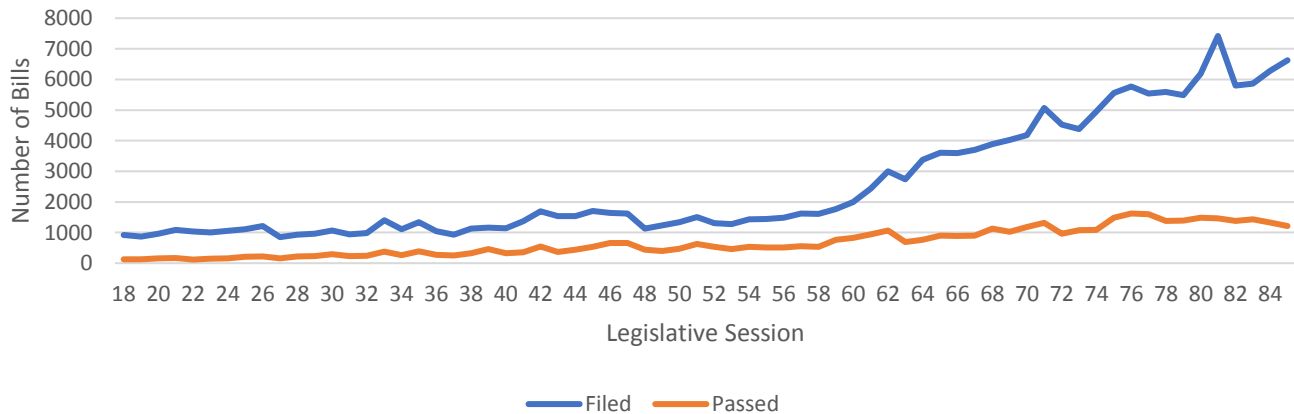


Figure 4 Number of Bills Filed and Passed by Legislative Session



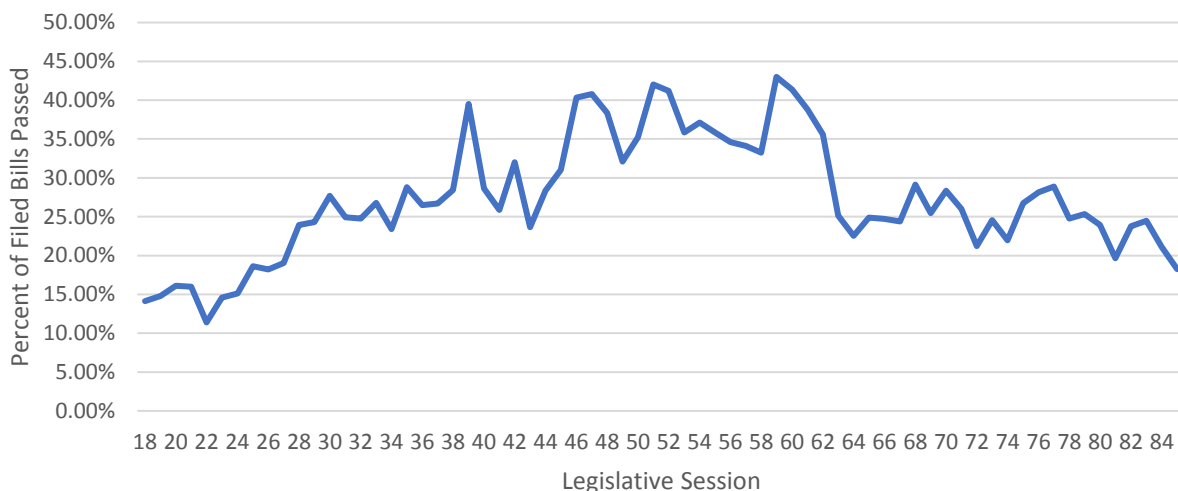
Although the length of a regular legislative session was normalized at 140 days and the number of legislators per chamber reached their mature values by the 57<sup>th</sup> legislatures, the

<sup>19</sup> “Texas Legislative Sessions and Years.” 2019. *Legislative Reference Library / Sessions / Sessions and years*. <https://lrl.texas.gov/sessions/sessionYears.cfm> (May 26, 2019).

number of bills filed and passed per session continued to grow over time, as evidenced by the graph above (Figure ).<sup>20</sup>

This phenomenon may be explained by a number of factors. One factor may be an increase in the number of staff per legislator over time. While there is not enough data to test this hypothesis, the earliest staff list available in the Legislative Reference Library is for the 67<sup>th</sup> legislative session. Additionally, Texas Legislative Council, the legislative agency which drafts the vast majority of bills that move through the Texas Legislature, was established just before the 52<sup>nd</sup> legislature.<sup>21</sup> This increase in professional staff assisting in the drafting of legislation may, in part, explain the dramatic increase in the number of bills filed over time.

*Figure 3 Percent of Filed Bills Passed by Legislative Session*



The earliest legislative session for which there is data on the number of bills filed and passed is the 18<sup>th</sup> legislative session. During this session, just over 14 percent of bills filed passed the legislature. The percentage of bills which passed the legislature continued to grow until the

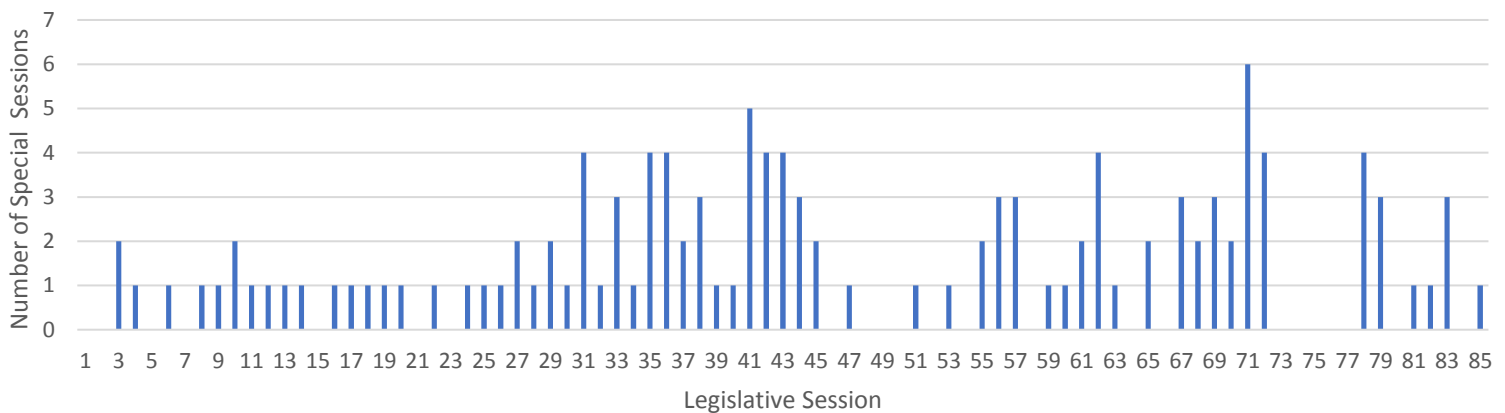
<sup>20</sup> “Texas Legislative Sessions and Years.” 2019. *Legislative Reference Library | Sessions | Sessions and years*. <https://lrl.texas.gov/sessions/sessionYears.cfm> (May 26, 2019).

<sup>21</sup> Jasinski, Laurie E. 2010. “TEXAS LEGISLATIVE COUNCIL.” *The Handbook of Texas Online/ Texas State Historical Association (TSHA)*. <https://tshaonline.org/handbook/online/articles/metfr> (May 26, 2019).

59<sup>th</sup> legislature when the percentage of bills which passed the legislature began to decline over time (Figure 5). This steep decline is likely due to the large increase in the total bills filed in the legislature which is described and explained above.

One structural feature of the Texas Legislature which does not appear to have a clear relationship with time is the number of special sessions per regular session. This may be due to the fact that the number of special sessions is determined by the governor, not the legislature.

*Figure 4 Number of Special Sessions per Regular Session*



However, there is a clear gap in the above graph (Figure 6), as there were no special sessions called during the 73<sup>rd</sup> through the 77<sup>th</sup> legislatures (1993-2001).<sup>22</sup> During this time period, Ann Richards was governor through 1995 and George W. Bush was governor through December of 2000. It is possible that a lack of special sessions could be explained by an increase in the number of emergency items declared by each governor.

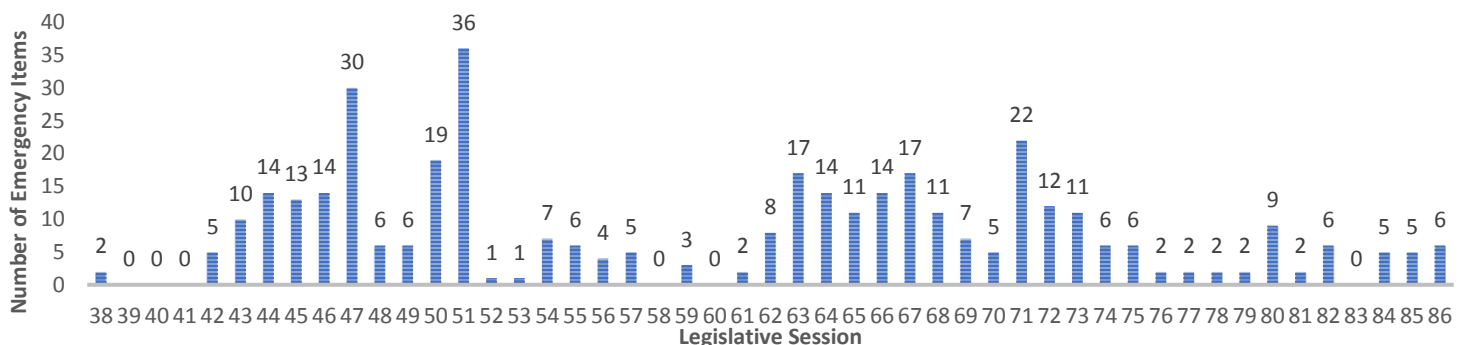
In the Texas Legislature, the first 60 days of the 140-day legislative session are reserved for filing bills and passing resolutions. However, if the governor decides to lay out “emergency items” the legislature may pass bills before the first 60 days have passed if they are related to the

<sup>22</sup> “Texas Legislative Sessions and Years.” 2019. *Legislative Reference Library / Sessions / Sessions and years*. <https://lrl.texas.gov/sessions/sessionYears.cfm> (May 26, 2019).

emergency items. Thus, if the governor laid out a large number of emergency items, the legislature would have more time to file bills relating to important issues and the need for a special session may be diminished.

The average number of emergency items per regular legislative session is just below 8 emergency items (however this average is reduced to just below 6 emergency items if the 47<sup>th</sup> and 51<sup>st</sup> legislative session are removed from consideration due to their outlier status). Thus, it is clear that there were an above average number of emergency items in the 73<sup>rd</sup> legislative session but in the 75<sup>th</sup>-77<sup>th</sup> legislative sessions, there were fewer than average (Figure 7). This suggests that an increased number of emergency items issued by the governor is not an acceptable explanation for the lack of special sessions during the 73<sup>rd</sup> through 77<sup>th</sup> legislatures.

*Figure 5 Number of Emergency Items per Legislative Session*



Overall, special sessions of the legislature are a frequent occurrence, being called for 62 of the 85 legislatures which have come and gone. The average number of special sessions per regular session is just under 1.5 special sessions.

### Conclusions from Examining the Texas State Legislature Over Time

While this investigation of the Texas State Legislature over time is solely empirical, the maturation of the Texas State Legislature is evident. The first piece of evidence which details that the Texas State Legislature has reached maturity is the consistency of the size of each

legislative chamber. The second piece of evidence which demonstrates maturity is the consistency of the length of its regular session. The third piece of evidence is that the number of bills filed has increased, while the number of bills passed has remained relatively consistent. This suggests that the legislature is able to produce more ideas for legislation in the same 140-day period, while not sacrificing quality by passing an increasing number of bills.

### Development of the Other 49 State Legislatures

While examining how the Texas State Legislature has matured over time is helpful for understanding the context of the modern Texas State Legislature, a brief look at the legislatures which developed alongside Texas' legislature will provide context for the environment in which Texas' legislature reached maturity.

### The 13 Colonial Assemblies

The 13 Colonial Assemblies of the 13 original, British colonies developed over the course of 157 years.<sup>23</sup> Their lower houses were elected, and their upper house were appointed, although there were outliers, as Georgia and Pennsylvania had unicameral legislatures. However, after the American revolution, the upper houses became elected, while the lower house only changed superficially.

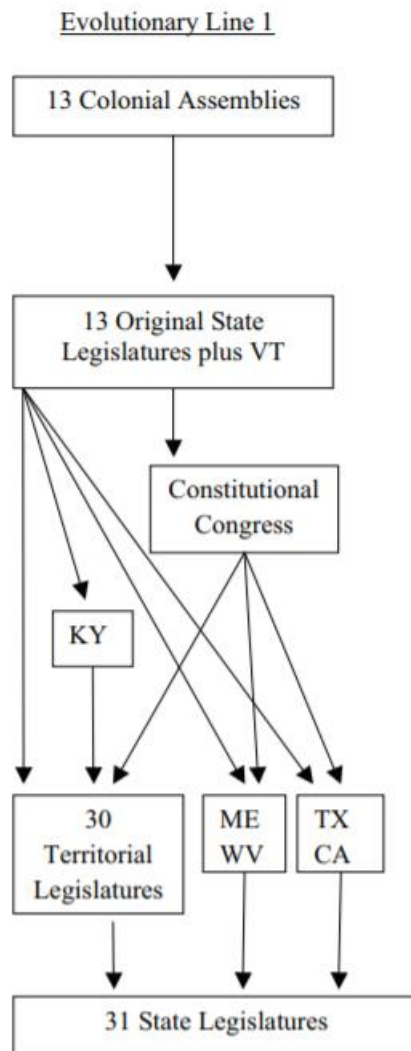
The legislatures of the 13 colonies inspired what became the United States Congress. The names of each chamber, the ability of the legislature to adopt its own rules and leaders, as well as the Presidential veto were all inspired by these original state legislatures. After the adoption of the constitution in 1783, Georgia and Pennsylvania quickly became bicameral legislatures, and the legislatures of new states which were added to the Union over time were heavily influenced

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<sup>23</sup> Squire, Pevevill. 2012. "The Evolution of American Legislatures." : 5.

by the design of the United States Congress.<sup>24</sup> The following diagram is used by Squire in *The Evolution of American Legislatures* to show how early American legislatures influenced the ones that came thereafter (Figure 8).<sup>25</sup>

*Figure 6 Evolution of American Legislatures*



<sup>24</sup> Squire, Peverill. 2012. "The Evolution of American Legislatures." : 8.

<sup>25</sup> Squire, Peverill. 2012. "The Evolution of American Legislatures." : 9.



## Territories Become States

The Northwest Ordinance of 1787 set out the path for new states to be admitted to the Union.<sup>26</sup> New areas which were added to the territory of the United States would first be recognized as territories and then later recognized as states when they met certain requirements.<sup>27</sup> However, Squire explains that Vermont and Kentucky are outliers in this regard, as they were added to the Union after the adoption of the constitution but were never US territories.<sup>28</sup>

US Territories went through two stages on their way to statehood. In the initial stage, territories were governed by a governor and three judges, which were all appointed by the President and approved by the US Senate.<sup>29</sup> In order to move to the second stage, territories were required to meet certain population requirements; however, Squire notes that political pressure in the US Congress led territories into the second stage, rather than the population requirements which were enshrined in law.<sup>30</sup>

In the second-stage, legislative power was taken from the governor and judges and vested in a new territorial legislature. These new legislatures generally had elected lower house and appointed upper-house. Many of these territories successfully lobbied for an elected upper house over time, but many territories would not be able to elect their upper houses until statehood.<sup>31</sup>

Territorial legislatures were populated largely by young frontiersmen.<sup>32</sup> They met wherever they could, such as in churches, hotels, or under the shade of large trees.<sup>33</sup> The early territorial legislatures were characterized by high turnover and a lack of professionalism.<sup>34</sup>

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<sup>26</sup> Squire, Peverill. 2012. "The Evolution of American Legislatures." : 102.

<sup>27</sup> Squire, Peverill. 2012. "The Evolution of American Legislatures." : 9.

<sup>28</sup> Squire, Peverill. 2012. "The Evolution of American Legislatures." : 10.

<sup>29</sup> Squire, Peverill. 2012. "The Evolution of American Legislatures." : 102.

<sup>30</sup> Squire, Peverill. 2012. "The Evolution of American Legislatures." : 103.

<sup>31</sup> Squire, Peverill. 2012. "The Evolution of American Legislatures." : 106.

<sup>32</sup> Squire, Peverill. 2012. "The Evolution of American Legislatures." : 109.

<sup>33</sup> Squire, Peverill. 2012. "The Evolution of American Legislatures." : 120-123.

<sup>34</sup> Squire, Peverill. 2012. "The Evolution of American Legislatures." : 117.

Nonetheless, territorial legislatures slowly developed into more professional institutions. They adopted rules and standing committee systems from preceding American legislatures and many of these structures stuck with these territories as they became states.<sup>35</sup>

## Outliers

The 13 original states, as well as Vermont and Kentucky, became states without first being territories, while 31 other states became states by first being territories. The remaining four states Maine, West Virginia, Texas, and California followed other paths to statehood.

Both Maine and West Virginia became states by separating from other states. Maine separated from Massachusetts, in 1820, as a part of the Missouri Compromise. As is a trend in US History, the Maine legislature borrowed heavily from the legislature which preceded it. Of the few differences between the new Maine and Massachusetts legislatures, two of the most significant were the size of the bodies and the names of the legislature. Thus, the new Maine legislature was *very* similar to the Massachusetts state legislature which preceded it, in fact many members of the Massachusetts state legislature would become members of the Maine state legislature.<sup>36</sup>

West Virginia separated from Virginia less amicably than Maine separated from Massachusetts, separating from Virginia to remain a part of the Union during the Civil War.<sup>37</sup> The new West Virginia Legislature retained many elements of its parent legislature, but notably moved from a biennial legislative session to an annual legislative session.<sup>38</sup>

Because the story of Texas' legislature was described in a previous section, the final legislature to be described is that of California. Prior to statehood, California had nothing

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<sup>35</sup> Squire, Peverill. 2012. "The Evolution of American Legislatures." : 156.

<sup>36</sup> Squire, Peverill. 2012. "The Evolution of American Legislatures." : 166.

<sup>37</sup> Squire, Peverill. 2012. "The Evolution of American Legislatures." : 164.

<sup>38</sup> Squire, Peverill. 2012. "The Evolution of American Legislatures." : 167.

resembling a territorial legislature. After the territory was taken from Mexico, it operated under a military government for the years prior to statehood. In 1849, when California held its constitutional convention, it based its constitution and legislature off of the constitutions of Iowa and New York. This shows that even though California had no immediate parent legislature, the drafters of its constitution relied heavily on the documents of the states that came before it.<sup>39</sup>

### Conclusions from the Development of the Other 49 State Legislatures

The primary conclusion from the development of the state legislatures of the United States is the primary resource that the creators of new legislatures had were the legislatures which came before them. While territorial and other early legislatures did not have extensive law libraries, they did have copies of the US Constitution, members which had previously served in other legislatures, and the constitutions of the states which came before them. Thus, while the following sections will highlight the many ways in which the modern 50 state legislatures differ, there share more in common than they differ.

### The Modern Texas State Legislature in Comparison to the Other 49 State Legislatures

#### Citizens per member of the Legislature

During the 86<sup>th</sup> legislative session of the Texas State legislature, the Texas house has 150 members and the Texas Senate has 31 members.<sup>40</sup> With a population of over 25 million<sup>41</sup>, in 2010, this means that Texas has approximately 167,637 citizens per member of the Texas House and 811,147 citizens per member of the Texas Senate. This gives Texas the second highest number of citizens per member of the House and Senate.

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<sup>39</sup> Squire, Peverill. 2012. "The Evolution of American Legislatures." : 174-175.

<sup>40</sup> 2019. *Legislative Reference Library | Sessions | Session snapshot*.  
<https://lrl.texas.gov/sessions/sessionSnapshot.cfm?legSession=86-0>.

<sup>41</sup> US Census. 2019. "State Population Totals: 2010-2018." *State Population Totals: 2010-2018*.  
<https://www.census.gov/data/tables/time-series/demo/popest/2010s-state-total.html>.

As is evinced in the table and chart below (Figure 9), the states with the highest populations tend to have the highest numbers of citizens per legislator.<sup>42</sup> This makes sense in the context of the maturation of state legislatures. In prior sections, the size of Texas’ House of Representatives and Senate grew over time but reached a maximum number of members, as the institution matured. Because the population of Texas continued to grow and the size of its legislature did not, it is easy to understand why Texas has so many citizens per member of the legislature (Table 1).

Figure 7 Citizens per Legislator

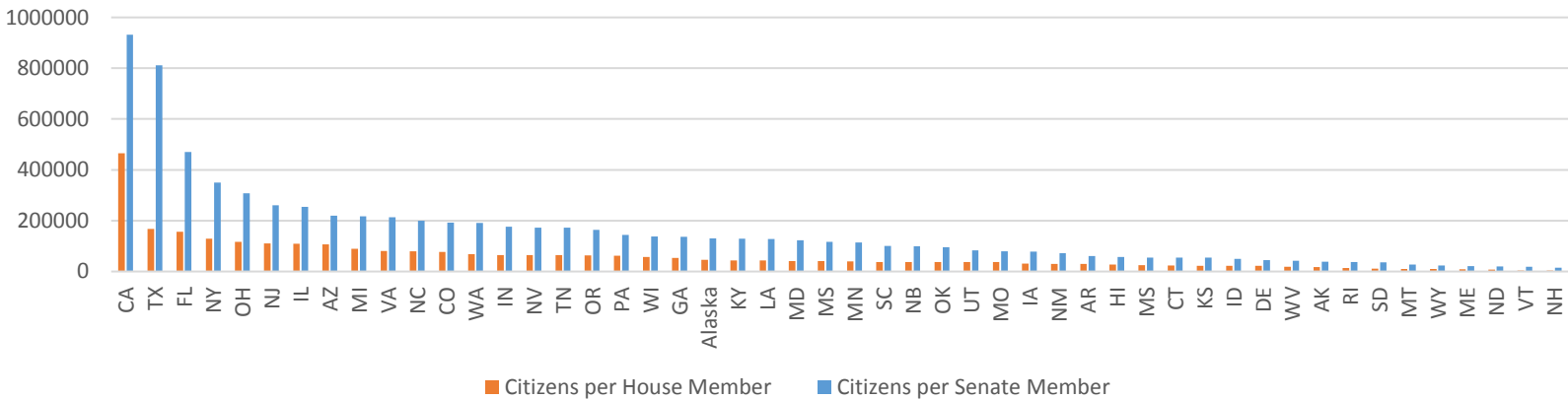


Table 1 Citizens Per Legislator

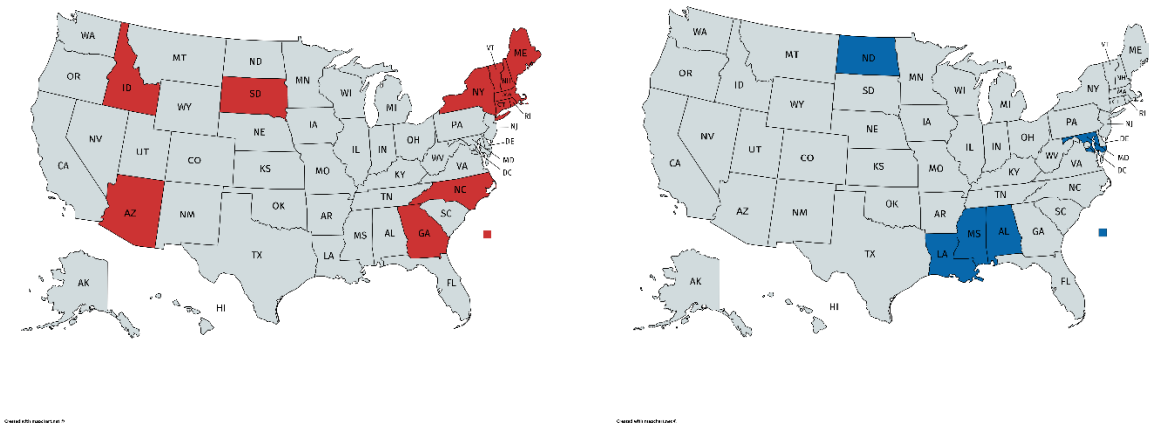
Rank	State	Citizens per House Member	Rank	State	Citizens per Senate Member
1	California	465,674	1	California	931,348
2	Texas	167,637	2	Texas	811,147
3	Florida	156,677	3	Florida	470,032
4	New York	129,187	4	Ohio	349,591
5	Ohio	116,530	5	New York	307,588
				South	
46	Wyoming	9,393	46	Dakota	23,262
47	Maine	8,797	47	Vermont	20,858
48	North Dakota	7,155	48	Montana	19,788
49	Vermont	4,171	49	Wyoming	18,787
				North	
50	Hampshire	3,291	50	Dakota	14,310

<sup>42</sup> Warnock, Kae, and Brenda Erickson. 2019. *Number of Legislators and Length of Terms in Years*. <http://www.ncsl.org/research/about-state-legislatures/number-of-legislators-and-length-of-terms.aspx> (May 26, 2019).

## Term of Office

Legislators in the Texas House serve two-year terms and Texas Senators serve for year terms. In this regard, Texas is quite similar to the rest of the nation, as in 45 states, state house members serve two-year terms and, in 38 states, state senate members serve four-year terms. In the maps below (Figure 8) states where senators only serve two terms are highlighted in red and states where house members serve four years are highlighted in blue.<sup>43</sup>

*Figure 8 Term of Office*



## Frequency and Length of Session

Texas is one of four states, including Montana, Nevada, and North Dakota, which continue to have biennial meetings of the legislature.<sup>44</sup> Of the four states with biennial legislatures, Texas meets for the longest amount of time at 140 calendar days (Table 2).

*Table 2 Length of Biennial Sessions*

State	Length of Biennial Session
Texas	140 Calendar Days
Nevada	120 Calendar Days

<sup>43</sup> Warnock, Kae, and Brenda Erickson. 2019. *Number of Legislators and Length of Terms in Years*. <http://www.ncsl.org/research/about-state-legislatures/number-of-legislators-and-length-of-terms.aspx> (May 26, 2019).

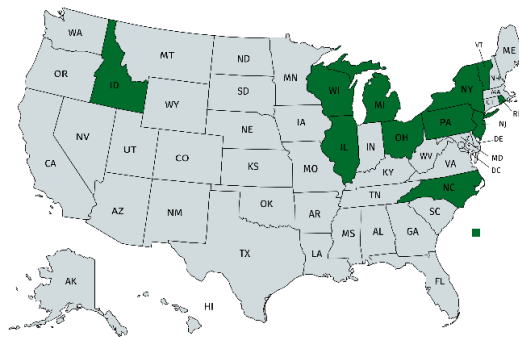
<sup>44</sup> “Annual versus Biennial Legislative Sessions.” *NCSL*. <http://www.ncsl.org/research/about-state-legislatures/annual-versus-biennial-legislative-sessions.aspx>.

Montana  
North  
Dakota

90 Legislative Day  
80 Legislative Days

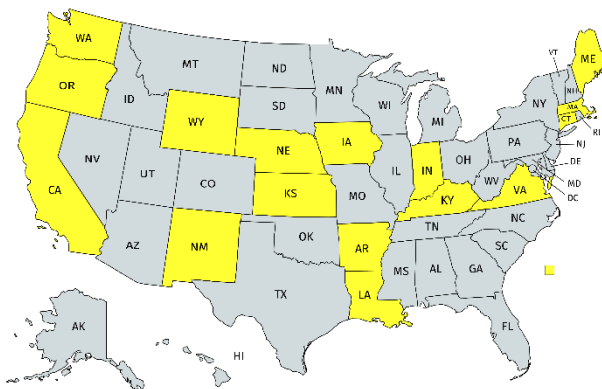
The remaining 46 states meet on an annual basis. Of the 46 states that meet annually, 11 do not place a limit on the length of their legislative session. These states are highlighted in green in the map below (Figure 11).

*Figure 9 States without a Limit on Legislative Session*



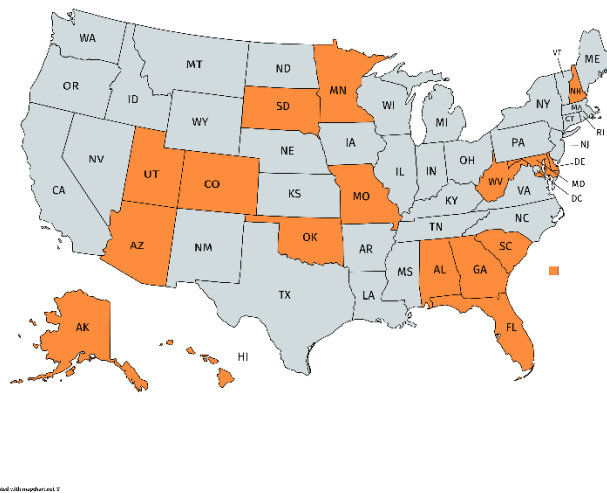
Of the 35 states whose length of legislative session have not yet been described, 17 state legislatures meet for different lengths depending on whether the session takes place during an odd or even numbered year. They are highlighted in yellow in the map below (Figure 10).

*Figure 10 State Legislatures that Met for Different Lengths Depending on Odd/Even Year*



The remaining 18 states meet for a given number of days each year, regardless of whether it is an even or odd numbered year, except for Mississippi, which meets for 90 calendars each year except for the year following a gubernatorial election when its legislature meets for 125 days. The remaining 17 states are highlighted in orange in the map below (Figure 13).

*Figure 11 Legislatures that Met Regardless of Even or Odd Year*



#### Staff per Legislator During Session

Just as California, New York, Texas, and Florida lead the nation in the number of citizens per legislator, these four populous states lead the nation in the number of staff members per legislator.<sup>45</sup> It is possible that legislators which represent a larger number of constituents require a larger number of legislative staff members (Table 3 Staff Per Legislator Table 3).

*Table 3 Staff Per Legislator*

Rank	State	Staff per Legislator
1	California	17.5
2	New York	13.5
3	Texas	13.0

<sup>45</sup> “Size of State Legislative Staff.” NCSL. <http://www.ncsl.org/research/about-state-legislatures/staff-change-chart-1979-1998-1996-2003-2009.aspx> (2019).

4	Florida	10.1
5	Pennsylvania	9.3
46	South Dakota	1.1
47	Mississippi	1.0
48	North Dakota	0.87
49	Vermont	0.51
50	New Hampshire	0.35
	<b>Average</b>	4.4

### Partisanship of Legislatures

Texas is the 5<sup>th</sup> least partisan legislature, with 56.4 percent of legislators being Republicans. This is well below the national average, where 66 percent of legislators in a state legislature are of the same party (Table 4).<sup>46</sup>

*Table 4 Percent Partisan*

Rank	State	Percent Partisan	Party Control
1	Hawaii	92.1%	Democrat
2	Rhode Island	87.6%	Democrat
3	Wyoming	85.6%	Republican
4	South Dakota	84.8%	Republican
5	North Dakota	82.2%	Republican
44	Texas	56.4%	Republican
47	Michigan	54.1%	Republican
48	Minnesota	53.7%	Democrat
49	Arizona	53.3%	Republican
50	Virginia	51.4%	Republican
	<b>Average</b>	<b>66.0%</b>	

<sup>46</sup> “State Partisan Composition.” 2019. NCSL. <http://www.ncsl.org/research/about-state-legislatures/partisan-composition.aspx>.



## Demographics of Legislators

### Age

The average age of a member of the Texas House, in 2013, was 51 years-old, and the average age of a member of the Texas Senate was 59 years-old (Table 5). Texas House members are younger than the national average of 55 and members of the Texas Senate are older than the national average of 57.52.<sup>47</sup>

*Table 5 Ages of Legislators*

Rank	State	Age	Rank	State	Age
1	New Hampshire	65	1	Oregon	63
2	Idaho	62	2	New Mexico	62
3	Vermont	61	3	Vermont	62
4	New Mexico	60	4	Wyoming	62
5	Alabama	59	5	Delaware	61
46	Texas	51	18	Texas	59
47	Florida	50	46	Illinois	53
48	Michigan	50	47	Ohio	53
49	California	49	48	Oklahoma	53
50	Wisconsin	49	49	Massachusetts	52
	Average	54.96	50	Michigan	51

### Gender

The state of Texas has the 11<sup>th</sup> lowest percentage of women in its state legislature (23.2 percent) when compared to the other 50 states (Table 6). This is below the national average of 28.8 percent.<sup>48</sup> While Texas still trails behind its peers in terms of gender composition, the 86<sup>th</sup> legislature has more women than any previous legislatures session.<sup>49</sup>

<sup>47</sup> “The Demographics of State Legislatures” 2019. NCSL. <http://www.ncsl.org/research/about-state-legislatures/who-we-elect.aspx>.

<sup>48</sup> “The Demographics of State Legislatures” 2019. NCSL. <http://www.ncsl.org/research/about-state-legislatures/who-we-elect.aspx>.

<sup>49</sup> Rocha, Alana et al. 2019. “What the ‘Wave of Women’ Elected in 2018 Looks like in the 2019 Texas Legislature.” *The Texas Tribune*. <https://www.texastribune.org/2019/03/18/under-the-dome-episode-7-texas-women-legislature/> (May 26, 2019).

*Table 6 Genders of Legislators*

Rank	State	Percent Women
1	Nevada	50.80%
2	Colorado	47.00%
3	Oregon	41.10%
4	Washington	40.10%
5	Vermont	39.40%
39	Texas	23.20%
46	Wyoming	15.60%
47	Louisiana	15.30%
48	Tennessee	15.20%
49	West Virginia	14.20%
50	Mississippi	13.80%
	Average	28.80%

## Race

The Texas Legislature is 65 percent White, 23 percent Hispanic, 10 percent Black, and 2 percent Asian. With racial composition, Texas is the fourth least white legislature in the United States, where the national average is 82 percent of the legislature being white (Table 7).<sup>50</sup> Of the four least white legislatures, three states, Texas, California, and New Mexico are on located on the Texas-Mexico border, while, Hawaii, the least white legislature, is also the least white state in the United States.<sup>51</sup>

*Table 7 Racial Composition of Legislators*

Rank	State	Percent White
1	North Dakota	99%
2	West Virginia	97%
3	Wyoming	97%

<sup>50</sup> “The Demographics of State Legislatures” 2019. NCSL. <http://www.ncsl.org/research/about-state-legislatures/who-we-elect.aspx>.

<sup>51</sup> “State Population By Race, Ethnicity Data.” *Governing*. <https://www.governing.com/gov-data/census/state-minority-population-data-estimates.html>

4	Vermont	96%
5	Idaho	95%
46	Maryland	67%
47	Texas	65%
48	California	62%
49	New Mexico	51%
50	Hawaii	22%
	Average	82%

### Religion

The Texas Legislature, in 2015, was 49 percent Protestant, 30 percent Catholic, 1 percent Other Christian, 1 percent Non-Christian, and 18 percent Unspecified.<sup>52</sup> Texas is well above average in terms of the percent of Protestants and Catholics in the legislature and well below average for the number of legislators whose religion is unspecified (Table 8).

*Table 8 Religious Composition of Legislators*

State	Protestant	Catholic	Other Christian	Non-Christian	Unspecified
Texas	49%	30%	1%	1%	18%
National Average	38%	16%	2%	2%	42%

### Education

In 2015, approximately 2 percent of Texas legislators had not received a bachelor's degree, 39 percent had a bachelor's degree, 54 percent had an advanced degree, and there was no data for the remaining 5 percent (Table 9). Texas has a below average number of legislators without a college degree and an above average number of legislators with an advanced degree.<sup>53</sup>

<sup>52</sup> "The Demographics of State Legislatures" 2019. NCSL. <http://www.ncsl.org/research/about-state-legislatures/who-we-elect.aspx>.

<sup>53</sup> "The Demographics of State Legislatures" 2019. NCSL. <http://www.ncsl.org/research/about-state-legislatures/who-we-elect.aspx>.

Table 9 Educational Attainment of Legislators

Rank	State	Less than Bachelors	Rank	State	Advanced Degree
1	Delaware	21%	1	New Jersey	60%
2	Montana	18%	2	New York	58%
3	Oregon	16%	3	Virginia	56%
4	North Dakota	15%	4	Nebraska	55%
5	Arizona	14%	5	Maryland	54%
36	Texas	2%	6	Texas	54%
47	South Dakota	1%	47	North Dakota	28%
48	California	0%	48	Wisconsin	25%
49	Kentucky	0%	49	South Dakota	22%
50	New Mexico	0%	50	Maine	21%
	Average	4%		Average	40%

### Occupation

In 2015, 5 percent of Texas legislators worked in agriculture, 27 percent were attorneys, 14 percent were business owners, 22 percent were educators, 10 percent were other professionals (nonprofit or consultants), 3 percent were primarily legislators, and 3 percent were retired (Table 10). Texas has significantly more attorneys than average, as well as fewer teachers and retired persons.<sup>54</sup>

Table 10 Occupations of Legislators

State	Agriculture	Attorney	Business Owner	Business Other	Educator
Texas	5%	27%	14%	22%	3%
Average	5%	14%	14%	16%	6%

<sup>54</sup> “The Demographics of State Legislatures” 2019. NCSL. <http://www.ncsl.org/research/about-state-legislatures/who-we-elect.aspx>.

### Conclusions from Comparison of Modern State Legislatures

As the second most populous state, the Texas State legislature ranks highly in the number of citizens per legislator and the number of staffs per legislator. This is intuitive, as there exists a broader tax base per legislator, allowing legislators to have larger staffs. Additionally, while Texas is one of the less white state legislatures, it lags behind in the number of women in the legislature.

## School Finance

GRACE KELLY



## Introduction

While the emergency items of school finance and property tax reform were said in the same governor's breath in 2019, it was deemed more beneficial for this analysis to separate the issues. This decision was made to provide a more focused critical exploration of each item as their own policy initiative in the history of Texas governor's emergency items. The following chapter will present the universe and historical foundations of the Texas public education system, before delving into the legislative history of school finance in Texas, and how past governors have approached the issue in the context of emergency item declaration.

An intensive examination of two case studies will follow, including Governor Pappy O'Daniel in 1941 and Governor Beauford Jester in 1949, which produced the most significant form of school finance reform for Texas in the twentieth century. House Bill 3 (HB 3 or "The Huberty Bill" named after Chairman Dan Huberty of the House Committee on Public Education) contained the 2019 overhaul of the public education system. The newly passed legislation will be described through the lenses of both processes, as well as compared and contrasted against the two case studies, primarily focusing on the Gilmer-Aikin's Laws of 1949, which had similar historical significance. Conclusions will include what may have contributed to successful reforms of the school finance system, and the role of the governor within that context.

## Bird's Eye View: The Texas Public School System

The Texas public education system utilizes 356,909 teachers across 8,766 campuses to educate 5.4 million students on a budget of \$60.9 billion.<sup>55</sup> Compared to the rest of the country, Texas ranks second in average daily attendance and high school graduates, first in the number of

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<sup>55</sup> Texas Education Agency. (2019) "An Overview of the History of Public Education in Texas." Retrieved from [https://tea.texas.gov/About\\_TEA/Welcome\\_and\\_Overview/An\\_Overview\\_of\\_the\\_History\\_of\\_Public\\_Education\\_in\\_Texas/](https://tea.texas.gov/About_TEA/Welcome_and_Overview/An_Overview_of_the_History_of_Public_Education_in_Texas/)

instructional staff, and first in the number of teachers. Texas is nationally ranked as 38th in public school revenue per student in fall enrollment for 2017 and 29th in the average salary of teachers.<sup>56</sup>

The funding for the system comes from four sources: federal (10%), state (37%), local (50%), and recapture (3%).<sup>57</sup> With local contributions through property taxes making up the largest portion of the funding the second biggest contributor is the state, followed by federal resources and recapture. In percentage of revenue from the state government, the state is 37th nationally, while in percentage of revenue from local government, the state is 15th (both as of 2017). Texas is heavily diverse, with 52.4 percent of students Hispanic, 27.9 percent White, and 12.6 percent African American. Over 3 million of students are economically disadvantaged (58.7 percent), and over a million (18.8 percent) are English Language Learners.<sup>58</sup>

### Foundations of Public Education in Texas

*"It has failed to establish any public system of education, although possessed of almost boundless resources, (the public domain,) and although it is an axiom in political science, that unless a people are educated and enlightened, it is idle to expect the continuance of civil liberty, or the capacity for self government."* From the Texas Declaration of Independence (1836)

*"It shall be the duty of Congress, as soon as circumstances will permit, to provide, by law, a general system of education."* From the Constitution of the Republic of Texas, General Provisions, Section 5 (1836)

*SEC. 1. A general diffusion of knowledge being essential to the preservation of the rights and liberties of the people, it shall be the duty of the legislature of this State to make suitable provision for the support and maintenance of public schools.*

*SEC. 2. The legislature shall, as early as practicable, establish free schools throughout the State, and shall furnish means for their support by taxation on property; and it shall be the duty of the*

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<sup>56</sup> National Education Association. (April 2018). "Rankings of the States 2017 and Estimates of School Statistics 2018." NEA Research. Retrieved from [http://www.nea.org/assets/docs/180413-Rankings\\_And\\_Estimates\\_Report\\_2018.pdf](http://www.nea.org/assets/docs/180413-Rankings_And_Estimates_Report_2018.pdf)

<sup>57</sup> Texas Education Agency. 2019. Pocket Edition. Retrieved from <https://tea.texas.gov/communications/pocket-edition/>

<sup>58</sup> Texas Education Agency. (March 2019). "2018 Comprehensive Biennial Report on Texas Public Schools. A Report to the 86th Legislature from the Texas Education Agency." Retrieved from [https://tea.texas.gov/acctres/comp\\_annual\\_biennial\\_2018.pdf](https://tea.texas.gov/acctres/comp_annual_biennial_2018.pdf)



*legislature to set apart no less than one-tenth of the annual revenue of the State derivable from taxation as a perpetual fund, which fund shall be appropriated to the support of free public schools; and no law shall ever be made diverting said fund to any other use; and, until such time as the legislature shall provide for the establishment of such schools in the several districts of the State, the fund thus created shall remain as a charge against the State, passed to the credit of the free common school fund.* From the State Constitution of Texas (1845) (Joining the US)

When Mexico failed to provide a school system for Texans, despite it having more than enough resources to do so, Texans considered this failure to be one reason for declaring independence. Without an education, they argued, their people could not expect to create and perpetuate a free society.<sup>59</sup> When the Texans established the Republic of Texas' constitution, they matched this sentiment with a provision that the new Congress would provide a free public school system for its citizens.<sup>60</sup> While somewhat initially unsuccessful, President Mirabeau Buonaparte Lamar then directly requested in 1938 that the Texas Congress establish an education system.<sup>61</sup> Upon becoming a member of the United States of America, Texas' constitution included provisions for establishing "free schools throughout the state," outlining revenue sources from property taxation and state revenue.<sup>62</sup>

These documents and actors laid the foundation for the system that the 86th legislature is working to reform in 2019, almost two hundred years later. The history of public education in the state of Texas demonstrates that Texans do not consider it only a right, but a symbol of free society. Without free public schools to educate all children within the state, there cannot be hope for equipping the public with the knowledge and tools they need to be engaged citizens. To a Texan, public schools are contributors to a culture of liberty and civic responsibility, and it is a

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<sup>59</sup> Texas State Library and Archives Commission. (March 1836). "Texas Declaration of Independence, Original Manuscript, March 2, 1836." Retrieved from <https://www.tsl.texas.gov/treasures/republic/odeclar-05.html>

<sup>60</sup> Tarlton Law Library. (1836). "Texas Constitution of the Republic of Texas, 1836." Retrieved from [https://tarltonapps.law.utexas.edu/constitutions/texas1836/general\\_provisions](https://tarltonapps.law.utexas.edu/constitutions/texas1836/general_provisions)

<sup>61</sup> Gambrell, H. (June 2010). "Lamar Mirabeau Buonaparte." Handbook of Texas Online. Retrieved from <https://tshaonline.org/handbook/online/articles/fla15>

<sup>62</sup> Constitution of Texas (1845) (Joining the U.S.). Tarlton Law Library. Jamail Center for Legal Research. Retrieved from <https://tarltonapps.law.utexas.edu/constitutions/texas1845/a10>

government's responsibility, whether a foreign government like Mexico, a Republic like Texas, or a State like we are now, to provide the resources necessary for its continued success.

The funding of that system, however, has been a more contentious theme throughout history, with various reforms taking the identity of legislation and constitutional amendments. The role of a governor in these reforms is hard to place because while a governor during a particular session declared some school finance items to be emergency items, there were cases in which there was no corresponding legislative output. When examining the legislative history of school finance in its entirety, the role of a governor in declaring the subject to be an emergency item is unmentioned as a reason for the resulting reforms. Certainly, a governor plays a key role when signing school finance legislation into law, but evidence of the governor acting as the catalyst for school reform legislation is much less apparent.

This analysis will begin with a summarized history of school finance in Texas, starting in the first years of statehood and ending with the formation of the Texas Commission on Public School Finance from the 85th session in 2017. While many different events, laws, constitutional amendments, policies, programs, agencies, and actors have contributed to this sensitive subject, this summary will mainly touch on those pieces that have connections with the modern system Texas uses today. The purpose is to chronologically present the legislative background of school finance as well as the moments in state history that governors have declared school finance, or something closely related, to be an emergency item.

At the end of the section is a table detailing the governors that have declared the issue as an emergency, and the resulting legislative output from that session (**Error! Reference source not found.**). It is important to note that often the biggest changes distinguished in the histories of school finance, as presented by the Texas Education Agency, the Texas Comptroller's Office,

and other sources, were not considered to be the direct result of emergency items. Similarly, there were instances where a governor declared it to be an emergency item, and then no substantial legislative reforms took place.

The history presented here is not enough to merit an argument that school finance reforms have been driven by legislators acting independently of their presiding governor, nor that emergency items have played a direct role in furthering reforms. However, this synopsis does inform the subsequent analysis comparing and contrasting the reforms of the 86th legislative session to the actions of the 51st Legislative Session in 1949 under Governor Beauford H. Jester that led to the Gilmer-Aikin Laws.<sup>63</sup>

### The History of School Finance in Texas

The 1845 state constitution of Texas established that one tenth of the state's tax revenues would be devoted to public education through a "perpetual" school fund, but this was a slow and unstable method of financing the system. In 1854, Governor Elisha Pease signed into law the "Common School Law," which formally established the public-school system of Texas. The legislature created a Special School Fund, with an endowment of \$2 million financed by the relinquishment of land outside of the state's current borderlines.<sup>64</sup> This system was based on the census, and railroads were required to survey lands for schools in order to accept grant money.<sup>65</sup> During the Civil War, the state shut the system down to divert money towards war efforts, but even when the system had functioned, it only covered teacher salaries and school buildings.

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<sup>63</sup>Note: While there were other hefty changes to the system as a result of emergency items, such as during the 67th session under Governor William P. Clements, the 68th session under Governor Mark W. White Junior, and the 79th and 80th sessions under Governor Rick Perry, the analysis chose to focus on the kind of overhauling reforms an emergency item has produced.

<sup>64</sup>Calvert, A, et al. (2013). *The History of Texas*. Wiley and Sons.

<sup>65</sup> Texas State. (No Date). "Texas Education Timeline." Retrieved from <https://gato-docs.its.txstate.edu/jcr:27972b92-caac-48c5-9a04-baec65647f43/Texas%20Education%20Timeline.pdf>

The state constitution adopted post-Civil War in 1866 established the office of the State Superintendent, which would later become the commissioner of education (TEA Commissioner),<sup>66</sup> added provisions for the education of African Americans, and made teaching certification a requirement.<sup>67</sup> The Reconstruction Constitution of 1869 built on that foundation by creating a fund that drew revenue from a poll tax, income from school lands, and one-fourth of annual taxes.<sup>68</sup>

In 1876, another new constitution was adopted that levied a poll tax on all male citizens between twenty-one and sixty years old in the amount of one dollar. It stipulated that no more than a quarter of the state's general revenue could be appropriated towards education.<sup>69</sup> At the same time it established the Permanent School Fund (PSF), which continues to this day to serve the same purpose of funding education, and contains proceeds from public land sales managed by the Texas General Land Office. The deposits to this fund are considered an "inexhaustible" revenue stream.<sup>70</sup> The administration of this fund has undergone several changes, with revenue changing from school-land sales and leases to fuel taxes and off-shore oil land leases.<sup>71</sup>

In addition to the Permanent School Fund (PSF), a separate fund called the Available School Fund (ASF) was created for instructional materials and per-pupil distributions. The ASF

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<sup>66</sup> Smith, Dick. (2010). "State Superintendent of Public Instruction." Handbook of Texas Online. Retrieved from <https://tshaonline.org/handbook/online/articles/mbs04>

<sup>67</sup> Texas State. (No Date). "Texas Education Timeline." Retrieved from <https://gato-docs.its.txstate.edu/jcr:27972b92-caac-48c5-9a04-baec65647f43/Texas%20Education%20Timeline.pdf>

<sup>68</sup> McKay, S.S. (June 2010). "Constitution of 1869." Handbook of Texas Online. Retrieved from <https://tshaonline.org/handbook/online/articles/mhc06>

<sup>69</sup> Erickson, J. & Wallace, E. (September 2015). "Constitution of 1876." Handbook of Texas Online. Retrieved from <https://tshaonline.org/handbook/online/articles/mhc07>

<sup>70</sup> Texas General Land Office. (2017). "The Texas Constitution of 1876 set aside half of Texas' remaining public lands to establish a Permanent School Fund (PSF), to help finance public schools." Retrieved from <http://www.glo.texas.gov/land/land-management/overview/index.html>

<sup>71</sup> McClellan, M. (June 2010). "Permanent School Fund." Handbook of Texas Online. Retrieved from <https://tshaonline.org/handbook/online/articles/khp01>

is related to the PSF in multiple receptive ways. The part of the PSF that is invested in land and managed by the Texas General Land Office (GLO), generates revenue that goes into the ASF. This can be up to \$300 million in a year. This revenue also goes into another part of the PSF that is managed by the State Board of Education (SBOE), which manages that portfolio in a rate adopted by the governing body. In addition to these investment returns, 25 percent of the tax revenue from motor fuels goes into the fund. This fund is then distributed through the Instructional Materials Allotment (IMA) and the Foundation School Program (FSP). Local taxes were required in order to maintain schools, and students were now under compulsion to attend these institutions.

In 1883, the school district system was formed by Oran Milo “O.R.” Roberts.<sup>72</sup> But in 1884, the school laws were revised, and the office of a state superintendent was re-created, an ad valorem tax was added, and the Permanent School Fund was re-invested in different types of bonds to increase revenue.<sup>73</sup> The legislature continued to add local structure to the public-school system to increase access for students in the early 1900's. They instituted county boards of education, forming high schools for 600,000 rural students.

In 1908, the voters of Texas amended the state constitution to take away limits on tax rates by local school districts. This was then perceived to be a hindrance and after a proposal from the thirty-sixth legislature (1919), the Better Schools Amendment was passed in 1920.<sup>74</sup> The resulting new system eased the state's share of school financing, by allowing local property

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<sup>72</sup> Dixon, F. (April 2018). "Roberts, Oran Milo." Handbook of Texas Online. Retrieved from <https://tshaonline.org/handbook/online/articles/fro18>

<sup>73</sup> Texas Education Agency. (2019). "An Overview of the History of Public Education in Texas." Retrieved from [https://tea.texas.gov/About TEA/Welcome and Overview/An Overview of the History of Public Education in Texas/](https://tea.texas.gov/About%20TEA/Welcome%20and%20Overview/An%20Overview%20of%20the%20History%20of%20Public%20Education%20in%20Texas/)

<sup>74</sup> Cottrell, Debbie. (June 2010). "Better Schools Amendment." Handbook of Texas Online. Retrieved from <https://tshaonline.org/handbook/online/articles/kgb01>

taxes to be raised in order to take on more of the burden. In 1930, a constitutional amendment was proposed to allow the legislature to consider emergency matters submitted by the governor in the first sixty days of session,<sup>75</sup> but it was not until 1941 that school finance reform began to be mentioned as an emergency item.

#### Case Study I: Governor "Pappy" O'Daniel, No Collaboration with Legislature? No Reform.

In that session (47th R.S.), Governor Wilbert Lee "Pappy" O' Daniel submitted a message to the legislature to reform the education system based on a report from the Educational Commission of Texas.<sup>76</sup> In Governor O' Daniel's message, he wrote that he had studied the public schools of Texas through a survey conducted by SBOE. The survey had been completed using federal funding and SBOE staff, but no action had been taken by the legislature.

He took it upon himself "to see that this information which had been gathered together in this report, was put to some practical use." He put together an education commission and asked members to read the 1,800-page report and submit recommendations to him via letter. He wanted to know what they thought could be done "to improve the public schools of Texas and at the same time get more value for the taxpayers' dollar." He submitted a report of recommendations along with twelve bills and his emergency declarations.

History does not remember Governor O' Daniel well, however, and he reportedly "enjoyed little success in putting across his agenda," and no reforms resulted from these efforts.<sup>77</sup>

Despite declaring an emergency, and doing extensive in-depth work with stakeholders to

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<sup>75</sup> Legislative Reference Library. A Joint Resolution S.J.R. No. 19. SJr 19, 41st Regular Session. Bill Back. Retrieved from [https://lrl.texas.gov/LASDOCS/41R/SJR19/SJR19\\_41R.pdf#page=13](https://lrl.texas.gov/LASDOCS/41R/SJR19/SJR19_41R.pdf#page=13)

<sup>76</sup> Legislative Reference Library. Journal of the House of Representatives of the Regular Session of the Forty-Seventh Legislature. Retrieved from <https://lrl.texas.gov/scanned/govdocs/W%20Lee%20ODaniel/1941/message030441.pdf>

<sup>77</sup> Green, G. (June 2010). "O'Daniel, Wilbert Lee [Pappy]." Handbook of Texas Online. Retrieved from <https://tshaonline.org/handbook/online/articles/fod11>

produced legislative items, nothing came to fruition because the governor was reportedly "unable to engage in normal political deal-making with legislators." His example should be noted that even a governor with good intentions, lots of data, stakeholder support, and various legislative output from his office, can still accomplish nothing if he is unwilling to work with the legislators themselves. At the same time, his approach with putting together a multi-faceted commission and generating a list of recommendations with legislation, may have laid the groundwork for the future "Joint Public School System of Texas" committee just a few sessions later under a different governor.

In 1943 (48th R.S.), Governor Coke R. Stevenson submitted an emergency item of appropriating funds for an educational bill, and funds for the system were declared insufficient within a few years.<sup>78</sup> The Fiftieth Texas Legislature (1947), upon being unable to pass a minimum-salary for teachers, created the committee tasked with studying education reform, the "Joint Public School System of Texas." This is the committee that later became known as the famous Gilmer-Aikin Committee, named after Representative Claud Gilmer and Senator A.M. Aikin, Jr., whose official legislative charge was to:

*Study unequal educational opportunities and all other questions relating to improvement of the public school system of Texas, and particularly with a view to effecting school district reorganization; obtaining uniform and adequate local support in the financing of an adequate, improved, and uniform school program for Texas; that necessary and suitable steps be taken to obtain the desired attendance in the schools by the children of Texas, and at least to an extent comparable with other states; that the School Laws of Texas be revised and codified; that the methods, systems, and policies of the other States of the United States, upon like subjects, be studied and recommended, where deemed applicable to Texas; and that unnecessary division and differences among school organizations, interests, and groups be ascertained and determined to the end that the*

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<sup>78</sup> Journal of the Senate of the State of Texas Regular Session of the Forty-Eighth Legislature. (1943). Message from the governor. Retrieved from <https://lrl.texas.gov/scanned/govdocs/Coke%20R%20Stevenson/1943/message032943.pdf>

*best educational advantages may be obtained for the greatest number as promptly and possible.* (Joint Committee (Gilmer-Aikin Committee), 1947).

The committee's resulting proposals in the Fifty-first session were later christened the Gilmer-Aikin Laws.<sup>79</sup> One of the underlying reasons for these laws was that in 1947, Texas ranked in the bottom 25 percent nationally in their funding of education.<sup>80</sup> These laws are considered by some to be the most extensive reforms of the Texas education system<sup>81</sup> characterized by the Texas Comptroller's Office as "the earliest legislative efforts to establish a comprehensive public school finance system for the state."<sup>82</sup> TEA's sesquicentennial handbook from 2004 has a chapter on education reforms titled "Education Reforms From Gilmer-Aikin to Today," describing the laws as "landmark" and "milestone."<sup>83</sup> The Texas State History Association characterizes debates on educational reform in the state to "have all been conducted within the framework provided by the Gilmer-Aikin Laws."<sup>84</sup>

The Governor during this session, Beauford H. Jester, sang the praises of the committee's actions during the interim, saying that they "have come forward with what history will doubtless term the most comprehensive study of Texas public schools which has ever been made." He

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<sup>79</sup> Mauzy, O. 2010. "Gilmer-Aikin Laws." Handbook of Texas Online. Retrieved from <https://tshaonline.org/handbook/online/articles/mlg01>

<sup>80</sup> Calvert, A. (2013). *The History of Texas*. p. 355.

<sup>81</sup> Preuss, G. 2004. "The Modernization of Texas Public Schools: World War II and the Gilmer-Aikin Laws." A Dissertation in History. Texas Tech University. Retrieved from <https://ttu-ir.tdl.org/handle/2346/15975>

<sup>82</sup> Texas Comptroller of Public Accounts. (January 2019). "Fiscal Notes: Texas School Finance - Doing the Math on the State's Biggest Expenditure." Retrieved from <https://comptroller.texas.gov/economy/fiscal-notes/2019/jan/history.php>

<sup>83</sup> Kuehlem, M. (2004). "Education Reforms from Gilmer-Aikin To Today." TPS Handbook, Sesquicentennial Handbook, 1854 - 2004. Texas Education Agency. Retrieved from [https://tea.texas.gov/About\\_TEA/Welcome\\_and\\_Overview/Texas\\_Public\\_Schools\\_Sesquicentennial\\_Handbook/](https://tea.texas.gov/About_TEA/Welcome_and_Overview/Texas_Public_Schools_Sesquicentennial_Handbook/)

<sup>84</sup> Mauzy, O. (June 2010). "Gilmer-Aikin Laws." Handbook of Texas Online. Retrieved from <https://tshaonline.org/handbook/online/articles/mlg01>



went on to declare the recommendations of their committee to be "subjects for emergency legislation."<sup>85</sup> The issues that the report sought to address included:

"Equalizing opportunity for the very minimum kind of education the citizens of Texas have said they want. Financing without doubt, this minimum program of education. Re-designing the educational machinery at the state level. Assuring an adequate supply of constantly improving teachers. Securing attendance upon schools. Guaranteeing safe and economical school buildings. Clarifying and simplifying the school laws of the State."<sup>86</sup>

The proposals were transformed into a package of three bills covering a myriad of issues related to school finance and education reforms: SB 115, SB 116 and SB 117 (Table 11). The bills originated in the Senate and were steered through the process by Senator James E. Taylor, who had chaired the Gilmer-Aikin Committee, but was obviously not given credit in the name of the committee. SB 115, authored by Senator James E. Taylor, established the Central Education Agency, the components of the State Board of Education (SBOE), a State Commissioner of Education, and a State Department of Education.<sup>87</sup> These bills laid the framework for the future Texas Education Agency (TEA) and the modern TEA Commissioner. SB 116, authored by Senator Ottis E. Lock, provided a Foundation School Program and Fund for all public school districts, penalties for violations, and repealed all laws in conflict with it.<sup>88</sup> This created an equalization plan by guaranteeing every child in Texas an education in a nine-month academic

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<sup>85</sup> Journal of the House of Representatives of the Regular Session of the Fifty-first Legislature of the State of Texas. (January 26 1949). The State of Texas. pp. 90 - 91. Retrieved from <https://lrl.texas.gov/scanned/govdocs/Beauford%20H%20Jester/1949/message012649.pdf>

<sup>86</sup> Senate Journal Supplement. Fifty-first Legislature - Regular Session. (January 25 1949). "Final Report of the Gilmer-Aikin Committee." (Report of Joint Committee, known as Gilmer-Aikin Committee, pursuant to House Concurrent Resolution No. 48, adopted by the Regular Session of the 50th Legislature Retrieved from [https://lrl.texas.gov/scanned/interim/50/50\\_Gilmer-Aiken.pdf](https://lrl.texas.gov/scanned/interim/50/50_Gilmer-Aiken.pdf)

<sup>87</sup> Senate Journal. (March 24 1949). Legislative Reference Library. Retrieved from [https://lrl.texas.gov/LASDOCS/51R/SB115/SB115\\_51R.pdf#page=131](https://lrl.texas.gov/LASDOCS/51R/SB115/SB115_51R.pdf#page=131)

<sup>88</sup> Legislative Reference Library. (2 [https://lrl.texas.gov/LASDOCS/51R/SB116/SB116\\_51R.pdf#page=223](https://lrl.texas.gov/LASDOCS/51R/SB116/SB116_51R.pdf#page=223)

year.<sup>89</sup> The third bill, SB 117, was authored by Senator A.M. Aikin, Jr., transferring funds to the Foundation School Fund, creating a Foundation School Fund Budget committee, and repealing conflicting laws.<sup>90</sup>

The bills sailed through the Senate under the guidance of Senator Taylor, being introduced on January 25th at the start of the session, and voted out of the chamber within one month in the cases of SB 115 (on February 17th) and SB 116 (on February 23rd), and a little while after that with SB 117 (March 7th). Representative Rae Files Still was Chairman of the House Education Committee, and instead of presenting the House companions of the recommendations under her name, she heard the Senate bills instead. This was reportedly a political strategy to trounce opposition to the bills coming in the form of "letter campaigns and critical radio shows."<sup>91</sup> Other antagonists to the bills labeled them as "communist" and "fascist," attempting to use postponement strategies such as getting representatives to boycott the session. For the first time in the history of the Texas legislature, a committee had an all-night hearing on the bills. The House eventually passed the bills out with amendments and large positive margins.

For both SB 115 and SB 117, the Senate concurred with House Amendments, and both were sent to the Governor during the first part of May 1949. But for SB 116, regarding the Foundation School Fund, the Senate refused to concur with House amendments, and a conference committee was appointed. The conference committee's report was voted on by both chambers within days of each other, May 31st, 1949 in the Senate and June 1st, 1949 in the

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<sup>89</sup> Preuss, G. 2004. "The Modernization of Texas Public Schools: World War II and the Gilmer-Aikin Laws." A Dissertation in History. Texas Tech University. pg. 194 Retrieved from <https://ttu-ir.tdl.org/handle/2346/15975>

<sup>90</sup> <sup>90</sup> Legislative Reference Library. Retrieved from [https://lrl.texas.gov/LASDOCS/51R/SB117/SB117\\_51R.pdf#page=15](https://lrl.texas.gov/LASDOCS/51R/SB117/SB117_51R.pdf#page=15)

<sup>91</sup> Mauzy, O. (June 2010). "Gilmer-Aikins Laws." Handbook of Texas Online. Retrieved from <https://tshaonline.org/handbook/online/articles/mlg01>

House. The legislature was able to send this reformative legislation to Governor Jester just five months after he had declared school finance as an emergency item, and the modern public school finance system of Texas was born. According to the Texas State Library Archives Commission, Governor Jester's administration's major contribution to Texas was the passage of these laws.<sup>92</sup>

The changes to the school system due to the Gilmer-Aikin Laws were instant and sweeping. Teachers' salaries were raised, and they were compelled to go back to universities and colleges in order to rise to higher professional standards through new statewide certification requirements. African American teachers were now given the same pay as white teachers, and funds were equalized to provide poorer school districts with more aid. State funding in the form of consumer taxes supplemented local taxes, and there was increase of education specialists, and tying funding to attendance. They formed the Minimum Foundation Program (currently known as the Foundational School Program). This was comprised of a formula-based allocation system that combined state contributions through the Available School Fund and local property tax revenue. This additionally established that students would be provided with educational opportunities for at least 175 days per year for 12 years.

While there have been multiple proposals for reforms through emergency item declarations by a string of governors with differing degrees of success for each measure, as well as various reforms independent of emergency declarations, the mold-breaking reforms of the Gilmer-Aikins laws have not been repeated in the 70 years since they passed. In 1984 there were restructurings that raised teacher salaries, increased the basic allotment, created special allotments, and established wealth equalization mechanisms, but due to the subsequent

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<sup>92</sup> Texas State Library and Archives Commission. (No date). "Texas Governor Beauford H. Jester: An Inventory of Records at the Texas State Archives, 1946 - 1949."

Edgewood cases, which found the school finance system unconstitutional, more reforms were necessary in the sessions of 1989, 1991, and 1993. The controversial recapture system was developed to distribute revenue according to property wealth, and other changes were made throughout the 2000's to appropriate funds, change tax rates, and reorganize tiers and entitlements.

Many if not all of these reforms are referenced in the legislative and education policy community as "band aids" to the bleeding system that has evolved over the decades, and the events and rhetoric surrounding the lead-up to the 86th session includes many of the same themes as the precursor years to the Gilmer-Aikin legislation. The following analysis will evaluate the very recent and (at the time of writing) current efforts of the Texas government to reform the school finance system, through the lens provided by the Gilmer-Aikin laws. As a Texas history book characterized those reforms as bringing the 1949 Texas education system into the twentieth century, so have some reiterated the same sentiment about HB 3. In the words of Chairman Larry Taylor when laying out the legislation in the Senate chamber on May 6th, 2019, "we got to move our school finance system into the twenty-first century."

Table 11 Gilmer-Aikin Laws and House Bill 3

<b>Table 1. Gilmer-Aikin Laws and HB 3</b>							
<b>Bill</b>	<b>Caption</b>	<b>Intro.</b>	<b>Out of 1st Committee</b>	<b>1st Chamber Passage</b>	<b>Out of 2nd Committee</b>	<b>2nd Chamber Passage</b>	<b>Final Passage</b>
S.B. 115 <sup>93</sup> Taylor	An act providing a more efficient method of state administration of the public free schools; creating a Central Education Agency; defining the powers and duties thereof; establishing the component parts thereof, including a State Board of Education, a State Board for Vocational Education, a State Commissioner of Education, and a State Department of Education; etc., and declaring an emergency.	<i>Senate</i> Jan 25 1949	<i>Senate</i> Feb 9 1949	<i>Senate</i> Feb 17 1949 16 Yays 8 Nays	<i>House</i> Mar 17 1949	<i>House</i> April 20 1949 85 Yays 30 Nays	<b>Senate Concurred</b> May 3 1949 19 Yays 8 Nays
		<b>8th</b>	<b>17th</b>	<b>22nd</b>	<b>39th</b>	<b>58th Cont.</b>	<b>62nd</b>
S.B. 116 <sup>94</sup> Lock	An Act providing a minimum Foundation School Program for nine (9) full months of the school year for each child of school age in the public free schools of Texas and establishing the eligibility requirements for grants from the Foundation School Fund applicable to all Texas public school districts in connection therewith; designating the procedure and means by which such program shall be financed; providing a minimum base salary schedule plus increments for teaching experience for public school teachers and repealing all laws in conflict thereof; etc. and declaring an emergency.	<i>Senate</i> Jan 25 1949	<i>Senate</i> Feb 9 1949	<i>Senate</i> Feb 23 1949 27 Yays 2 Nays	<i>House</i> Mar 17 1949	<i>House</i> April 28 1949 111 Yays 22 Nays	<b>Conference Committee Report Adopted</b> <b>Senate 74th</b> May 31 1949 23 Yays - 4 Nays <b>House</b> June 1 1949 110 Yays - 24 Nays
		<b>8th</b>	<b>17th</b>	<b>25th</b>	<b>39th</b>	<b>60th Cont.</b>	<b>74th Cont.</b>
S.B. 117 <sup>95</sup> Aikin	An Act amending Article XX, Section 4 of House Bill 8, Chapter 184, Acts of the 47th Legislature, Regular Session, 1941, as amended, by changing subsection (4-a), added by H.B. 301, Acts of the 50th Legislature, Regular Session, 1947; providing for the transfer of certain funds to the Foundation School Fund created herein; repealing conflicting laws or parts of laws; containing a savings clause, and declaring an emergency.	<i>Senate</i> Jan 25 1949	<i>Senate</i> Feb 9 1949	<i>Senate</i> Mar 7 2019 27 Yays 2 Nays	<i>House</i> Mar 17 1949	<i>House</i> April 28 1949 114 Yays 23 Nays 2 PNV	<b>Senate concurred</b> May 5 1949 23 Yays 2 Nays
		<b>8th</b>	<b>17th</b>	<b>32nd</b>	<b>39th</b>	<b>60th Cont.</b>	<b>63rd Cont.</b>
H.B. 3 <sup>96</sup> Huberty	Relating to public school finance and public education; authorizing the imposition of a fee.	Mar 5 2019	<i>House</i> Mar 19 2019	<i>House</i> Apr 3 2019	<i>Senate</i> May 1 2019	<i>Senate</i> May 6 2019	<b>TBD</b>
		<b>24th</b>	<b>30th</b>	<b>38th</b>	<b>46th</b>	<b>49th?</b>	

<sup>93</sup> Legislative Reference Library. (1949) *SB 115 51st Regular*. Bill Back. Retrieved from [https://lrl.texas.gov/LASDOCS/51R/SB115/SB115\\_51R.pdf#page=130](https://lrl.texas.gov/LASDOCS/51R/SB115/SB115_51R.pdf#page=130)

<sup>94</sup> Legislative Reference Library. (1949) *SB 116 51st Regular*. Bill Back. Retrieved from [https://lrl.texas.gov/LASDOCS/51R/SB116/SB116\\_51R.pdf#page=223](https://lrl.texas.gov/LASDOCS/51R/SB116/SB116_51R.pdf#page=223)

<sup>95</sup> Legislative Reference Library. (1949) *SB 117 51st Regular*. Bill Back. Retrieved from [https://lrl.texas.gov/LASDOCS/51R/SB117/SB117\\_51R.pdf#page=15](https://lrl.texas.gov/LASDOCS/51R/SB117/SB117_51R.pdf#page=15)

<sup>96</sup> Huberty. (2019). H.B. 3. Texas Legislative Information Service. Retrieved from <https://tlis/BillLookup/History.aspx?LegSess=86R&Bill=HB3>

## The Build Up to the 86th Legislative Session

In 2011, education funding was reduced by \$5.4 billion, and then in 2013 it was increased by \$3.6 billion.<sup>97</sup> These losses were mounting on top of other losses to the system and were not regained in the sessions since. As the Gilmer-Aikins reforms came partially as a result of Texas being in the bottom quarter nationally in public school funding in the late 1940's, so have many argued for school finance reform in the late 2010's due to Texas also remaining in the bottom quarter of spending (41 out of 50 according to U.S. Census Bureau 2016 statistics).<sup>98</sup> For the 2017-2018 school year, the National Education Association reported that Texas spent about \$2,300 below the national average for each student, ranking either 39th or 41st in the country.<sup>99</sup>

It was finally in 2017, with HB 21, that the Texas Commission on Public School Finance was established. The bill stipulated that it would include 13 members charged with addressing the policy issues present in public education and providing recommendations for improvements to the school finance system. The Gilmer-Aikin committee was similarly established by HCR 48 at the end of an exhausting dead-locked legislative session in 1947 and made up of 18 members, including the chairs of both the Senate and House Committees on education (similar to Chairmen Huberty and Taylor in 2018). Gilmer-Aikins met for eighteen months and was assisted by county-level committees across the state, as well as seventy-five other professionals,<sup>100</sup> before culminating in a list of recommendations in a booklet entitled, "To Have What We Must"

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<sup>97</sup> Texas Comptroller of Public Accounts. (January 2019). "Fiscal Notes: Texas School Finance - Doing the Math on the State's Biggest Expenditure." Retrieved from <https://comptroller.texas.gov/economy/fiscal-notes/2019/jan/history.php>

<sup>98</sup> Governing. (2018). "Education Spending Per Student by State." Government Data. Retrieved from <https://www.governing.com/gov-data/education-data/state-education-spending-per-pupil-data.html>

<sup>99</sup> National Education Association. (April 2019). Rankings of the States 2018 & Estimates of School Statistics 2019. Retrieved from <http://www.nea.org/assets/docs/2019%20Rankings%20and%20Estimates%20Report.pdf>

<sup>100</sup> Legislative Reference Library. (1949) "Gilmer-Aikin Committee." Retrieved from [https://lrl.texas.gov/scanned/interim/50/50\\_Gilmer-Aiken.pdf](https://lrl.texas.gov/scanned/interim/50/50_Gilmer-Aiken.pdf)

published in 1948.<sup>101</sup> The Texas Commission on Public School Finance met for twelve months, divided into three working groups, heard 80 hours of testimony from over 155 stakeholders, and produced a report at the end of 2018 called "Funding for Impact: Equitable Funding for Students Who Need it Most."<sup>102</sup> It is clear that the ramp-up to the 86th session regarding school finance reform closely parallels the history of the Gilmer-Aikins laws, and both committees' work was not only recognized but aided by the presiding governor's use of emergency powers to catalyze legislation early in the session.

### House Bill 3: The Texas Plan

State of the State remarks from Governor Greg Abbott and Governor Beauford Jester may have been made 70 years apart, but they are almost the exact same in substance when recognizing the work of the school finance commission's recommendations and declaring the subject an emergency item.<sup>103</sup> Governor Abbott announced that "rarely has Texas witnessed such bi-partisan, bi-cameral support for an issue this substantial this early in a session. [...] To keep this momentum going, I am declaring school finance reform and increasing teacher pay emergency items."<sup>104</sup>

House Bill 3 captioned "relating to public school finance and public education," was filed on March 5th, 2019. It was read for the first time in the House Chamber that morning, before a

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<sup>101</sup> Preuss, G. 2004. "The Modernization of Texas Public Schools: World War II and the Gilmer-Aikin Laws." A Dissertation in History. Texas Tech University. Retrieved from <https://ttu-ir.tdl.org/handle/2346/15975>

<sup>102</sup> Texas Commission on Public School Finance Final Report. (2018). "Texas Commission on Public School Finance Final Report: Funding for Impact - Equitable Funding for Students Who Need it the Most." Texas Education Agency website. Retrieved from [https://tea.texas.gov/Finance\\_and\\_Grants/State\\_Funding/Additional\\_Finance\\_Resources/Texas\\_Commission\\_on\\_Public\\_School\\_Finance/](https://tea.texas.gov/Finance_and_Grants/State_Funding/Additional_Finance_Resources/Texas_Commission_on_Public_School_Finance/)

<sup>103</sup> Journal of the House of Representatives of the Regular Session of the Fifty-first Legislature of the State of Texas. (January 26 1949). The State of Texas. pp. 90 - 91. Retrieved from <https://lrl.texas.gov/scanned/govdocs/Beauford%20H%20Jester/1949/message012649.pdf>

<sup>104</sup> Greg Abbott. (5 February 2019). "Governor Abbott Delivers State of the State Address." Office of the Texas Governor. Retrieved from <https://gov.texas.gov/news/post/governor-greg-abbott-delivers-state-of-the-state-address>

press conference that included Speaker Dennis Bonnen, and the authors of the bill - Representative Dan Huberty, Chairman of the House Committee on Public Education, Representative Diego Bernal, Vice-Chairman, Representatives Ken King and Alma Allen, members of the committee, and Representative John Zerwas.

The bill was titled "The Texas Plan - Transformational School Finance Reform." The bill as introduced would cost the state a total of \$9 billion (\$9,287,152,898),<sup>105</sup> increasing the basic allotment by almost \$900 per student, lowering property taxes by 4 cents statewide, establishing full-day pre-K for disadvantaged students, increasing the minimum salary schedule for teachers, adding a \$140 million allotment for teacher recruitment and retention, adding various programs for dyslexia and career technology, updating the transportation funding model to a \$1 per mile reimbursement, and raising the allocation for new facilities to \$100 million per year.<sup>106</sup>

Public testimony was heard until almost midnight on the introduced version of the bill on March 12th, not quite coming up to the length of the Gilmer-Aikin's committee hearing in 1949 but involving almost a hundred witnesses. The expediency with which the bill was introduced (March 5th) and then heard in committee (March 12th) was a consistent talking point between legislative staffers and stakeholders impacted by the process. With less than a week to read 186 pages, many felt a mad scramble to interpret the language, understand the implementation process, analyze possible outcomes, and regroup with participants and constituents to convert thoughts into feedback for the public hearing. Several opined that this was because leadership across the chambers knew that the real negotiating would happen in conference committee, and

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<sup>105</sup> Legislative Budget Board, Fiscal Note, <https://capitol.texas.gov/tlodocs/86R/fiscalnotes/html/HB00003I.htm>

<sup>106</sup> Huberty, D. (2019). HB 3: Introduced Version. Texas Legislative Information System. Retrieved from <https://capitol.texas.gov/tlodocs/86R/billtext/html/HB00003I.htm>



so by expediting the House side of the process, they were creating more time for those negotiations to take place towards the end of session.

Interestingly, another parallel between the process behind Gilmer-Aikins and HB 3 was the tensions between the Chairman of the education committee and teacher groups. Reportedly, teacher groups were skeptical of Chairman Taylor in 1948 because of his conservative ties, much like how teachers' groups demonstrated skepticism towards Chairman Huberty. When they testified neutrally on HB 3 in its public hearing, citing that they were concerned with the \$140 million allotment to recruit and retain teachers, Chairman Huberty pointed out in frustration that they had supported previous legislation that had proposed dramatically less funding overall.

After the public hearing, a Committee Substitute of the bill was drafted over the same weekend that would reflect some of the feedback from other member offices and witness testimony. During the very next hearing on March 19th, which began at 8:00am, the Committee Substitute for House Bill 3 was sent out at 8:35am, with a note that it would be voted out during the hearing later that day. It was laid out by the Chairman, who went over the new provisions and changes in the bill. These new provisions included an efficiency audit, reimbursements for transportation, increasing the basic allotment, reorganizing components of the FSP, tying salary increases to the increase basic allotment, and decreased references to the TEA commissioner's authority throughout the bill.<sup>107</sup>

### Passage out of the House

On the second reading of HB 3, there were 93 amendments pre-filed, and expectations were that it would be a long drawn out debate over each attempted change. In the end however,

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<sup>107</sup> Huberty, et al. (2019). Committee Substitute for H.B. No. 3. Texas Legislative Information System. Retrieved from <https://tlis.tlisdocs/86R/billtext/pdf/HB00003H.pdf?lastUpdate=20190326105657#navpanes=0>

the bill was passed to engrossment by 6pm that day. Many members pulled their amendments down, though some chose to speak about their proposed language changes to showcase their efforts at impacting the final result. Chairman Huberty attached amendments of his own, including the requirement of an efficiency audit for school districts before they have a tax rate vote. This was a goal of conservative groups, who repeatedly tout a line of rhetoric that some schools do not need more money, they are just using their resources inefficiently.<sup>108</sup>

The debate did have moments of drama, with six record votes requested on amendments, four instances of votes being reconsidered, over three dozen amendments actually adopted, and multiple points of order called. The bill finally passed with 148 ayes and 1 Nay. It reached the Senate on April 4th, but wasn't heard in committee until the 25th, and a committee substitute was offered that made substantial changes. These changes included adding teacher incentive pay, a 3rd grade reading outcomes bonus, changing STAAR exams, including restructuring of the compensatory education allotment, switching to current year values, repealing the cost of education index along with several allotments, and reforming property taxes with a contingency plan of a one cent sales tax swap. It was voted out of committee on May 1st, and postponed several times for floor debate, with speculation that it did not have the votes for passage. On May 6th, the Senate debated the bill and amended it a few dozen more times, before passing it with 26 ayes, two nays, and three present-not-voting.

When the House rejected the Senate Amendments to HB 3, a conference committee was convened with five members from each chamber, including Chairmen Taylor and Huberty, with Senators Campbell, Nelson, Watson, and West, as well as Representatives Ashby, Bernal,

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<sup>108</sup> Texas Public Policy Foundation. (2019). "House Bill 3: Efficiency Audits for School Districts Before Increasing Maintenance and Operations (M&O) Taxes." Retrieved from <https://files.texaspolicy.com/uploads/2019/04/24173044/HB-3-Efficiency-Audits-one-pager.pdf>

Gonzalez of El Paso, and King of Hemphill. The conference committee report was submitted on May 23rd, and unanimously adopted by the House and Senate on May 25<sup>th</sup>, the final cost of the reforms coming out to \$11.6 billion.

### HB 3: Conference Committee Report – The Final Word on School Finance in 2019

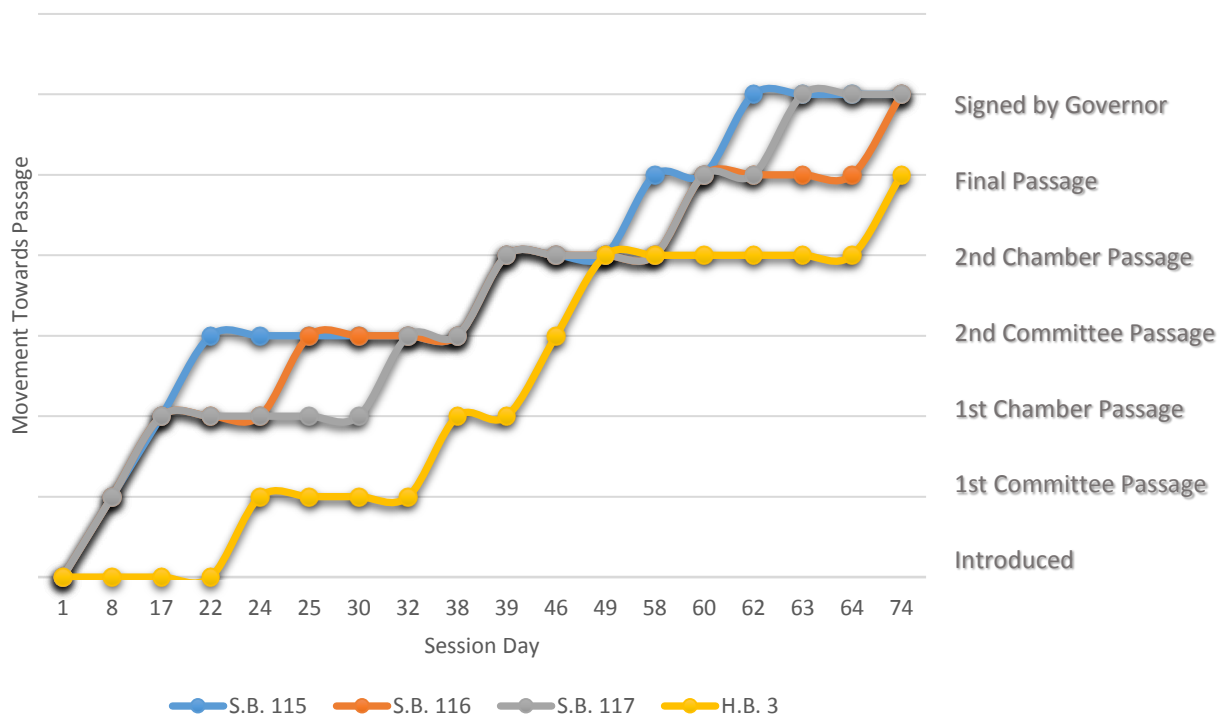
The CCR for HB 3 put \$6.5 billion towards education spending and teacher pay increases, and \$5.1 billion towards lowering property taxes. The portion dedicated to education includes full-day prekindergarten for eligible four-year-olds, increasing the basic allotment, increasing weights for disadvantaged students, and adding incentives for school districts to create such new programs as teacher merit pay, dual language, and dyslexia identification and assistance. While many educator groups and policy-makers are pleased with the result, there are cynics pointing out the high cost of these expenditures come without sustainable revenue sources to pay for it, and costs may increase in the future. Concerns also include a “yo-yo” future, where people use the new money over the biennium to build up their school systems, and then the 87<sup>th</sup> legislature slashes it, but expects schools to continue producing the same results with fewer resources.

### Comparison of Huberty's Bill 3 to Gilmer-Aikin Laws Trajectory

When comparing the progress of HB 3 during the 86th legislature to the progress of SB 115, SB 116, and SB 117 during the 51st legislature, there are some interesting trajectories to note (Figure 14). The table demonstrates that the Gilmer-Aikin's Laws compared to HB 3 were introduced earlier in the session, heard sooner in committee, and passed out of the originating chamber within roughly a month. Additionally, it appears the HB 3 passed of the second chamber around the same time that the Gilmer-Aikin bills were at the final passage stage, whether through the concurring of amendments (SB 115 and SB 117) or conference committee

(SB 116). Both legislative reforms seemed to hit final passage around the same day of the session, but it is important to note that the legislative day in the journal is not the calendar day, so there may be some unspoken time differences.

*Figure 12 Progression of Gilmer-Aikin's Laws (1949) Compared to House Bill 3 (2019)*



## Conclusions

There are many similarities between the legislative process that generated the Gilmer-Aikin reforms and House Bill 3. What appear to be the most important are listed below:

1. Legislative deadlock in a previous session led to the creation of a committee or commission dedicated to school finance (e.g. 1947's deadlock led to HCR 48's creation of the Joint Committee and 2017's deadlock led to HB 21's creation of the Texas Commission on Public School Finance).
2. The commission/committee had less than 20 members (e.g. 13 in Gilmer-Aikins and 18 for the Commission), including elected officials serving as chairs in the education

committees of their chambers (e.g. Senator Taylor and Representative Rae Files for the 1949 session, Senator Taylor and Representative Huberty for the 2019 session) and met for a year or more (e.g. 18 months for Gilmer-Aikins and 12 months for the Commission).

3. The commission/committee took into account stakeholder information and divided the subject into sub-topics (e.g. Gilmer-Aikins had advisory groups and county-level commissions and the Commission had working subgroups focused on student outcomes, expenditures, and revenue sources).
4. The commission/committee produced a written product shortly before the beginning of the next session, containing recommendations for legislation (e.g. "To Have What We Must" in November 1948 and "Funding for Impact: Equitable Funding For Students Who Need it the Most" in December 2018).
5. A governor recognized the work of the committee/commission during his State of the State at the beginning of the session and declared school finance to be an emergency item, enabling the recommendations to become legislation quickly (e.g. Governor Jester in January 1949 and Governor Abbott in February 2019).
6. The bills passed quickly out of their originating chambers (e.g. within 32 days for Gilmer-Aikin's bills and within 38 days for HB 3) and reached obstacles in the receiving chamber.
7. Conservative political groups were major hindrances to the reforms and used tactics of postponement to keep the legislation from passage (e.g. 1949 letter and radio campaigns, encouragement of boycotting session overall, and 2019 delays in the Senate committee and chamber because of self-described conservative members views on high spending).

One last important point to make about the process is that the creation of a commission or committee, the study of that group on the school finance situation of Texas, the making of recommendations and subsequent bills to be passed through the legislature, and the declaration by the governor of the subject as an emergency item along with proposed legislation, did not lead to reforms in 1941 because the governor was unwilling to work with legislators. While the similarities between the Gilmer-Aikin legislative process and the progression of HB 3 have been numerous and strong, there have also been parallels to the process under Governor O'Daniel that led to prolonged inadequate funding issues.

Governor Abbott proposed his personal plan for reforming school finance to educator and business groups two months before the school finance commission had finalized its report and

recommendations. The chair of the commission, former Justice of the Texas Supreme Court Scott Brister, was reported by the Texas Tribune as saying that the governor should not have done that without running it by members first, since their "duty is to make an independent report."<sup>109</sup> This was eerily incredibly similar to how Governor O'Daniel submitted his personal thoughts, recommendations, and pre-written legislation in a letter to the legislature independent of members or the plans of the legislators at the time.

Further, in February 2019, when the governor gave his State of the State address, declaring the issue an emergency item (which is what Governor O'Daniel had done as well) his office simultaneously issued a press release about "Governor Abbot's Plan to Reform School Finance" that included quotes from supportive members of the education community.<sup>110</sup> It was seen as another attempt to force his version of the reforms on the legislature, even if it ran against the recommendations from the Commission, and the wishes of some in the educator community, also very similar to the failed strategies of Governor O'Daniel.

In addition, representatives from a conservative political research group – the Texas Public Policy Foundation – were joining the governor's staff on meetings to legislative offices to tout their preferred policy framework for school finance reform. Their presentation, however, was primarily focused on tax policies, namely those tax policies that if enacted would produce Republican support during session and increased votes in upcoming election cycles. This seemed inappropriate to some because that political group and the governor's office appeared to view the

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<sup>109</sup> Swaby, A. (1 Nov 2018). "Behind Closed Doors, Greg Abbott's Office has Pitched a Plan to Fix Texas School Finance." The Texas Tribune. Retrieved from <https://www.texastribune.org/2018/11/01/texas-gov-greg-abbott-has-pitched-plan-fix-school-finance/>

<sup>110</sup> Abbott, Greg. (5 Feb 2019). "What Education Leaders are Saying About Governor Abbott's Plan to Reform School Finance." Office of the Texas Governor, Press Release. Retrieved from <https://gov.texas.gov/news/post/what-education-leaders-are-saying-about-governor-abbotts-plan-to-reform-school-finance>

problem of school finance as an issue of focusing on potential future conservative votes generated by property tax relief as a campaign topic, and not the education of Texas children. The plans were also posed in a hard-and-fast “take it or leave it” manner, rather than as a starting point for future collaborations and discussions.<sup>111</sup>

While the governor's office continued to report that they were "working with" various lawmakers on these reforms throughout the session, some legislative staff ended session under the impression that it was in spite of the governor's office actions that the reforms were successful. When that office's preferred plans of tax caps, severely limited education spending, and sales tax fell, what transpired was a flurry of almost random threats of vetoes, special session, and political retribution from the governor's office on the last few weeks of Senate Bills voted on in the House. Some saw these threats as attempts to call a special session in order for the governor to force a more preferred version of school finance legislation in alignment with his and the TEA commissioner's wishes, while avoiding the public image of directly opposing what had been a largely successful bipartisan and bicameral reform.

At any rate, HB 3 passed the legislature and is on its way to the governor's desk for his final action. On the day the conference committee report was adopted, his office issued a press release that said, “In my inaugural address I said that this will be the session we enact historical school finance reform by putting more money into the classroom, paying our teachers more, reducing recapture and cutting property taxes. Tonight, without a court order, the legislature did just that by passing one of the most transformative educational bills in recent Texas history.”<sup>112</sup> Whether he is responsible for the final product or not, the governor's prioritization of school finance

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<sup>111</sup> Author's Note: This is from my personal anecdotal experience as a staffer.

<sup>112</sup> Governor Abbott. 25 May 2019. “Governor Abbot Statement on Passage of House Bill 3.” Retrieved from <https://gov.texas.gov/news/post/governor-abbott-statement-on-passage-of-house-bill-3>

reform as an emergency item not only catalyzed policy discussions but catapulted the issue through session, ending with reforms that could be felt for decades. While we wait on that final say in the history books however, the evidence is more than sufficient to show that it was the legislative branch of the Texas government, and those legislators most focused on improving education for all students rather than generating political capital, who are responsible for the successful reforms of school finance.



Year	Session	Governor	Emergency Item	Legislative Output
1941	47th Regular Session	W. Lee O' Daniel	Reforming the public education system while addressing concerns of taxpayers	There is no summary available for the 47th Regular Session, but reforms did not occur. <sup>113114</sup>
1943	48th Regular Session	Coke R. Stevenson	Educational Appropriation bill	There is no summary available for the 48th Regular Session. <sup>115</sup> <b>HB 514</b> - \$452.60 from PSF to reimburse filing fees
1949	51st Regular Session	Beauford H. Jester	Appropriation of \$2,712 for General Education Board to continue grants for school libraries and an amendment to the State Equalization Law for the 1947-49 biennium to enable districts to meet their full obligations in financing teachers' salaries.	<b>SB 115</b> - a more efficient method of state administration, created a Central Education Agency, the State Board of Education, the State Board for Vocational Education, State Commissioner of Education, State Department of Education <sup>116</sup> <b>SB 116</b> - Providing a minimum Foundation School Program for 9 full months of the school year for each child of school age, establish eligibility requirements for FSF grants, minimum salary schedule for teachers. <sup>117</sup> <b>SB 117</b> - transfer of funds to the FSP. <sup>118</sup>
1973	63rd Regular Session	Dolph Briscoe	Appropriations to school districts for emergency grants; Central Education Agency for vocational-technical programs	<b>HB 1162</b> – “formula to determine the rate of reimbursement by the state to school districts transporting vocational education students from one campus to another when contracts for the education of such students are approved by the CEA.” <b>SB 224</b> – transfers balances from public junior colleges to the CEA to compensate for increased enrollment in vocational-technical education <sup>119</sup>
1975	64th Regular Session	Dolph Briscoe	Providing a supplemental appropriation to the State Board of Education from the State Textbook Fund for pay	<b>HB 1126</b> – revised the FSP, professional personnel and paraprofessional salaries; allocations for M&O expenses are increased to \$90 per student in ADA, and \$95 after that, transportation allotments increased by 62.5%; adds funding for disadvantaged students; “each district’s share of its FSP cost is determined by applying an index tax rate to the estimated value of taxable property in the district” Rate is set at 30 cents in first year and 35 cents in second year. “In order to narrow the gap in access to fiscal resources between property-rich districts and property-poor districts, the bill provides equalization aid for program enrichment to school districts that have local assignments per student in average daily attendance which are

<sup>113</sup> Legislative Reference Library of Texas (no date). 47th Regular Session. Summaries. Retrieved from <https://lrl.texas.gov/sessions/sessionsnapshot.cfm?page=summaries&legSession=47-0>

<sup>114</sup> Legislative Reference Library of Texas (4 March 1941). Message to 47th Regular session in House Journal. Retrieved from <https://lrl.texas.gov/scanned/govdocs/W%20Lee%20ODaniel/1941/message030441.pdf>

				less than 125% of the total statewide local fund assignment per student in ADA.” Directs governor to “conduct a study to determine methods of allocating state funds to school districts which will insure that each student of this state has access to programs and services that are appropriate to his educational needs regardless of geographical differences and varying local economic factors.” Extends bilingual education funding to the kindergarten grade level, increases funds for regional ESCs from \$2-3 per student, excludes “illegal aliens from eligibility for a free public education.” <sup>120</sup>
<b>1981</b>	67th Regular Session	William P. Clements	"So that the Legislature can consider the School Finance measure in the General Appropriations Bill, as is the desire of the members of the Legislature, I declare HB 280 by Atkinson as an emergency item." <sup>121</sup>	<b>SB 180</b> – allows the legislature to set the funding levels of the FSP and support ESCs with the Appropriations Act, requires the TEA to do a study on school finance “that will include the local property tax burden variance in purchasing power of the dollar in different types of school districts and alternative finance formulas.” <b>SB 50</b> – SBOE prescribes rules for teacher certificates and teaching programs <b>HB 296</b> – Vocational field <b>HB 307</b> – compensatory education <b>HB 354</b> – School-community guidance center programs <b>HB 603</b> – summer school pilot programs; HB 878 – compulsion for students; <b>SB 30</b> – gifted and talent allotment. <sup>122</sup>

<sup>115</sup> Legislative Reference Library of Texas (no date). 48th Regular Session. Summaries. Retrieved from

<https://lrl.texas.gov/sessions/sessionsnapshot.cfm?page=summaries&legSession=48-0>

<sup>116</sup> Legislative Reference Library. (1949) *SB 115 51st Regular*. Bill Back. Retrieved from

[https://lrl.texas.gov/LASDOCS/51R/SB115/SB115\\_51R.pdf#page=130](https://lrl.texas.gov/LASDOCS/51R/SB115/SB115_51R.pdf#page=130)

<sup>117</sup> Legislative Reference Library. (1949) *SB 116 51st Regular*. Bill Back. Retrieved from

[https://lrl.texas.gov/LASDOCS/51R/SB116/SB116\\_51R.pdf#page=223](https://lrl.texas.gov/LASDOCS/51R/SB116/SB116_51R.pdf#page=223)

<sup>118</sup> Legislative Reference Library. (1949) *SB 117 51st Regular*. Bill Back. Retrieved from

[https://lrl.texas.gov/LASDOCS/51R/SB117/SB117\\_51R.pdf#page=15](https://lrl.texas.gov/LASDOCS/51R/SB117/SB117_51R.pdf#page=15)

<sup>119</sup> Texas Legislative Council. (May 1973). “Accomplishments of the 63<sup>rd</sup> Legislature – Regular Session: A Summary.” Legislative Reference Library. Retrieved from

<https://lrl.texas.gov/scanned/sessionOverviews/accomplishments/acc63.pdf>

<sup>120</sup> Texas Legislative Council. (1975). Accomplishments of the 64<sup>th</sup> Legislature. Regular Session. Legislative

Reference Library. Retrieved from <https://lrl.texas.gov/scanned/sessionOverviews/accomplishments/acc64.pdf>

<sup>121</sup> Journal of the Senate of the State of Texas. (1981). Regular Session of the Sixty-Seventh Legislature. Retrieved

from <https://lrl.texas.gov/scanned/govdocs/William%20P%20Clements/1981/mess5.pdf>

<sup>122</sup> Texas Legislative Council. (1981). Summary of Enactments 67<sup>th</sup> Legislature: Regular and First Called Sessions.

Legislative Reference Library. Retrieved from <https://lrl.texas.gov/scanned/sessionOverviews/summary/soe67.pdf>

<b>1983</b>	68th Regular Session	Mark W. White, Jr.	Texas Public education compensation plan (teacher shortage/teacher salaries); equalization formula in Texas Education Code	<b>SJR 12</b> – “constitutional amendment to authorize the legislature to provide for the use of the principal and income of the permanent school fund to guarantee bonds issued by school districts...permit[s] the legislature to appropriate part of the valuable school fund for administration of the permanent school fund or of a bond guarantee program.” <b>SB 384</b> – enabling legislation for SJR 12; on approval by commissioner, “school district tax bonds will be guaranteed by the corpus and income of the permanent school fund. The act outlines the procedure to be used by school districts to obtain this guarantee and provides for reimbursement of the fund by a school district that defaults on a guaranteed bond.” <sup>123</sup>
<b>1995</b>	74th Regular Session	George W. Bush	Distribute state funds appropriated for education and certain statewide retirement systems.	<b>SB 1</b> – Foundation School Program (FSP); raised basic allotment from \$2,300 to \$2,387, small district adjustment is retained, adds a mid-sized adjustments, eliminated technology and teacher compensation allotments, increases the guaranteed level under Tier 2 of the FSP from \$22.55 to \$21.00; new school facilities assistance programs with \$170 million allocation; address property taxes. <sup>124</sup>
<b>1999</b>	76th Regular Session	George W. Bush	Appropriations to Texas Education Agency for additional teacher training in instruction of reading.	<b>HB 2307</b> – established a teacher grant program for teachers to become certified master reading teachers and work with other teachers and students to increase reading performance; required TEA commissioner to identify high-need schools and create stipends for master reading teachers; grants are additional to FSP. <sup>125</sup>

<sup>123</sup> Texas Legislative Council. (1983). Summary of Enactments 68<sup>th</sup> Legislature: Regular and First Called Sessions. Legislative Reference Library Retrieved from <https://lrl.texas.gov/scanned/sessionOverviews/summary/soe68.pdf>

<sup>124</sup> Texas Legislative Council. (August 1995). “Summary of Enactments 74<sup>th</sup> Legislature. Regular Session 1995. Legislative Reference Library. Retrieved from <https://lrl.texas.gov/scanned/sessionOverviews/summary/soe74.pdf>

<sup>125</sup> Texas Legislative Council. (September 1999). "Summary of Enactments 76th Legislature. Regular Session. 1999." Legislative Reference Library. Retrieved from <https://lrl.texas.gov/scanned/Sessionoverviews/summary/76soe.pdf>

<b>2005</b>	79th Regular Session	Rick Perry	Provides for Comprehensive reform of the public education system by creating incentives to improve student achievement.	<b>HB 2</b> (Died in House) "HB 2, as reported by the House Select Committee on Public Education Reform, would have restructured the state's method of funding public education and established new requirements for school districts, including salary increases for teachers and other professionals, mandatory school start and end dates, end-of-course assessments for high schoolers, and restrictions on funding. The bill would have required school districts to reduce local school property taxes and obtain local voter approval for any subsequent tax increase. HB 2 would have taken effect only with the enactment of HB 3 by J. Keffer. <sup>126</sup>
<b>2007</b>	80th Regular Session	Rick Perry	Making appropriations to the TEA for the purpose of school district property tax rate relief	<b>HB 1</b> - amount includes all funding sources except nearly \$14.2 billion in appropriations for property tax relief. The legislature appropriates \$61.0 billion for both public and higher education, a 7.0 percent increase. <sup>127</sup>
<b>2015</b>	84th Regular Session	Greg Abbott	Early childhood education	<b>HB 4</b> - Relating to prekindergarten, including a high-quality prekindergarten grant program provided by public school districts.*  *This was undone in the 2017 session.

<sup>126</sup> House Research Organization (9 November 2005). Major Issues of the 79th Legislature, Regular Session and First and Second Called Sessions." Focus Report. Retrieved from <https://lrl.texas.gov/scanned/sessionOverviews/major/major79.pdf>

<sup>127</sup> Chisum, et al. (2007). H.B. 1. Texas Legislative Information System. Retrieved from <https://tlis/BillLookup/BillSummary.aspx?LegSess=80R&Bill=HB1>

## Property Tax Reform

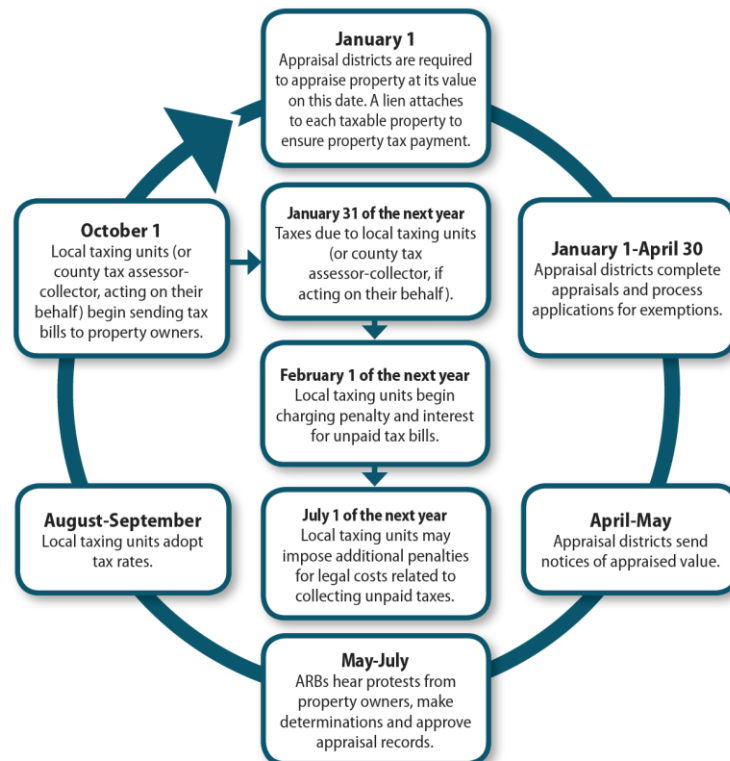
ZACK COCHRAN



## What is a Property Tax and How Are They Calculated?

Property taxes, also known as ad valorem taxes, are taxes assessed on parcels of land; specifically, a taxing unit's property tax is calculated by multiplying the value of a landowner's property by the tax rate adopted by the municipality or local government in which the property resides. A landowner's total property tax bill is calculated by adding the total property tax owed to each local government. Each local government, whose taxing authority is authorized by the Texas State Legislature, adopts a tax rate based on the anticipated cost of providing public services to their constituencies; these local governments, who can tax a single parcel of property, include, but are not limited to, school districts, counties, cities, junior colleges, hospital districts, fire and emergency services districts, and other special purpose districts (Figure 13).

*Figure 13 Appraisal Cycle*



*Source: Hegar, Glenn. (2018). Property Tax Basics: Texas Property Tax. Texas Comptroller of Public Accounts.*

To determine the property tax owed to each taxing unit, a county appraisal district must first perform a property appraisal for each property in their portfolio; appraisal districts perform this process between January 1 and April 30.<sup>128</sup> To appraise property, appraisal districts can utilize one of four different approaches: market data comparison approach, income approach, cost approach, and mass appraisal (Table 12).<sup>129</sup>

*Table 12 Appraisal Types*

<b>Approach</b>	<b>How It Works</b>
Market Data Comparison	Values properties based on a comparison to sale records of similar properties <sup>130</sup> .
Income Capitalization	Values properties based on the stream of income that the property could have <sup>131</sup> .
Cost	Values properties based on the cost to rebuild the structure <sup>132</sup> .
Mass Appraisal	Values properties in large quantities (i.e. apartments) <sup>133</sup> .

*Source: Hegar, Glenn. (2018). Property Tax Basics: Texas Property Tax. Texas Comptroller of Public Accounts.*

Residential homestead values, most often appraised by market data comparison, have two components: the “improvement homesite value” and the “land homesite value”. The “improvement homesite value” includes all capital improvements made to the land; these improvements include capital investments such as the house, garage and a pool. Additionally, the “land homesite value” is the value of the land which the capital improvements sit upon. When appraising commercial property, appraisers often use income capitalization approach. When using an income capitalization approach, appraisers are often faced with some information asymmetry because to perform the calculations necessary, an in-depth knowledge of the company’s net operating income is needed. The entire tax appraisal calendar is detailed in Table 13.

<sup>128</sup> Texas Tax Code § 11.43

<sup>129</sup> Texas Tax Code § 23.0101

<sup>130</sup> Texas Tax Code § 23.013(a)

<sup>131</sup> Texas Tax Code § 23.012

<sup>132</sup> Texas Tax Code § 23.011

<sup>133</sup> Texas Tax Code § 23.01(b)

Table 13 Tax Calendar Phases

<b>Appraisal Phase (January 1 through May 15)</b>	
January 1 – April 30	Property is appraised and exemption applications are processed.
April 1 – May 1	Notices of appraised value sent.
May 15	Appraisal record prepared and submitted to the Appraisal Review Board.
<b>Equalization Phase (May 15 through July 25)</b>	
May 15 – July 20	Protests and challenges are heard and determined.
July 20	Appraisal records are approved.
July 25	Appraisal roll is certified.
<b>Assessment Phase (July 25 through October 1)</b>	
July 25	Appraisal roll received by taxing units.
July 25 – September 30	Tax rates are adopted and taxes are calculated.
October 1	Tax bills begin to be sent to taxpayers.
<b>Collection Phase (October 1 through January 31)</b>	
October 1 – January 31	Current taxes are collected.
February 1	Penalties and interest begin to accrue.
July 1	Additional penalties may be added for legal costs.

Source: Texas Tax Code Chapters 11, 23, 25, 26, 31, 33, and 41

After a property is evaluated by an appraiser, the notices of appraised value are sent out to property owners; this happens between April 1 and May 1.<sup>134</sup> If a property owner is not happy with their property's appraised value, the property owner has the authority to protest their valuation; protests and challenges are heard between May 15 and July 20.<sup>135</sup> After property valuations are certified, on July 25 of each year, individual taxing units receive the property values for the properties within their district. Subsequently, taxing units issue the tax levies and bills are sent to the taxpayers. Property tax bills are sent out on October 1<sup>136</sup> and are broken down by taxing entity. Table 14 shows an example of what a tax bill would look like for a resident in the City of Selma, Bexar County:

<sup>134</sup> Texas Tax Code § 25.19

<sup>135</sup> Texas Tax Code §§ 41.01 and 41.12

<sup>136</sup> Texas Tax Code § 31.01(a)



Table 14 Example of a Breakdown of Taxes

Unit Description	District Type	Tax Rate	Appraised Value	Taxable Value	Estimated Tax
Bexar County Road and Flood District	Special Purpose District	0.023668	\$170,580	\$170,580	\$40.37
San Antonio River Authority	Special Purpose District	0.018580	\$170,580	\$170,580	\$31.69
Alamo Community College District	Community College District	0.149150	\$170,580	\$170,580	\$254.42
University Health System	Hospital District	0.276235	\$170,580	\$170,580	\$471.20
Bexar County	County	0.277429	\$170,580	\$170,580	\$473.24
City of Selma	City	0.201600	\$170,580	\$170,580	\$343.89
Judson ISD	School District	1.440000	\$170,580	\$170,580	\$2,456.35
Bexar Appraisal District	County Appraisal District	0.000000	\$170,580	\$170,580	\$0.00
Selma TIF #1 Retama	Tax Increment Financing District	0.000000	\$170,580	\$170,580	\$0.00
	Total Tax Rate	2.386662			
				Taxes with Current Exemptions	\$4,071.16
				Taxes without Current Exemptions	\$4,071.17

### What are Property Taxes Used For?

Property taxes are used by each taxing entity in a different way. For example, using the example outlined in Table 14, property tax dollars sent to the San Antonio River Authority are used for help maintain and preserve the water basins in and around Bexar County, while property tax dollars sent to the larger taxing units, like the City of Selma, are used to maintain roads, offer municipal services (i.e. road maintenance and garbage collection), and maintain police and fire departments. Ultimately, while these smaller special purpose districts have very specific uses for property tax dollars, some other taxing entities, such as cities, counties, and school districts, have very broad purposes and subsequently, a wide array of uses for property tax dollars.

In almost every case, the largest contributor to a property tax bill is the independent school district; in the Table 14 example, Judson Independent School District's tax levy is 60.34 percent of the total tax bill. In a later section of this paper, the intersection of property taxes and school finance will be discussed; specifically, the reliance of local tax dollars to help supplement the decrease in state funding for public education and the impact that this has on the taxpayer.

### History of State-Wide Property Taxes in Texas

Property taxes are not new to Texas, rather, the 1830 elimination of a property tax exemption for settlers by the Mexican Government is said to have helped spur Texas' fight for independence.<sup>137</sup> After independence, the State of Texas relied heavily on property taxes; specifically, 50-70 percent of all state tax receipts were from property taxes.<sup>138</sup> Although there was a heavy reliance on property taxes, the administration and collection of these taxes could be categorized as chaotic and disorganized;<sup>139</sup> moreover, an 1846 report from the comptroller found that many of the established tax assessor-collectors were corrupt or incompetent, frequently underreporting property values which ultimately caused the state's rolls to reflect half the value that was estimated in a 1880 US Census study.<sup>140</sup>

In light of these results, lawmakers began strengthening and tightening tax policies through the end of the 19<sup>th</sup> century; this progress was largely undone by the Great Depression where nearly 20 percent of the state's property tax levy was considered to be delinquent.<sup>141</sup> During the early 20<sup>th</sup> century, the State of Texas was levying three different property taxes: one dedicated to general revenue, one dedicated to the available school fund, and one dedicated to pay the pensions of

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<sup>137</sup> Haney, Josh. 2015. "The (Long, Long) History of the Texas Property Tax". *Fiscal Notes*. The Texas Comptroller of Public Accounts. Retrieved from <https://comptroller.texas.gov/economy/fiscal-notes/2015/october/proptax.php>

<sup>138</sup> *Ibid.*

<sup>139</sup> *Ibid.*

<sup>140</sup> *Ibid.*

<sup>141</sup> *Ibid.*

Confederate veterans.<sup>142</sup> Seeing large revenues from wartime revenues, and self-imposed spending limits, the state did not collect the 1946 property tax dedicated to general revenue and in 1948, the voters repealed the general revenue portion entirely.<sup>143</sup> As the health of the general revenue fund grew, voters would repeal the portion of the state property tax dedicated to the available school fund in 1968 and the portion dedicated to Confederate veterans, which was currently being used to finance new state buildings, in 1979.<sup>144</sup> Ultimately, every state property tax was voter-repealed by 1982 and Texas had abolished all state property taxes.<sup>145</sup>

Although Texas had repealed its property tax in 1982, the plaintiffs in *Shirley Neeley, Texas Commissioner of Education v. West Orange Cove Consolidated Independent School District, et al.*, a 2005 Texas Supreme Court Case, argued that to provide the constitutionally required “general diffusion of knowledge”<sup>146</sup> that was efficient, adequate, and suitable<sup>147</sup> districts had no discretion in tax rate and were forced to tax at the state maximum of \$1.50 per \$100 valuation of a property. In a 7-1 ruling, the Texas Supreme Court ruled that the current system did, in fact, create a de facto state property tax.<sup>148</sup> During the third called session of the 79<sup>th</sup> Texas Legislature (April 16-May 15, 2006), then-Governor Rick Perry instructed the legislature to address the November 2005 ruling and reduce school property taxes; from this, the Texas Legislature passed House Bill 1

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<sup>142</sup> Haney, Josh. 2015. “The (Long, Long) History of the Texas Property Tax”. *Fiscal Notes*. The Texas Comptroller of Public Accounts. Retrieved from <https://comptroller.texas.gov/economy/fiscal-notes/2015/october/proptax.php>

<sup>143</sup> *Ibid.*

<sup>144</sup> *Ibid.*

<sup>145</sup> *Ibid.*

<sup>146</sup> Tex. Const. art VII, § 1

<sup>147</sup> *Shirley Neeley, Texas Commissioner of Education v. West Orange Cove Consolidated Independent School District, et al.*

<sup>148</sup> *Ibid.*

(79(3)) which, in essence, reduced the maintenance and operations tax rate of school districts by one-third.<sup>149</sup>

### State Role in Property Tax

Currently, and as of 1982, The State of Texas does not have a state administered property tax because the Texas Constitution no longer allows for a statewide property tax, rather, property taxes, as previously mentioned, are administered on the local level. Although property taxes are administered locally, the Texas Constitution contains guidelines for the administration of these taxes. Table 15 provides a brief explanation of the basic rules outlined in the Texas Constitution.

*Table 15 Property Tax Guideline Outlined in the Texas Constitution*

<b>Taxation must be equal and uniform.</b>
All property must be taxed equally and uniformly. <sup>150</sup> No single property or type of property should be taxed more than its fair market value. <sup>151</sup>
<b>Generally, all property is taxed in proportion to its value.</b>
Unless constitutionally exempt, property must be taxed in proportion to its value. <sup>152</sup> The Texas Constitution provides certain exceptions to market valuations, such as taxation based on productive capacity of agricultural and timberland. <sup>153</sup> All exemptions from taxation must be constitutionally authorized. <sup>154</sup>
<b>Taxpayers must be given notice of an estimate of taxes they owe.</b>
Notice must be given of the reasonable estimate of the taxes that will be imposed on a taxpayer's property. <sup>155</sup> Notice must be given of intent to consider tax increases. <sup>156</sup>

In addition to the protections provided by the Texas Constitution, the Texas Comptroller of Public Accounts provides Texas taxpayers with additional protections through the *Property*

<sup>149</sup> House Research Organization. 2006. "Schools and Taxes: A Summary of Legislation of the 2006 Special Session". *The Focus Report*. House Research Organization - Texas House of Representatives. Retrieved from <https://hro.house.texas.gov/pdf/focus/schools&taxes79-13.pdf>

<sup>150</sup> Tex. Const. art VIII, § 1(a)

<sup>151</sup> Tex. Const. art VIII, § 20

<sup>152</sup> Tex. Const. art VIII, § 1(b)

<sup>153</sup> Tex. Const. art VIII, § 1-d-1

<sup>154</sup> Tex. Const. art VIII, § 1(b)

<sup>155</sup> Tex. Const. art VIII, § 21(c)

<sup>156</sup> Tex. Const. art VIII, § 21(a)

*Taxpayer Bill of Rights* (Table 16). This bill of rights is a collection of constitutional doctrine and statutory protections that property owners and are able to exercise. Aside from providing basic protections for taxpayers, through statutory and constitutional provisions, the state plays no other role in assessing taxes, levying taxes, or even appraising real estate for tax purposes.

*Table 16 Property Taxpayer Bill of Rights*

<b>Property Taxpayer Bill of Rights</b>
You have the right to equal and uniform taxation. <sup>157</sup>
You have the right to ensure that your property is appraised uniformly with similar properties in your county. <sup>158</sup>
You have the right to have your property appraised according to generally accepted appraisal methods and techniques and other requirements of law. <sup>159</sup>
You have the right to receive exemptions or other tax relief for which you qualify and apply timely. <sup>160</sup>
You have the right to notice of property value increases, exemption changes and estimated tax amounts. <sup>161</sup>
You have the right to inspect non-confidential information used to appraise your property. <sup>162</sup>
You have the right to protest your property's value and other appraisal matters to an appraisal review board composed of an impartial group of citizens in your community. <sup>163</sup>
You have the right to appeal the appraisal review board's decision to district court in the county where the property is located. <sup>164</sup>
You have the right to fair treatment by the appraisal district, the appraisal review board and the tax assessor-collector. <sup>165</sup>
You have the right to voice your opinions at open public meetings about proposed tax rates and to ask questions of the governing body responsible for setting tax rates. <sup>166</sup>
You have the right to petition a local government to call an election to limit a tax increase in certain circumstances. <sup>167</sup>
You have the right to receive a free copy of the pamphlet entitled <i>Property Taxpayer Remedies</i> published by the Texas Comptroller of Public Accounts prior to your protest before the appraisal review board. <sup>168</sup>

<sup>157</sup> Tex. Const. art VIII, § 1(a)

<sup>158</sup> Hegar, Glenn. (2018). *Property Tax Basics: Texas Property Tax*. Texas Comptroller of Public Accounts.

<sup>159</sup> Tex. Tax Code Chapter 23 and § 23.01(b)

<sup>160</sup> Tex. Const. art VIII, § 1(b), (1-b); Tex. Tax Code Chapter 11

<sup>161</sup> Tex. Const. art VIII, § 21 and Tex Tax Code §§ 11.43 and 25.19

<sup>162</sup> Tex. Tax Code §25.195

<sup>163</sup> Tex. Tax Code §41.41(a)

<sup>164</sup> Tex. Tax Code §§42.01 and 42.21(a)

<sup>165</sup> Hegar, Glenn. (2018). *Property Tax Basics: Texas Property Tax*. Texas Comptroller of Public Accounts.

<sup>166</sup> Tex. Edu. Code §44.004, Tex. Gov't Code Chapter 551 and Tex. Tax Code §26.06

<sup>167</sup> Tex. Tax Code §§26.07 and 26.08 and Tex. Water Code §49.236

<sup>168</sup> Tex. Tax Code §41.461

## Texas in Comparison

Nationally, Texas has the 13<sup>th</sup> highest state and local property tax collections per capita<sup>169</sup> and the 7<sup>th</sup> highest property taxes paid as a percentage of owner-occupied housing value.<sup>170</sup> Figure 14 compares the effective tax rate for the ten largest states, by land mass, which includes Texas. Of these states, Figure 14 shows that Texas has the highest rate of property taxes paid as a percentage of owner-occupied housing values. This higher effective ad valorem tax rate is, in part, attributable to the state's reliance on property taxes and sales taxes; Texas is one of only seven states in the country that does not have a personal income tax<sup>171</sup> causing higher effective property tax rates.

*Figure 14 Property Taxes Paid as a Percentage of Owner-Occupied Housing Value*

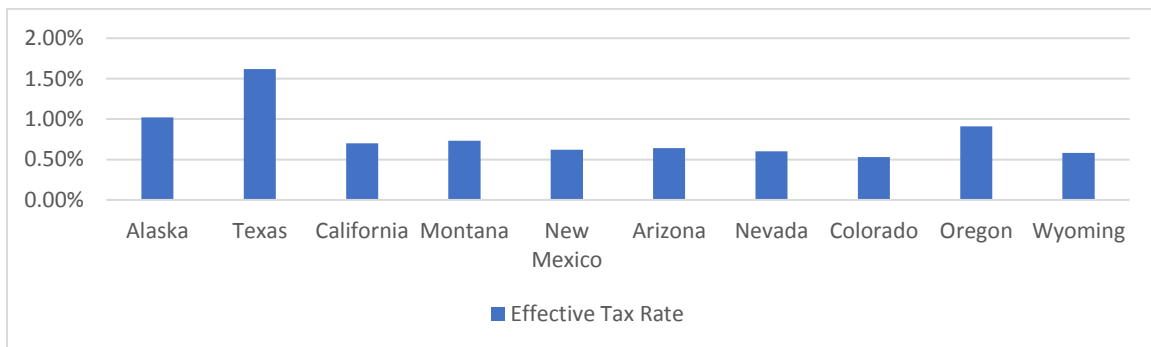


Figure 15 compares the state and local property tax collections per capita across the ten largest states, by land area, in the country. Nationally, Texas ranks 13<sup>th</sup> in the nation in per capita collections, however, as mentioned previously, Texas does not collect a state property tax.

<sup>169</sup> The Tax Foundation. (2019). *Facts & Figures – How Does Your State Compare?*

<sup>170</sup> The Tax Foundation. (2019). *Facts & Figures – How Does Your State Compare?*

<sup>171</sup> Maas, Jimmy. (2107). *Here's Why Property Taxes Are Higher In Texas*. KUT. Retrieved from <https://www.kut.org/post/heres-why-property-taxes-are-higher-texas>

Figure 15 State and Local Property Tax Collections per Capita

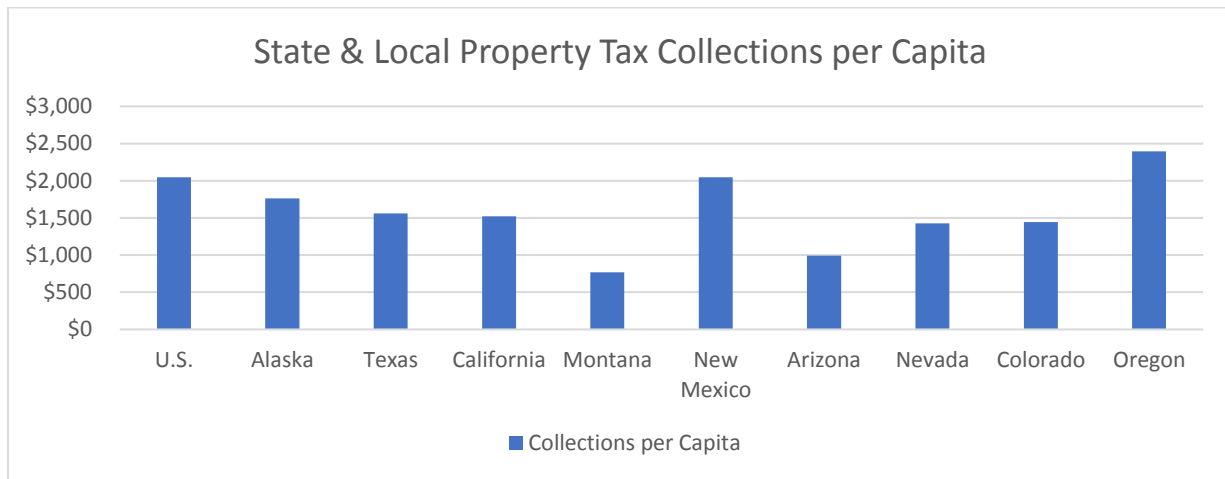
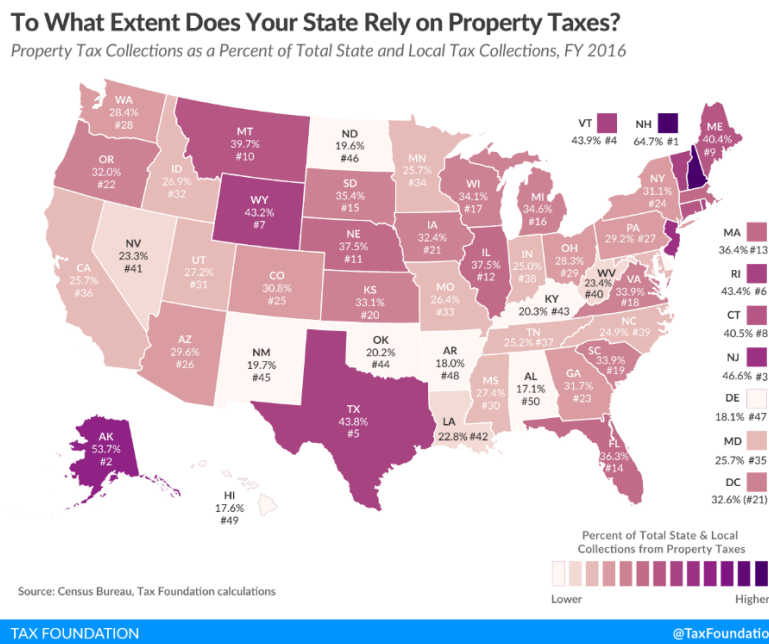


Figure 16 compares property tax collections as a percent of the total state and local tax collections nationally. In 2016, Texas ranked #5 in percentage of all taxes assessed being property taxes; municipalities and taxing jurisdictions in Texas collect 43.8 percent of all taxes paid by residents.<sup>172</sup>

Figure 16 Property Tax Collections as a Percent of the Total State and Local Tax Collections



<sup>172</sup> Cammenga, Janelle. (2019). *To What Extent Does Your State Rely On Property Taxes?* Retrieved from <https://taxfoundation.org/state-and-local-property-tax-reliance-2019/>

Source: Cammenga, Janelle. (2019). *To What Extent Does Your State Rely On Property Taxes?* Retrieved from <https://taxfoundation.org/state-and-local-property-tax-reliance-2019/>

## History of Property Tax as an Emergency Item

Throughout Texas history, governors have used their emergency item requests to the legislature to address, and hopefully expedite, the approval of legislation regarding property and ad valorem taxation. Figure 17 provides a timeline of governors and their inclusion of property tax and ad valorem taxation as emergency items.

Figure 17 Governor's Use of Emergency Items for Property Tax Reform

Year	Session	Governor	Emergency Item	Legislative Output
2019	86 <sup>th</sup>	Greg Abbott	"...reform of the property tax system by requiring voter approval to exceed a 2.5% rollback rate, by improving accountability in the selection of a chief appraiser, and by increasing transparency."	<b>SB 2/HB 2:</b> as filed, these bills made sweeping reforms to the appraisal process and decreased the rollback rate from 8% to 2.5%. In the conference committee report, SB 2 would maintain the appraisal reforms, but would decrease the rollback rate to 3.5% for only cities, counties, and certain other taxing jurisdictions.
2007	80 <sup>th</sup>	Rick Perry	"...making appropriations to the Texas Education Agency for the purpose of school district property tax rate reductions."	<b>HB 2:</b> This bill makes an appropriation of \$8,077,958,000 from the Property Tax Relief Fund and an appropriation of \$6,113,142,000 from the Foundation School Fund for the 2008-2009 biennium for the purpose of property tax rate compression. This bill was passed subsequent to the <i>Shirley Neeley, Texas Commissioner of Education v. West Orange Cove Consolidated Independent School District, et al.</i> , Texas Supreme Court Case.
2007	80 <sup>th</sup>	Rick Perry	"...authorizing the reduction of ad valorem taxes that may be imposed for public school purposes on the residence homesteads of the elderly or disabled to reflect any reduction in the rate of those taxes."  "...providing that state appropriations made for the purpose of directly reducing	<b>HB 5:</b> Established the formulas by which the reduction in the limitation on the total amount of property taxes imposed by a school district on the homestead of an elderly or disabled person is to be calculated beginning with the tax year that begins January 1, 2007.



			local property taxes and state appropriations made for the purpose of returning state funds to the public do not count against the constitutional state spending limit and authorizing the legislature to provide for the grant of public money for the purpose of returning state funds to the public.”
1983 <sup>†</sup>	68 <sup>th</sup>	Mark W. White, Jr.	“...extending the discount period for property tax payers in certain circumstances”
1949*	51 <sup>st</sup>	Beauford H. Jester	“levying and collection of full general fund ad valorem tax for the next two years [1950-1951].”
1939*	46 <sup>th</sup>	W. Lee O’Daniel	“passage of an enabling act ... to grant discounts for the prompt payment of ad valorem taxes.”

\* = Legislative histories unavailable for that session through the Legislative Research Library.

<sup>†</sup> = No bills passed to address emergency item.

As Figure 17 outlines, Governors O’Daniel, Jester, and White were not successful in addressing ad valorem taxation. Although Governor Perry saw success in addressing property taxation, these successes were prompted by court order from the Texas Supreme Court in *Shirley Neeley, Texas Commissioner of Education v. West Orange Cove Consolidated Independent School District, et al.*, a case that argued that the way schools were funded by the state caused a de facto statewide property tax. Specifically, under Governor Perry’s leadership, maintenance and operations tax rates were cut by one-third; for districts taxing at the maximum of \$1.50 per \$100 of valuation, the base tax rate dropped by 11.3 percent, to \$1.33 in the 2006 tax year, and by one-third, to \$1.00 in the 2007 tax year.<sup>173</sup>

To finance these cuts in local property taxes and supplement the lost revenues, the Legislature also enacted a revised business franchise tax, a motor vehicle standard presumptive

<sup>173</sup> House Research Organization. (n.d.). *HB 2*. Retrieved from <https://hro.house.texas.gov/pdf/ba80r/hb0002.pdf>

value for sales tax purposes, and an increase in the tax rate for cigarettes and other tobacco products.<sup>174</sup> Unlike Governor Perry, Governor Abbott leveraged a conservative Senate and a new Speaker of the House of Representatives to pursue property tax reform to fulfill his emergency item; specifically, the ad valorem tax legislation pushed by the governor during the 86<sup>th</sup> Legislative Session was filed during the 85<sup>th</sup> Legislative Session in the Senate by Senator Paul Bettencourt and carried by then-Representative, now Speaker of the House, Dennis Bonnen. During the 85<sup>th</sup> Legislative Session, these tax reforms would end up failing to pass through the House of Representatives and ultimately ended up not passing.

### 86<sup>th</sup> Legislative Session Emergency Item

#### Senate Bill 2 and House Bill 2

Shortly after announcing the reform of the property tax system as an emergency item, Governor Greg Abbott joined the Lieutenant Governor Dan Patrick, Speaker of the House Dennis Bonnen, Senator Paul Bettencourt, Chairman of the Senate Committee on Property Tax, and Representative Dustin Burrows, Chairman of the House Ways and Means Committee, to announce a joint force to address the newly prescribed emergency item; Senate Bill 2 and House Bill 2, as introduced, included various changes to the appraisal process and a rollback rate, the rate in which a taxing jurisdiction's budget can increase before requiring voter approval, of 2.5 percent for all taxing jurisdictions (cities, counties, school districts, hospital districts, community college districts, etc.).

Although the bills were introduced using the same bill text, the bills quickly evolved into each chamber's ideal legislation. While each chamber maintained the appraisal reform language, the Texas House of Representatives removed school districts from the 2.5 percent rollback rate,

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<sup>174</sup> *Ibid.*

allowing school districts to continue using the 8 percent rollback rate, but continued to include cities, counties, and large special utility districts. In the opposite chamber, the Senate held the school districts to 2.5 percent, but allowed all other taxing districts a 3.5 percent rollback rate.

During the House floor-layout of Senate Bill 2, some unacceptable amendments were added causing the bill's author, Senator Bettencourt, to request the appointment of a Conference Committee on May 7, 2019. After more than two weeks of conference committee deliberations, on May 25, 2019, the Conference Committee Report was brought in front of the House of Representatives for concurrence; the new bill had a 3.5 percent rollback rate for cities and counties, maintained the 8 percent rollback rate for hospital districts and community college districts, established an appraisal review board advisory committee, required the adoption of an appraisal manual to ensure equal and uniform appraisals as required by the Texas Constitution, and contained various prescriptive language for ballot propositions and newspaper notices. Throughout the legislative process, Senate Bill 2 votes fell along party lines, with some Democrat support, and the vote to adopt the committee report was no different; the House of Representatives adopted the report with a vote of 88-50 and the Senate adopted the report with a vote of 21-9.

#### [House Joint Resolution 3 and House Bill 4621](#)

In an effort to help compress property taxes further, Governor Abbott, Lieutenant Governor Patrick, and Speaker Bonnen embraced House Joint Resolution 3, authored by State Representative Dan Huberty, Chairman of the House Public Education Committee and author of House Bill 3, a sales tax swap where revenues from an increased sales tax rate would be used to buy down property taxes; specifically, Representative Huberty's resolution would have utilized 80 percent of the monies collected for property tax buy-down and the remaining 20 percent to fund Texas' public schools.

The largest institutional feat for this piece of legislation is that constitutional amendments, in accordance with House and Senate Rules, require a two-thirds vote of the body to pass; currently there are 83 Republicans and 67 Democrats in the Texas House of Representatives and 19 Republicans and 12 Democrats in the Texas Senate. Since a sales tax is considered to be one of the most regressive taxes (Figure 18), Democrats have voiced extreme opposition to the legislation.

*Figure 18 Final Tax Incidence by Household Income*

Quintile	Household Income	Amount	Percent of Total Tax Paid	Tax as Percent of Total Income	As income increases, share of sales tax decreases.
Quintile 1	Less than \$37,630	\$2,690.1	7.3%	7.3%	
Quintile 2	37,630-66,112	3,822.6	10.4%	3.9%	
Quintile 3	66,112-99,619	5,121.3	14%	3.3%	
Quintile 4	99,619-149,453	6,747.5	18.4%	2.9%	
Quintile 5	149,453 and higher	10,633.5	29.0%	1.6%	
<b>Total</b>		\$36,645.9	100%		

Although there was enough opposition to vote down the resolution on party lines, House Joint Resolution 3 was set for the May 7, 2019 Constitutional Amendments Calendar. That same morning, Senator Paul Bettencourt, an avid opponent to sales tax increases for the purposes of a swap, posted a video on Facebook announcing his opposition to HJR 3; this meant that had the resolution reached the Senate, it was likely to not have the votes to move forward. In light of this realization, Representative Huberty made a motion to postpone the consideration of both HJR 3 and the enabling legislation, HB 4621, until January 12, 2021 essentially killing his own legislation.

## Conclusions

Rising property taxes have been an issue that many Texas Governors have attempted to solve through the declaration as an emergency item. Although there was success found during Governor Perry's tenure, the need for property tax legislation proves to be cyclical in nature, requiring the attention of governors throughout Texas' history. Ultimately, Governor Abbott, Lieutenant Governor Patrick, and Speaker Bonnen have sought to reform the property tax system in a way that would negate the need for any further tinkering by other administrations, however given the extreme opposition to certain aspects of Senate Bill 2, the likelihood that Texas' cities and counties coming before the legislature to have the rollback rate increased in the coming future is extremely high.

## Teacher Pay

SAMANTHA WISEMAN



## Defining the 2019 Status of Teacher Salaries in Texas

Included in the 2017-2018 pocket edition of the Texas Education Agency's Texas Public School Statistics are statistics of the personnel within Texas schools. Texas has a total staff of 713,320, which includes full-time teachers, campus administration, central administrators, professional support, educational aides, and auxiliary staff.<sup>175</sup> The following table (Table 17) represents the district staff by their categories and their average base salary from across Texas.

*Table 17 District Staff by Category 2017-2019*

	<b>Full-Time Equivalent</b>	<b>Average Base Salary</b>
Teachers	356,909	\$53,334
Campus Administration	21,435	\$77,712
Central Administrators	8,102,	\$102,300
Professional Support	70,570	\$63,101
Educational Aides	72,068	\$20,650
Auxiliary Staff	184,124	\$26,263
<b>Total Staff</b>	<b>713,320</b>	<b>\$45,304</b>

*Source: Texas Education Agency (2018)*

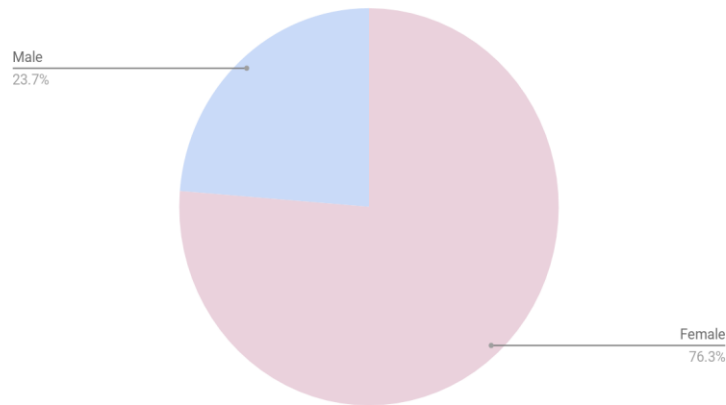
Full-time staff in education is dominated by females, with 76.27 percent of full-time staff being female.<sup>176</sup> Of full-time staff in Texas school's 58.94 percent identify as white, followed by 27.21 percent identifying as Hispanic.<sup>177</sup> A breakdown of the full-time teachers in Texas schools for gender and ethnicity is displayed in the following charts.

<sup>175</sup> Texas Education Agency. "Pocket Edition." (2018) Retrieved from: <https://tea.texas.gov/communications/pocket-edition/>

<sup>176</sup> Texas Education Agency. "Pocket Edition." (2018) Retrieved from: <https://tea.texas.gov/communications/pocket-edition/>

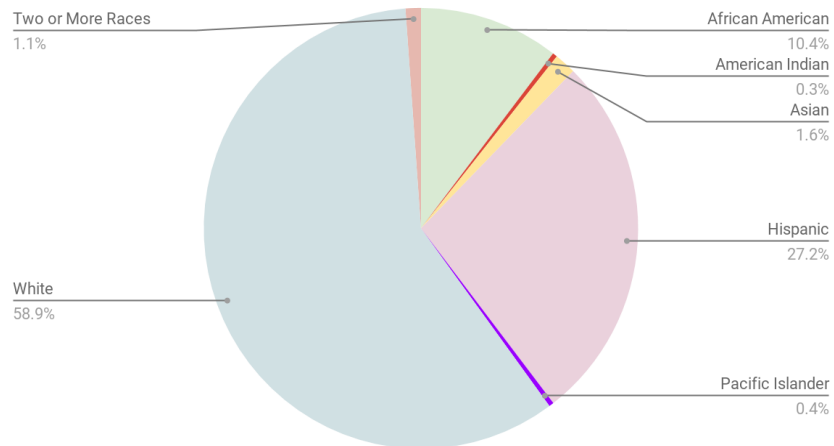
<sup>177</sup> Ibid.

*Figure 20 Teacher Profiles in Texas - Gender*



*Source: Texas Education Agency (2018)*

*Figure 19 Teacher Profiles in Texas - Ethnicity*



*Source: Texas Education Agency (2018)*

The Texas Education Agency has set minimum standards for the salary schedule for classroom teachers, full-time librarians, full-time counselors, and full-time registered nurses. The minimums displayed below are determined by Section 153.1021 of the Texas Administrative Code.



Table 18 2018-2019 Minimum Salary Schedule

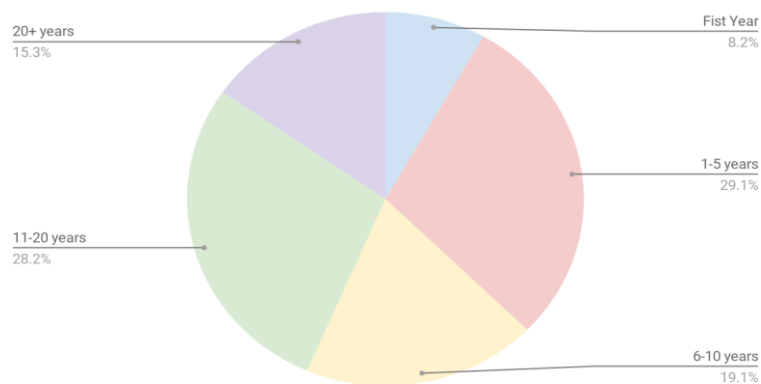
Years of Experience Credited	Monthly Salary	Annual Salary (10 month contract)
0	2,808	\$28,080
5	3,244	\$32,440
10	3,808	\$38,080
15	4,231	\$42,310
20 & Over	4,551	\$45,510

Source: Texas Education Agency (2018)<sup>178</sup>

The minimum base salary and the years of experience a full-time teacher have are both factors that influence the average base salary as noted above for Texas teachers. In Texas, 29.10 percent of full-time teachers have 1-5 years of experience and 28.22 percent have 11-20 years of experience.<sup>179</sup> A full breakdown of the experience of full-time teachers is provided below.

Source: Texas Education Agency (2018)

Figure 21 Breakdown of Experience of Full-Time Teachers



<sup>178</sup> Brunetti, Maria. "2018-2019 Minimum Salary Schedule." The Texas Education Agency. (2018, June 12) [https://tea.texas.gov/Texas\\_Educators/Salary\\_and\\_Service\\_Record/Minimum\\_Salary\\_Schedule/2018-2019\\_Minimum\\_Salary\\_Schedule/](https://tea.texas.gov/Texas_Educators/Salary_and_Service_Record/Minimum_Salary_Schedule/2018-2019_Minimum_Salary_Schedule/)

<sup>179</sup> Texas Education Agency. "Pocket Edition." (2018) Retrieved from: <https://tea.texas.gov/communications/pocket-edition/>

The National Education Association provided Rankings of the States 2017 and Estimates of School Statistics 2018, with categories including classroom teachers, teacher salaries, and instructional staff salaries.<sup>180</sup> Texas ranks 1<sup>st</sup> in number of teachers but ranks 29<sup>th</sup> for teacher salary. The 2016-2017 average teacher salary in the nation was \$61,386, above the 2017-2018 average Texas teacher salary of \$53,334.<sup>181</sup> For comparison, New York had an average salary of \$81,902 and California at \$79,128. On the lower end, Oklahoma had an average salary of \$45,292 and West Virginia was at \$45,555.<sup>182</sup> The difference in Texas teacher pay and the national average teacher pay has combined with the emphasis on education in Texas, setting the stage for teacher salaries to be a focal point in the 86<sup>th</sup> Session of the Texas Legislature.

### Expectations for Teacher Salaries

Texas has seen poor ratings in regard to education and teacher salaries, as noted in previous sections of this paper. Due to the poor standings Texas has in education and the gap in the national and Texas average teacher salary, teacher pay has been regarded as an emergency item by Governor Greg Abbott for the 86th Regular Session. Both the Texas Senate and Texas House of Representatives have made great efforts to address the issue of teacher pay, while having vastly different approaches. The expectation for teacher salaries this session was that there might be a compromise between the proposed across-the-board full-time teacher pay raise and the school finance reform plan calling for raising minimum salaries for a broad group of

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<sup>180</sup> National Education Association. (2018). URL: [http://www.nea.org/assets/docs/180413-Rankings\\_And\\_Estimates\\_Report\\_2018.pdf](http://www.nea.org/assets/docs/180413-Rankings_And_Estimates_Report_2018.pdf)

<sup>181</sup> Ibid.

<sup>182</sup> National Education Association. (2018). URL: [http://www.nea.org/assets/docs/180413-Rankings\\_And\\_Estimates\\_Report\\_2018.pdf](http://www.nea.org/assets/docs/180413-Rankings_And_Estimates_Report_2018.pdf)

educators, increasing health and pension benefits, and offering opportunities for merit pay programs.<sup>183</sup>

There are polarizing views on just about every issue in state government, and teacher salaries are not spared from this. With the Senate, House of Representatives, Speaker of the House, Lieutenant Governor, and Governor having varying views on the best method for addressing the issue, there had to be a compromise to address the issue. The staff in Texas schools independent of teachers, totals 713,320, showing that this issue impacts a multitude of individuals. With the number of people impacted by the emergency item of teacher salaries, legislation was likely to be agreed upon to address the need of Texas poor rankings in education and teacher pay.

#### History of Emergency Items Related to Teacher Salaries

In 1945, in the 49<sup>th</sup> regular session, Governor Coke R. Stevenson submitted for consideration, an amendment to allow for rural teachers to receive a pay increase. He did so with the following submission:

*An amendment to the State Equalization Law for the purpose of enabling teachers in the rural schools to receive increased compensation, and for adjusting the transportation costs, and for increasing the allowances for high school tuition for schools which show a budgetary need for such increase, and for increasing the allowance per teacher for the current operating expense of rural aid schools, and making such appropriations as the Legislature deems necessary for such purposes.*<sup>184</sup>

The emergency item enabling teachers in the rural schools of Texas to receive increased compensation of the 49<sup>th</sup> regular session is the first recorded emergency item related to teacher

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<sup>183</sup> Swaby, Aliyya. (2019, March 5). "Texas Teacher Pay Emerges as a Sticking Point between House and Senate." The Texas Tribune. Retrieved April 01, 2019, from <https://www.texastribune.org/2019/03/05/texas-teacher-pay-emerges-sticking-point-between-house-and-senate/>.

<sup>184</sup> Journal of the Senate of the State of Texas. Regular Session of the Forty-Ninth Legislature. (1945). <https://lrl.texas.gov/scanned/govdocs/Coke%20R%20Stevenson/1945/message011645.pdf>

salaries. In 1947, in the 50<sup>th</sup> regular session, Governor Stevenson again submitted an amendment to the State Equalization Law for the purpose of enabling teachers in the rural schools to receive increased compensation<sup>185</sup> for the Legislature's consideration. He went on to further state that work was being done in both the Senate and House of Representatives to meet this goal that had gained attention of schools across the state. Governor Stevenson also included comments on how funding for the teacher salary increase would be paid for:

*The proposed amendment does not require any additional appropriation of money by the Legislature but will enable the teachers affected by the amendment to be paid from the additional per capita · apportionment which has already been made.*<sup>186</sup>

In the 68<sup>th</sup> regular session of 1983, Governor Mark W. White Jr. declared the emergency item of increasing the minimum salaries provided by law for public school teachers and other public school personnel, stating the following:

*The State of Texas is experiencing a major teacher shortage that has in large part been created by inadequate Texas public education compensation plan. The problem can be resolved by providing a beginning teaching salary competitive with salaries of similar professions, and by authorizing career incentive increments that are adequate to retain experienced teachers in the classrooms of the state.*<sup>187</sup>

In his statement of the emergency item, Governor Mark W. White Jr. requested the appropriation of state government funding for the fiscal biennium beginning September 1, 1983.<sup>188</sup>

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<sup>185</sup> Journal of the Senate of the State of Texas. Regular Session of the Fiftieth Legislature. (1947).<https://lrl.texas.gov/scanned/govdocs/Coke%20R%20Stevenson/1947/message011647b.pdf>

<sup>186</sup> Journal of the Senate of the State of Texas. Regular Session of the Fiftieth Legislature. (1947).<https://lrl.texas.gov/scanned/govdocs/Coke%20R%20Stevenson/1947/message011647b.pdf>

<sup>187</sup> Journal of the Senate of the State of Texas. Regular Session of the Sixty-Eighth Legislature. (1983).<https://lrl.texas.gov/scanned/govdocs/Mark%20W%20White,%20Jr/1983/mess9.pdf>

<sup>188</sup> Ibid.

This year, 2019, Governor Greg Abbott gave the State of the State and stated that “more must be done to fulfill the promise of Texas” and that “our mission begins with our students.”<sup>189</sup> Governor Greg Abbott declared increasing teacher pay as an emergency item with the broader emergency item of school finance reform. He provided the following statement and teacher pay example to support the decision to have teacher pay be an emergency item:

*We must target education funding to help our students achieve in school. That starts with teachers in the classroom. Other than parents, no one is more vital to our students’ education than teachers. Texas must recruit and retain the best and brightest teachers to educate our students. This session, we must pay our teachers more. We must provide incentives to put effective teachers in the schools and classrooms where they are needed the most. And we must create a pathway for the best teachers to earn a six-figure salary. The teacher pay system used by Dallas ISD shows this strategy works. When I visited Blanton Elementary in Dallas, I met an outstanding teacher who was only in his third year and already making more than \$90,000. Teachers across Texas should have that opportunity.*<sup>190</sup>

*Table 19 History of Governor's Emergency Items Related to Teacher Salaries*

Year	Session	Governor	Emergency Item
1945	49th Regular Session	Coke R. Stevenson	Enabling teachers in the rural schools to receive increased compensation.
1947	50th Regular Session	Coke R. Stevenson	Enabling teachers in the rural schools to receive increased compensation.
1983	68th Regular Session	Mark W. White, Jr.	Increasing the minimum salaries provided by law for public school teachers and other public school personnel
2019	86th Regular Session	Greg Abbott	Teacher pay raises

<sup>189</sup> "Governor Abbott Delivers 2019 State Of The State Address." Office of the Governor | Greg Abbott. (2019, February 5). <https://gov.texas.gov/news/post/governor-greg-abbott-delivers-state-of-the-state-address>.

<sup>190</sup> "Governor Abbott Delivers 2019 State Of The State Address." Office of the Governor | Greg Abbott. (2019, February 5). <https://gov.texas.gov/news/post/governor-greg-abbott-delivers-state-of-the-state-address>.

## Legislative History of Teacher Salaries in Texas

In 1999, during the 76<sup>th</sup> regular session, Senate Bill 4 (SB 4) was passed through the Senate and House and signed into law by Governor George W. Bush. SB 4, authored by Senator Bivins and Senator Sadler, allowed for a \$3,000 per year teacher pay raise. In 2009, during the 81<sup>st</sup> regular session, House Bill 3646 (HB 3646) was passed through the House and Senate and signed into law by Governor Rick Perry. HB 3646 was authored by Representative Hochberg and Representative Shapiro, and it allotted roughly \$800 per year to teachers.

This year, 2019, in the 86<sup>th</sup> regular session, the two most notable bills regarding teacher salaries are Senate Bill 3 (SB 3) and House Bill 3 (HB 3). As filed, SB 3 was written in a way that would allow for a \$5,000 salary increase, for all full-time classroom teachers and librarians. SB 3 establishes a new Classroom Teacher Salary Allotment by adding Section 21.4023 to the Education Code. This would be the biggest state-funded salary increase in over 20 years for Texas teachers. The \$5,000 salary increase would be an increase to a teacher's 2018-2019 school year salary. SB 3 does not preclude individual districts from providing merit-based salary increases in addition to the \$5,000 teacher salary raise, nor does it preclude individual districts from providing raises for support staff. SB also has the stipulation that teacher salary raises be paid for by the state via Section 42.25131. All districts are eligible for the state aid of \$5,000 per classroom teacher, and the funds given to the districts will not be subject to recapture. The \$5,000 teachers' salary pay raise would be continuous, meaning the \$5,000 would be allotted for each teacher every year, unless undone by a future legislature.

As filed, HB 3, a school finance bill, entitles a district to an educator effectiveness allotment with a funding weight of 0.012 applied with the following guidelines:

- per student in ADA at a district campus that is located in a census block assigned the greatest weight for the compensatory education allotment;
- or if the district qualifies as a rural school district, per student in ADA in the district.

HB 3 allocates the funds by means of a constant funding weight, and it requires the funds to be used to incentivize and provide pay increases to effective classroom teachers to teach in certain high needs, rural, and shortage areas. HB 3 provides for a district to develop a policy for distribution with local stakeholder input. HB 3 does not include a provision entitling a school district to reimbursement for certain fees relating to educator effectiveness. The Senate and House versions of addressing with teacher salaries are varied and have created many debates and discussions over the issue throughout the 86th regular session.

### [Senate Bill 3: Across-the-Board Raises](#)

In the 86<sup>th</sup> legislative session, Governor Greg Abbott announced the emergency item of teacher salaries. SB 3, captioned “relating to additional funding to school districts for classroom teacher salaries,” was filed January 15<sup>th</sup>, 2019 by Senator Nelson, the Chair of Senate Finance. On February 2<sup>nd</sup>, 2019, SB 3 was referred to the Senate Finance Committee. SB 3 was subsequently scheduled and considered in public hearing on February 25<sup>th</sup>, 2019. Many school organizations, teachers, and parents registered their position on SB 3 during the public hearing. Of the registered testimony, two individuals registered against the raise for classroom teachers; support was registered by teachers from across the state; and the Texas Teacher Retirement System and the Legislative Budget Board were a part of the groups that registered their position as on the bill. Some of the most substantial testimony included Texas teachers sharing their efforts that they put into spending so much time with children, and the increase in respect that would come to the profession if the raise was passed. The requests from testifying on the bill

were to include others in a school, including librarians, counselors, and other support staff because of their vital roles in children's lives as well as teachers.

SB 3 was reported favorably as substituted in committee with unanimous support from the 15-member Senate Finance Committee. The substituted version of SB 3 included the following points:

- Provides a \$5,000 annual salary increase for every classroom teacher. Establishes a new Classroom Teacher Salary Allotment.
- Directs that each classroom teacher is entitled to a \$5,000 salary increase above their 2018–2019 school year salary
- Clarifies this bill does not preclude districts from providing merit-based salary increases to teachers in addition to this \$5,000 salary increase
- Stipulates that the raise and impacts on TRS be paid for by the state

On March 4<sup>th</sup>, 2019, SB 3 was discussed on the Senate floor, with one amendment being provided by the author, Senator Nelson. The floor amendment included librarians in the raise. The amendment was passed, which led to almost immediate backlash by school counselors for still not being included. Librarians were added to SB 3 because the financial impact was still fiscally responsible for the Texas budget at the time SB 3 passed the Senate. Many school counselor groups expressed their outrage through social media and by making their voice heard to the Senators and Representatives. On March 4<sup>th</sup>, 2019, SB3 was the first bill to be passed through the Senate, with unanimous, bipartisan support of the 31 Senators, who were also all co-authors of SB 3. Senator Rodriguez provided the following statement on SB 3 and about the 86<sup>th</sup> legislative session:

“I’m proud to vote for and be a co-author of Senate Bill 3, which will provide ’ classroom teachers a long-overdue pay raise of \$5,000 starting next school year. While this pay raise will not solve all of the issues and inequities in our public school system, it is an important step in the right direction. Also, as the first bill to be considered and voted out of the Texas Senate, it shows we are focused on the



priorities that are important to all Texans across the state rather than the partisan, divisive issues that characterized much of the 2017 legislative sessions.”

SB 3 was received by the House on March 5<sup>th</sup>, 2019 and was subsequently referred to the committee on Public Education on March 28<sup>th</sup>, 2019. Since that time, SB 3 has not had further action; its provisions creating a \$5,000 across-the-board raise for full-time classroom teachers and librarians were incorporated into the House plan for School Finance Reform, House Bill 3 (HB 3).

### **House Bill 3: School Finance Reform**

When HB 3 was amended on the House floor on April 3<sup>rd</sup>, 2019, a mandate for across-the-board teacher and librarian pay raises was included. HB 3 also includes language of merit-based pay schemes, which Governor Greg Abbott voiced support for in his State of the State speech at the beginning of session. As noted in the School Finance Section, HB 3 passed through the House Public Education Committee. When HB 3 made it to the House floor, the amendment for the \$5,000 across-the-board raise was added. Once in the Senate, HB 3 passed through the Senate Education Committee. HB 3 subsequently passed through the full Senate. Since there were differences with the House and Senate version, HB 3 went to conference committee. On May 25, 2019, HB 3 passed both chambers, and at the date of May 26, 2019, was being sent to Governor Abbott to be signed.

The final version of HB 3 requires school districts to use a portion of their increase in funding on pay increases and benefits for teachers, librarians, nurses, and counselors, allowing for an extended amount of those eligible for pay raises. There is an expectation to prioritize raises for veteran teachers, meaning those with more than five years of experience. There is also a smaller amount designated for raises for all employees, as administrators see fit. Since the pay

increases are not a set amount, the school districts will have discretion on how to use the funds.

Local control is what school districts have asked for and this is supported by House leadership,

but it will have to be seen if teachers and other staff members within schools actually receive any

form of raises or if the largest portions stay within administrators.

## School Safety

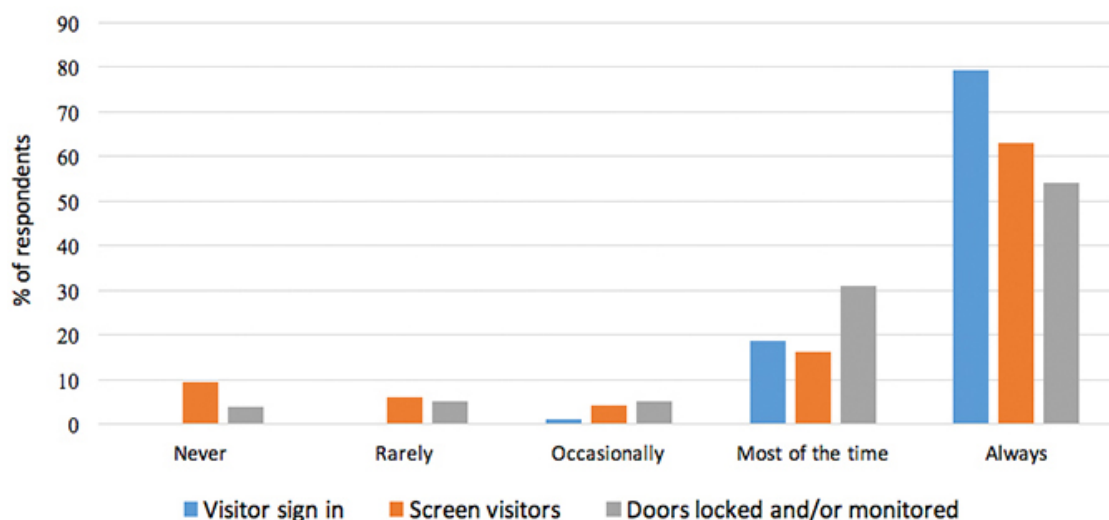
SAMANTHA WISEMAN



## Defining the 2019 Universe of School Safety in Texas

The Texas School Safety Center serves Texas schools, and is a central location for school safety information. Schools are able to access research, training, and technical support to help reduce youth violence and promote school safety.<sup>191</sup> In 2016, the Texas School Safety Center at Texas State University conducted a study to identify practices currently being used to promote safety in schools, and to assess any contextual aspects of these practices.<sup>192</sup> The results of the 878 respondents are shown below (Figure 22), and were gathered from administrators, teachers, and law enforcement in schools across Texas.

*Figure 22 Frequency of Safety Practices Related to Access Control*



*Source: Texas School Safety Center (2019)*

In 2016, the Texas School Safety Center at Texas State University published the Campus Safety and Security Needs Assessment Report with the following highlights found:

- 49 percent of school administrators reported that law enforcement officials serve their school on at least a weekly basis.

<sup>191</sup> Lachman, Dana. "Texas School Safety Center." The Texas Education Agency. (2015, October 28). [https://tea.texas.gov/Texas\\_Schools/Safe\\_and\\_Healthy\\_Schools/Chapter\\_37\\_-\\_Safe\\_Schools/Texas\\_School\\_Safety\\_Center/](https://tea.texas.gov/Texas_Schools/Safe_and_Healthy_Schools/Chapter_37_-_Safe_Schools/Texas_School_Safety_Center/).

<sup>192</sup> "TxSSC." Texas School Safety Practices Survey Report | Texas School Safety Center. (n.d.). <https://txssc.txstate.edu/pubs/practices/>.

- Respondents overall indicated that it would be 'very useful' to receive more information, training, and/or assistance relating to the Texas Unified School Safety and Security Standards, particularly in the following areas: Mitigation/prevention (54 percent), Preparedness, (59 percent), Response, (62 percent), and Recovery (55 percent).<sup>193</sup>

On May 18, 2018, a 17 year old gunman murdered 10, including 2 teachers, Cynthia Tisdale and Glenda Ann Perkins, and 8 students, Jared Conard Black, Shana Fisher, Christian Riley Garcia, Aaron Kyle McLeod, Angelique Ramirez, Sabika Sheikh, Christopher Stone, and Kimberly Vaughan, and injured 13 people after opening fire inside Santa Fe High School in Santa Fe, Texas. Evidence from the suspect led to the conclusion he had been planning the shooting and that he advertised his intentions but somehow slipped through the cracks. Governor Greg Abbott took notice of the event and publicly responded.<sup>194</sup>

On May 30, 2018, Governor Abbott released the School and Firearm Safety Action Plan.<sup>195</sup> Within the document. Governor Abbott outlined suggestions for the 86th Legislature to reduce the threat of gun violence in Texas Schools. Below are the 24 recommendations included in his 43- page plan.<sup>196</sup>

*Table 20 School and Firearm Safety Action Plan Governor Greg Abbott's Recommendations*

Immediately Increase Law Enforcement Presence at Schools	Deploy More Fusion Centers To Monitor Social Media For Threats
Train More School Marshals And Improve The Program	Improve Mental Health Crisis Response Infrastructure

<sup>193</sup> "TxSSC." . Campus Safety and Security Needs Assessment Report | Texas School Safety Center. (n.d.) <https://txssc.txstate.edu/pubs/needs/>.

<sup>194</sup> Samuels, Alex. "How Will the Texas Legislature Address School Shootings? Likely Not with Gun Control." The Texas Tribune. (2019, January 17). <https://www.texastribune.org/2019/01/17/texas-legislature-school-safety-shootings-gun-control/>.

<sup>195</sup> School Safety and Firearm Safety Action Plan: Governor Greg Abbott. (2018, May 30). [https://gov.texas.gov/uploads/files/press/School\\_Safety\\_Action\\_Plan\\_05302018.pdf](https://gov.texas.gov/uploads/files/press/School_Safety_Action_Plan_05302018.pdf)

<sup>196</sup> Samuels, Alex. "How Will the Texas Legislature Address School Shootings? Likely Not with Gun Control." The Texas Tribune. (2019, January 17). <https://www.texastribune.org/2019/01/17/texas-legislature-school-safety-shootings-gun-control/>.

Provide Active Shooter And Emergency Response Training	Increase The Safety Of Charter Schools
Hardening Of Campus Facilities	Remove From The Classroom Students Who Threaten Teachers
Prioritize Increased Federal Funding Toward Immediate School Safety Improvements	Close Critical Information Gaps To Help Prevent Shootings Like That In Sutherland Springs
Strengthen Existing Campus Security Programs	Study A Protective Order Law To Keep Guns Out Of The Hands Of Those Mentally Unfit To Bear Arms, But Only After Legal Due Process Is Allowed To Ensure Second Amendment Rights Are Not Violated
Provide Mental Health Evaluations That Identify Students At Risk Of Harming Others And Provide Them The Help They Need	Mandate A 48-Hour Reporting Period To Close Gaps In Federally Mandated Background Checks
Increase Mental Health First Aid Training	Strengthening The Safe Firearm Storage Law
Provide Schools With Behavioral Threat Assessment Programs	Promote Awareness of Safe Storage Practices
Better Utilize and Expand On-Campus Counseling Resources	Mandatory Reporting Of Lost Or Stolen Guns
Expand Campus Crime Stoppers Programs	Use Digital Technology To Prevent Attacks

The plan outlined by the governor proposed \$70 million to help pay for some of the recommendations outlined above (Table 20). After the release of the School and Firearm Safety Action Plan, the 86th Texas Legislative Session began and the Texas House released budget documents that included \$109 million for school safety initiatives, including \$54 million

specifically for public schools and the Senate's supplemental budget appropriated \$100 million for school safety.<sup>197</sup>

### Expectations for School Safety

Texas elected officials, including Governor Greg Abbott, Lieutenant Governor Dan Patrick, Texas Senators, and Texas Representatives, have made declarations about the importance of school safety. Texas has shown a dedication to Second Amendment rights and have taken legislative efforts to protect Texan's right to bear arms. It would be illogical to assume that taking away gun rights would be a feasible solution, as the majority of the Texas State Legislature is Republican. Instead of expecting gun reform, I expected that school safety would be addressed by investments in school building design, metal detectors, alarm systems, surveillance cameras in addition to school counselors and mental health assessments<sup>198</sup>, which are included in other emergency items. At the time of this writing, SB 11 was brought up for a vote in the Senate, and SB 11 passed with a vote of 30-1. SB 11 then was brought up in the House and was passed with a vote of 137-8. SB 11 is now awaiting a signature from Governor Abbott.

### History of Emergency Items Related to School Safety

During the 86<sup>th</sup> regular session, in January of this year, 2019, Governor Greg Abbott stated the following on school safety in Texas:

*As we improve our schools, it's not enough to give our students a quality education. We must create a learning environment that is safe. No student should be afraid to go to school. No parent should be fearful when dropping their child off at school. Texas must*

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<sup>197</sup> Samuels, Alex. "How Will the Texas Legislature Address School Shootings? Likely Not with Gun Control." The Texas Tribune. (2019, January 17). <https://www.texastribune.org/2019/01/17/texas-legislature-school-safety-shootings-gun-control/>.

<sup>198</sup> Vestal, Christine. "Amid Safety Concerns, Should Schools Invest in Metal Detectors or Mental Health?" Governing. (2019, March 13). <https://www.governing.com/topics/education/sl-school-safety-budget-shootings-guns.html>.

*act now to make our schools safer, so I am making school safety an emergency item. After the horrific shooting at Santa Fe High School, I held roundtables with parents, students, educators, law enforcement, and mental health experts. We developed innovative solutions to better protect our children and teachers. It's time to turn ideas into action. We must do all we can to make our schools safer. Working together, we will deliver on this promise to our parents, to our students, and to our teachers.<sup>199</sup>*

Governor Abbott chose to address the Santa Fe High School shooting that devastated southeast Texas 2018<sup>200</sup> as it compounded with the many school shootings that have recently plagued various states across the United States. Governor Abbott's State of the State address in 2019 was the first-time school safety was an emergency item. Although it was the first session for school safety to be included as an emergency item, school safety legislation has been addressed in passed legislation in other sessions.

Year	Session	Governor	Emergency Item
2019	86th Regular Session	Greg Abbott	School Safety

### Legislative History of School Safety in Texas

In 1945, during the 49<sup>th</sup> regular session, Senate Bill 50 (SB 50) was passed through the Senate, House of Representatives, and signed into law by Governor Coke R. Stevenson. SB 50 related to declaring public policy and creating a State Board of School Safety. In 1999, Governor George W. Bush created the Texas School Safety Center, which was authorized by the 77<sup>th</sup> Texas Legislature in 2001. The Texas School Safety Center is funded in part through a direct appropriation from the Texas Legislature within Texas State University's budget.<sup>201</sup> The

<sup>199</sup> "Governor Abbott Delivers 2019 State Of The State Address." Office of the Governor | Greg Abbott. (2019, February 5) <https://gov.texas.gov/news/post/governor-greg-abbott-delivers-state-of-the-state-address>.

<sup>200</sup> "The Texas State Senate – News" The Texas State Senate. (2019, March 5). <https://senate.texas.gov/news.php?id=20190305a&lang=en>.

<sup>201</sup> Lachman, Dana. "Texas School Safety Center." The Texas Education Agency. (2015, October 28). [https://tea.texas.gov/Texas\\_Schools/Safe\\_and\\_Healthy\\_Schools/Chapter\\_37\\_-\\_Safe\\_Schools/Texas\\_School\\_Safety\\_Center/](https://tea.texas.gov/Texas_Schools/Safe_and_Healthy_Schools/Chapter_37_-_Safe_Schools/Texas_School_Safety_Center/).



authorization for the Texas School Safety Center is located in the Texas Education Code, Chapter §37.201.

In 2013, during the 83<sup>rd</sup> regular session, three bills were passed through the Texas State Legislature and were signed into law by Governor Rick Perry. The passage of these bills followed the December 14, 2012 Sandy Hook Elementary School shooting. Senate Bill 1857 related to the certification of certain qualified handgun instructors to conduct school safety training. Senate Bill 1556 (SB 1556) related to the establishment of a school safety certification program and the School Safety Task Force. Finally, Senate Bill 17 (SB 17), addressed the training in school safety of certain educators of a school district or an open-enrollment charter school authorized to carry a concealed handgun on school premises.

After the Santa Fe High School shooting, the Senate Select Committee on Violence in Schools and School Security was appointed. In 2019, during the 86<sup>th</sup> regular session, Senate Bill 11 (SB 11) which seeks revise and expand the duties of school districts, open-enrollment charter schools, the Texas Education Agency, and the Texas School Safety Center regarding multi hazard emergency operations plans and other school safety measures, was introduced by Senator Larry Taylor. SB 11 also amends current law relating to policies, procedures, and measures for school safety and mental health promotion in public schools and makes an appropriation for the matter. Specifically, if SB 11 was passed as written, would do the following:

- The Texas School Safety Center would be required to audit school districts and report findings to TEA.
- A school board that receives notice of noncompliance with the Texas School Safety Center's audit findings and fails to correct plan deficiencies within six months of notification would be required to hold a public hearing to notify the public of information related to its noncompliance.
- SB 11 would direct each local mental health authority to employ a non-physician mental health professional to serve as a mental health and substance use resource

for school districts, in conjunction with each education service center served by a local mental health authority.

- The Higher Education Coordinating Board would create a new loan repayment assistance program for certain school counselors.

SB 11 includes a number of the recommendations as laid out in Governor Abbott's 43-page school safety plan. SB 11, at the time of this writing is a sweeping school safety measure that touches on strengthening school security, hardening school infrastructure and mental health counseling, which was endorsed by Governor Abbott and Lieutenant Governor Patrick.<sup>202</sup>

### Senate Bill 11: A Bill to Strengthen School Safety

In the 86<sup>th</sup> Texas Legislative Session, Governor Greg Abbott declared school safety an emergency item, citing the horrible tragedy of the Santa Fe shootings. SB 11, captioned "relating to policies, procedures, and measures for school safety and mental health promotion in public schools," was filed March 4<sup>th</sup>, 2019 by Senator Larry Taylor. SB 11 was filed after the Senate Select Committee on Violence in Schools and School Security released a number of recommendations on the topic in the summer of 2018. Senator Taylor released the following statement about SB 11:

The shooting at Santa Fe has been the most emotionally trying event I have encountered as a legislator and it continues to weigh heavily on me. It exposed flaws in our school security system but it also brought to light the tremendous spirit of the people in our area, and I want to thank them for lifting up the people of Santa Fe in an impossibly challenging time. It is my hope that the passage of this bill will help our schools prevent and prepare for similar events (Taylor, 2019).

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<sup>202</sup> Samuels, Alex. "Broad Texas School Safety Bill Proposes Threat Assessment Teams, Expanded Emergency Training." The Texas Tribune. (2019, March 4). [https://www.texastribune.org/2019/03/04/taxes-senate-school-safety-bill/](https://www.texastribune.org/2019/03/04/texas-senate-school-safety-bill/).

The press release by Senator Taylor for SB 11 also included the following topics that were to be addressed:

- Infrastructure hardening
- Mental health counseling
- Trauma informed care
- Training for school district employees
- Emergency protocol

SB 11 was read for the first time March 4<sup>th</sup>, 2019, the day it was filed, and referred to the Senate Education Committee. It was scheduled for a public hearing on the next day. After the first public hearing on the bill, it was left pending in committee until over a month later. While not uncommon for a bill to be left pending in committee between hearings, SB 11 was left pending longer than normal, due to the scope of the bill. As introduced, the bill had a fiscal note of negative \$547,187,855. There was also an appropriation of \$100.0 million from the Economic Stabilization Fund in Senate Bill 500, the supplemental budget bill. In the first public hearing, SB 11 had just under 100 witnesses testify and register positions on the bill. Supporters of the legislation included school districts across the state, the Texas PTA, and school associations. Opposition to the bill was mainly seen from Moms Demand Action for Gun Sense in America and through personal stories of those who have lost loved ones due to gun violence. Their opposition stemmed from parts of the bill that included having guns on campuses for safety.

On April 17<sup>th</sup>, 2019, SB 11 was reported favorably as substituted in committee to the full Senate. Of the 11 members on Senate Education, only one Senator voted nay to SB 11, Senator Bob Hall. On April 29<sup>th</sup>, 2019, SB 11 was brought to the Senate floor for deliberation and a vote. Seven amendments were provided, with all of the amendments were accepted, becoming a part of SB 11. As the full Senate voted on the bill, a record vote of 29-2 was recorded. The nays came

from Senator Hall and Senator Hughes. Criticism by those Senators included not approving of some of the mental health regulations, psychotropic drugs, and disapproving of the language regarding alcohol and tobacco. SB 11 passed the Senate with bipartisan support and was reported engrossed April 29<sup>th</sup>, 2019. On May 14, 2019, SB 11 passed through the House Committee of Public Education. When SB 11 was brought to the House Floor on May 21, 2019, it passed 128-14.

In one of the biggest drama moments of the session, the House reconsidered SB 11 just hours later on the same day. In that time, Representative Stickland brought a point of order to SB 10, the mental health bill addressing the emergency item of mental health, which was sustained. The sustaining of the point of order killed the bill as it was the last day for the House to hear bills on second reading. SB 11 was reconsidered and Representative Zerwas was able to amend all of the major provisions of SB 10 onto SB 11. SB 11 then passed to third reading 130-11 as amended, addressing two emergency items. On May 22, despite Rep. Stickland calling two points of order that were overruled, the House passed SB 11 on third reading 135-7. This amended version was sent over to the Senate on May 23, 2019 and the Senate refused to concur on the myriad of amendments. The bill went to conference and the report was distributed on May 25. Both the House and the Senate adopted the conference committee report on May 26 at approximately 10:00 PM, a mere 2 hours before the deadline.

The 86<sup>th</sup> Legislative Session was the first session since 10 people were fatally shot at Santa Fe High School. Political leaders in Texas wrote this school safety measure that would “strengthen mental health initiatives in schools, require classrooms to have access to a telephone or other electronic communication, and create teams that identify potentially dangerous

students<sup>203</sup> in response to the tragedy. In an unprecedented move, SB 11 was amended in the House to include the creation of a Texas Mental Health Consortium, the major provision of SB 10, which was killed hours earlier on a technicality called out by Rep. Stickland in a point of order.

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<sup>203</sup> Samuels, Alex. "Texas school safety measures expanded with House amendments to sweeping legislation." The Texas Tribune. (2019, May 21). [https://www.texastribune.org/2019/05/21/texas-school-safety-measures-expanded-house-changes-senate-bill-11/?\\_ga=2.87373137.815521744.1558810870-1443278524.1549903639](https://www.texastribune.org/2019/05/21/texas-school-safety-measures-expanded-house-changes-senate-bill-11/?_ga=2.87373137.815521744.1558810870-1443278524.1549903639)

## Mental Health

SYDNEY CERZA



## Mental Health in the 86<sup>th</sup> Session

When mental health was listed as an emergency item by Governor Greg Abbott, the legislative message declaring this item explicitly stated that it should be addressed by the creation of the Texas Mental Health Consortium. A mental health omnibus bill establishing the consortium was expected to be passed in a timely manner due to this issue's prevalence in both rural and urban areas throughout the state. This expectation proved to be true – Senator Jane Nelson of Senate District 12 (Denton County) filed SB 63 on the first day of bill filing this past November. The bill was re-filed as a lower number, SB 10, upon announcement of the emergency items to reflect the subject matter as a priority of the governor. SB 10 seeks to create the Texas Mental Health Consortium through a partnership between the state and health-related institutions (HRIs).

## Legislative History

The Santa Fe shooting of May 2018 that prompted the declaration of school safety as an emergency item was the same event that drew attention to mental health, leading the two to be largely addressed together. The idea for the Texas Mental Health Consortium resulted from the roundtables held in Austin after the shooting. Prior to the shooting, Santa Fe High School had already developed an active shooter plan and has two armed police officers on campus. This has led lawmakers to believe that increased safety, arming teachers, and gun control may not be the only issue behind school shootings – they then must begin to consider mental health as a contributing factor in the school safety debate. Amongst a wealth of other ideas and information that emerged from these important roundtable discussions around the issue, one that stood out to the Governor was the creation of a Texas Mental Health Consortium – a state partnership with health-related institutions (HRIs) to fund cutting edge research and foster collaboration on statewide mental health initiatives.

Mental health issues are often framed by media narratives concerning ongoing gun violence, particularly violence that occurs at schools. Stories about such violence frequently make national headlines, dominating political conversations about the accessibility and utilization of firearms. School shootings represent a small minority of firearm fatalities, which has shifted these conversations away from larger discussions about gun ownership to the studies about the mental wellbeing of the shooters. In this way, mental health is understood as a security question. This section is uninterested in addressing or determining the true cause of these shootings that, by all accounts, reflect a diverse and complicated story. Still, the public has linked such shootings to mental health, realizing the interconnectedness of the two. While this claim is constantly contested, it serves as a good starting point for the creation of policy solutions.<sup>204</sup>

### Texas as a Mental Healthcare Desert

Texas has a notoriously large shortage in the state's mental health workforce. According to the Health Resources and Services Administration within the U.S. Department of Health & Human Services, Texas has 430 mental health care health professional shortage areas (HPSA) designations as of December 31, 2018. These shortage areas are defined by a population to psychiatrist ratio of at least 30,000 to one. This severe shortage results in only 34.53 percent of need is met and a staggering 585 practitioners needed to remove this designation. In Region VI (AR, LA, NM, OK, TX), Texas accounts for more than half of the 796 total mental health care HPSA designations despite representing only 10.5 percent of the total population of designated mental health HPSAs. While this is slightly better than the national average of 26.10 percent

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<sup>204</sup> Metzl, Jonathan M, and Kenneth T MacLeish. 2015. "Mental Illness, Mass Shootings, and the Politics of American Firearms." *American journal of public health*. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4318286/> (May 24, 2019).



need met, it is incredibly low. The population of HPSAs in Texas is 12,092,975 – the largest of all 50 states by far. California follows behind with 7,998,436.<sup>205</sup>

While HPSA designations garner state and federal assistance such as “loan repayment and scholarship programs through the National Health Service Corps (NHSC), Medicare incentive payments under the Centers for Medicare and Medicaid Services (CMS), the Rural Health Clinic program, and the Conrad 30/J-1 Physician Visa Waiver program,” this should not be the focus.<sup>206</sup> These programs can help states reduce the number of HPSA designations but should not be considered a solution to the problem. The root of the problem is much deeper and more significant. A major contributing factor resulting in an area being designated as a HPSA is state spending on mental health as a whole.

One method of measuring this is through expenditures of state mental health agencies (SMHAs.) Per the latest data from fiscal year 2013, Texas ranks 48 out of 52 (including DC and Puerto Rico) in SMHA spending per capita - Texas spends \$40.65 per person while the country, on average, spends \$119.62 per person. Texas also pales in comparison to other states included in Region VI - they spend the lowest out of all, excluding New Mexico where the data was not reported for fiscal year 2013.<sup>207</sup> Other factors that make an area more susceptible are having a

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<sup>205</sup> Health Resources & Service Administration. 2018. “Designated Health Professional Shortage Areas Statistics.” *data.hrsa.gov*. [https://ersrs.hrsa.gov/ReportServer?/HGDW\\_Reports/BCD\\_HPSA/BCD\\_HPSA\\_SCR50\\_Qtr\\_Smry\\_HTML&rc:ToOlbar=false](https://ersrs.hrsa.gov/ReportServer?/HGDW_Reports/BCD_HPSA/BCD_HPSA_SCR50_Qtr_Smry_HTML&rc:ToOlbar=false) (May 24, 2019).

<sup>206</sup> Nevada Division of Public and Behavioral Health. 2018. “Health Professional Shortage Area Designations.” *Health Professional Shortage Area Designations*. [http://dpbh.nv.gov/Programs/HPSA/Health\\_Professional\\_Shortage\\_Area\\_Designations\\_-\\_Home/](http://dpbh.nv.gov/Programs/HPSA/Health_Professional_Shortage_Area_Designations_-_Home/) (May 24, 2019).

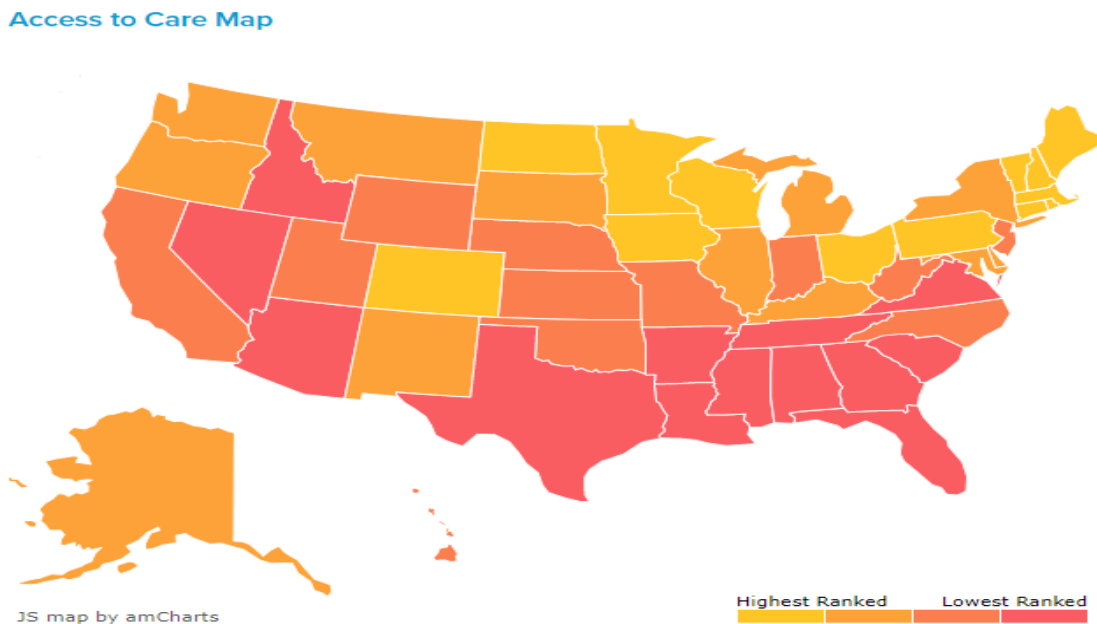
<sup>207</sup> The Henry J. Kaiser Family Foundation. “State Mental Health Agency (SMHA) Per Capita Mental Health Services Expenditures.” 2018. *State Health Facts*. <https://www.kff.org/other/state-indicator/smha-expenditures-per-capita/?currentTimeframe=0&sortModel=%7B%22colId%22:%22SMHA%20Expenditures%20Per%20Capita%22,%22sort%22:%22desc%22%7D>

large rural population and low Medicaid reimbursement rates or a low number of Medicaid providers overall - these factors play a large role in access to care.

Table 21 SMHA Expenditures Per Capita, Region VI

State	\$ Per Capita
Arkansas	\$45.56
Louisiana	\$55.50
New Mexico	Data not reported.
Oklahoma	\$53.01
Texas	\$40.65

Figure 23 Access to Care Map



Source: Access to Care Ranking. Ranking the States Mental Health America. <https://www.mentalhealthamerica.net/issues/ranking-states> (May 24, 2019)

Senate Bill 10 hopes to address the mental health issue in the state on Texas by addressing this mental health workforce shortage. By funding additional psychiatric residency slots and promoting collaboration between the state and HRIs, the author and sponsors hope to

educate and train more providers and reach more of the population. This effort would, in turn, result in fewer HPSA designations in the state and a higher percent of need met. This bill would chip away at the 585 practitioners needed as of December 2018. House Bill 10 seeks to bolster the research that drives the delivery and would help pave the way for the implementation of SB 10. In combination with the utilization of telemedicine and cutting-edge research, the mental health workforce shortage would no longer disproportionately affect rural areas. Texas would not be limited geographically, which is ultimately one of the most significant contributing factors in this issue.

#### [Senate Bill 10 \(As Filed\)](#)

Senator Jane Nelson filed SB 63 on the first day of bill filing this past November. The bill was re-filed as a lower number, SB 10, upon announcement of the emergency items to reflect the subject matter as a priority of the governor. SB 10 seeks to create the Texas Mental Health Consortium that the Governor requested as a result of the roundtable discussions last May. Senate Bill 10 by Senator Nelson aims to improve early identification and access to mental health services, address psychiatry workforce shortages, promote and coordinate mental health research, and bolster judicial training on juvenile mental health. It does so by creating the Child Psychiatry Access Network (CPAN), which will be more commonly referred to as “hubs” of psychiatry at health-related institutions. SB 10 will utilize telemedicine to increase access to care for children with behavioral health issues by establishing the Texas Child Health Access Through Telemedicine or TCHAT program.

These facets of the bill address mental health at the core by treating issues when they first present. The bill would abate the psychiatry shortage in the state by funding additional residency training slots in HRI psychology departments. Lastly, the provisions included in SB 10 would

better equip judges to handle juvenile mental health cases by requiring the Court of Criminal Appeals to work with the consortium to improve their training. The HRIs involved in this bill are all medical schools and health science centers from major universities, such as those affiliated with Baylor, Texas Tech, University of North Texas, Texas A&M, and the University of Texas. Other stakeholders involved are the Court of Criminal Appeals, Health & Human Services Commission, Texas Higher Education Coordinating Board, and the Texas Supreme Court.<sup>208</sup>

This bill has a fiscal note of \$100 million dollars in state General Revenue funds. This means, unlike many other programs the state implements, that Texas is putting up their own money without a federal match to start and run this program. This could be considered risky especially if the state has not determined how they will hold the consortium accountable and check progress. In addition, not many states have created similar programs. On one hand, it is important for Texas to be on the cutting edge and find new, innovative ways to address complex needs, but it is just as important to invest such an amount of money into something the state is confident will make a significant difference.

In formulating the idea for the Texas Mental Health Consortium, the state learned lessons from Massachusetts' Child Psychiatry Access Project (MCPAP.) Massachusetts also struggled with diminished access to mental health care. The structure of the consortium mirrors that of MCPAP – from the hubs to utilization of telemedicine, Texas is hoping to achieve the improved mental health access for children that was seen in Massachusetts. The MCPAP resulted in the implementation of 6 regional hubs that were accessible to 95 percent of the 1.5 million children in Massachusetts. In addition to Massachusetts, 31 other states and D.C. have joined together to

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<sup>208</sup> Texas Legislature Online. "Senate Bill 10." *Senate Bill 10*.  
<https://capitol.texas.gov/BillLookup/History.aspx?LegSess=86R&Bill=SB10> (May 24, 2019).

form the National Network of Psychiatry Access Programs. This network allows member states to share information about their projects and learn from each other to modify and bolster them to better serve their respective states. While they all function differently, they all serve the same purpose to increase access to mental health care for children.<sup>209</sup>

#### House Bill 10 (As Filed)

House Bill 10 by Rep. Senfronia Thompson takes a different approach to addressing mental health by creating the Texas Mental and Behavioral Health Research Institute. It would be led by three representatives from nonprofits, two representatives from the Health and Human Services Commission, and the chairs of psychiatry from HRIs. The institute will also designate a member to represent the institute on the Statewide Behavioral Health Coordinating Council (SBHCC.) The executive committee would be composed of 11 members: three Governor appointees, three Lieutenant Governor appointees, three Speaker of the House appointees, one SBHCC appointee, and one appointed by the institute. The institute would be administratively attached to the Texas Higher Education Coordinating Board and the Board may use up to three percent of funding for administrative support. Rep. Thompson's bill also has a fiscal note, though HB 10 will be determined by House Joint Resolution (HJR) 5.

The institute would coordinate with the SBHCC and work with other relevant state entities to provide funding for the following activities in HRIs: research, dissemination of guidelines, training, clinical studies or other patient programs, and the recruitment to HRIs. With these partnerships and funding, the institute would establish a mental health, behavioral health, and substance use disorder (SUD) research program to provide funding at the HRIs to:

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<sup>209</sup> Straus, John H., and Barry Sarvet. 2014. "Behavioral Health Care For Children: The Massachusetts Child Psychiatry Access Project." *Health Affairs* 33(12): 2153–61.

1. Implement a statewide research framework focused on preventing, identifying, and treating mental health conditions;
2. Support research efforts;
3. Administer training to develop a psychiatric research and clinical care workforce;
4. Research and disseminate best practices for opioid prescribing;
5. Teach those previously determined best practices at HRIs;
6. Conduct SUD research;
7. Administer training related to the SUD research;
8. Collaborate with other entities to complete comparative studies of opioid prescribing; and
9. Recruit researchers.

As for funding, an HRI may apply for funding alone or in partnership with another state entity. The institute may prioritize award funding under this section to an HRI that applies in partnership with a state entity. If an HRI is awarded funding, the HRI may partner with any necessary entity, including an HBCU. Lastly, the institute shall solicit federal funding, may accept gifts, and must disclose each private source of funding. With this funding, the institute will establish a process for selecting research projects to fund that aligns with the statewide behavioral health strategic plan. The institute may not conduct research regarding hallucinogenic drugs, electroshock, seizure, or electronic device on children. Parental consent is required for any services or evaluations provided to minors.<sup>210</sup>

HJR 5 is the funding mechanism for the bill which would authorize a constitutional amendment that would be voted on in November. The bill as filed intended to fund the institute through general obligation (GO) bonds. Rep. Capriglione proposed an amendment on the House floor, acceptable to the author, that changed the funding mechanism to a Pay-As-You-Go no debt constitutional amendment. This method, initially, would dedicate up to \$100 million annually from net sales tax revenue that exceeds \$30.5 billion of revenue collected that fiscal year. This

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<sup>210</sup> Texas Legislature Online. "House Bill 10." *House Bill 10*.  
<https://capitol.texas.gov/BillLookup/History.aspx?LegSess=86R&Bill=HB10> (May 24, 2019).

was thought to not cost the bill this first biennium. Through many conversations with lobbyists and the Comptroller's office, the \$30.5 billion amount was ultimately changed to \$35.04 billion in FY 2020 and \$36.16 billion in all future fiscal years. This was seen as a fiscally responsible way to fund the institute - if Texas's economy is growing and doing well, the Comptroller's biennial revenue estimate (BRE) will be higher and the institute will be funded. If the BRE does not meet the cap set in statute, it will not be funded.

HJRs need 21 votes on the Senate floor to pass and its fate is unknown at this point in time. The resolution must pass the Senate and obtain voter approval to be put into action. Per the resolution language, the ballot would let voters decide on the proposition worded as follows: "The constitutional amendment providing for the dedication of certain sales and use tax revenue to the Texas mental and behavioral health research fund established to fund research, treatment, and access to services in this state for behavioral health, mental health, and substance use and addiction issues."<sup>211</sup>

### History of Emergency Items Relating to Mental Health

While mental health itself has not been an emergency item in the past two sessions, it could be argued that items such as early childhood education, education all the way up to higher education, and addressing the chaos of Child Protective Services in the state play a large role in mental health as well. The Texas Legislature has neglected to take on the issue of mental health in the state head-on. This is a direct result of the legislature, and individuals in general, being crisis-motivated. Mental health is now in the news, especially in the wake of so many mass shootings around the country - hence school safety being declared an emergency item. With this

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<sup>211</sup> Texas Legislature Online. "House Joint Resolution 5." *House Joint Resolution 5*. <https://capitol.texas.gov/BillLookup/History.aspx?LegSess=86R&Bill=HJR5> (May 24, 2019).

issue now being at the forefront in Texas, lawmakers have no choice but to react to it. Their constituencies care about it deeply and, whether these same constituencies like it or not, elected officials are influenced by them. Some of them have elections to win in 2020 – advocates would argue that mental health should emerge a platform policy issue for legislators.

Mental health was seen as a substantial issue to be addressed beginning in the 83<sup>rd</sup> legislative session, when the budget appropriated nearly \$350 million above the previous biennium's budget to the Department of State Health Services (DSHS) - a significant amount of which was used on various mental health initiatives. DSHS mental health funding, across all strategies, added up to roughly \$2.6 billion. The 83<sup>rd</sup> saw the passage of three major pieces of mental health legislation: SB 34 (Zaffirini), HB 1023 (Burkett, Alvarado), and HB 3793 (Coleman). These pieces of legislation mainly dealt with psychoactive drugs, access to care, and the mental health workforce shortage.<sup>212</sup> The 84<sup>th</sup> session built upon the investment and work began by the 83<sup>rd</sup>, increasing mental health funding in DSHS by an additional \$105 million and fostering the passage of eight major mental health bills. The bills came from both chambers sought to increase the use of trauma-informed care and decrease the stigma surrounding individuals experiencing mental health issues.<sup>213</sup>

In 2016, prior to the 85<sup>th</sup> legislative session, the Speaker of the House appointed a House Select Committee on Mental Health. Rep. Four Price chaired the committee with Vice-Chair Joe Moody. After eight hearings and an abundance of public testimony on various mental health

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<sup>212</sup> Hogg Foundation for Mental Health. *Texas 83<sup>rd</sup> Legislative Session: Summary of Mental Health-Related Legislation*. July 2013. <https://namitexaspolicy.files.wordpress.com/2013/07/83rd-lege-summary-hogg-foundation.pdf>. May 25, 2019.

<sup>213</sup> Hogg Foundation for Mental Health. *Texas 84<sup>th</sup> Legislative Session: Summary of Mental Health-Related Legislation*. January 2016. [http://hogg.utexas.edu/wp-content/uploads/2016/01/Legislative-Summary\\_Final\\_2015.pdf](http://hogg.utexas.edu/wp-content/uploads/2016/01/Legislative-Summary_Final_2015.pdf). May 25, 2019.



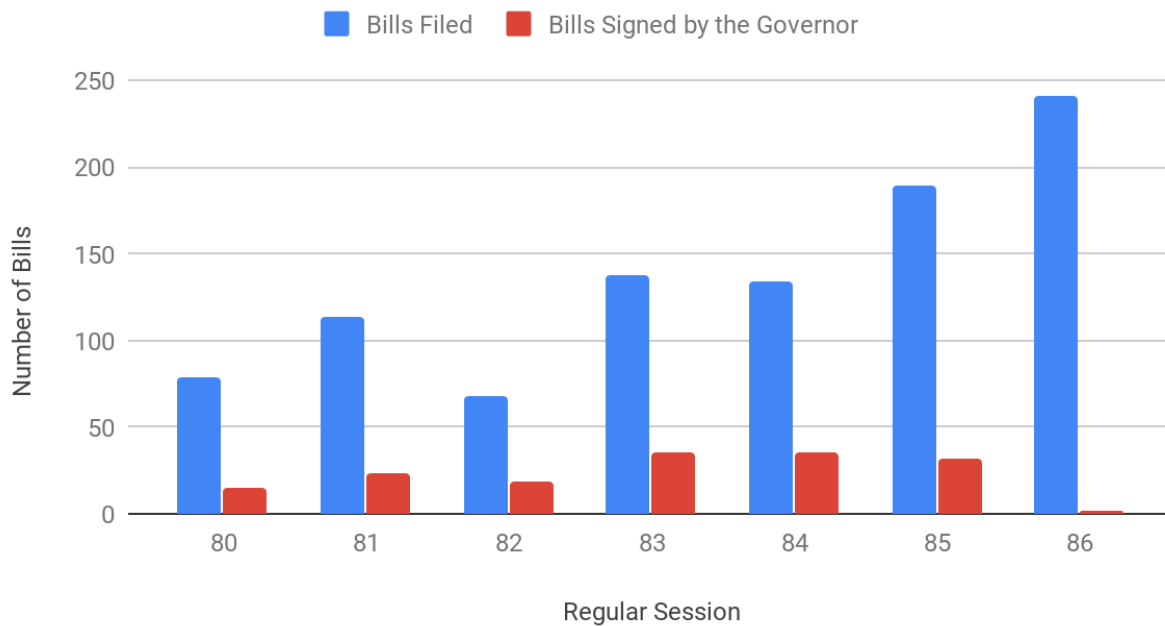
topics, the committee released their interim report the December prior to the start of the 85<sup>th</sup>. This report became the foundation for many of the bills that were filed. As for appropriations, there was an increase of approximately \$92.5 million in funding for behavioral health services, excluding dollars appropriated specifically for repair, renovation, or new construction that was included in a rider. In the 86<sup>th</sup>, there were 32 major mental health bills that pertained to mental health in adults and children, the intersection of criminal justice and mental health, workforce shortages, and veteran-specific programs. These numbers show that the 85<sup>th</sup> was the first time that mental health was truly in the spotlight and required policy change.<sup>214</sup>

Mental health continues to be a significant issue facing lawmakers in the 86<sup>th</sup> and SB 10 is not the only bill addressing the area. A quick search using Texas Legislature Online shows a total of 239 bills in both the House and the Senate this session relating to the criteria of “mental health & substance abuse” and “mental health & mental retardation.” This compares to only 190 in the 85<sup>th</sup> and 134 in the 84<sup>th</sup>. The state is beginning to consider the need of its citizens and to start navigating how to tackle the issue more appropriately through legislation.

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<sup>214</sup> Hogg Foundation for Mental Health. *Texas 85<sup>th</sup> Legislative Session: Summary of Mental Health-Related Legislation*. August 2017. [http://hogg.utexas.edu/wp-content/uploads/2017/08/UPDATED-Legislative-Summary\\_2017.pdf](http://hogg.utexas.edu/wp-content/uploads/2017/08/UPDATED-Legislative-Summary_2017.pdf). May 25, 2019.

Figure 24 Mental Health Bills Throughout Previous Sessions



Source: Texas Legislature Online – 86<sup>th</sup> bills signed as of May 24, 2019

### Expectations and Conclusions

There has been conflict around this emergency item and how it must be addressed. Most notably, there has been conflict between the House and the Senate – HB 10 is not the companion to SB 10. In fact, HB 10 is significantly different. The companion is HB 1448 by Rep. Zerwas which, as of now, will not be going anywhere. The main concerns surrounding the idea of SB 10 was how the \$100 million fiscal note would translate to direct services. This has since been addressed by a new committee substitute which adds language to expand reporting and accountability that ensures the state knows exactly where and how its money is being utilized. To outsiders looking in, the bill has a heavy emphasis on research and funding for HRIs rather than treatment on children presenting with behavioral health issues.

This continued to be fleshed out as the session progressed, largely through conversations between the authors. Both bills were heard on their opposite sides as reconciliation continued. As

it stood with roughly two weeks of session left, HB 10 would focus on research while SB 10 would focus on delivery, and both the institute and the consortium will be able to exist separately under the same statute. The bills would need a contingency rider in the budget to allow the entities to spend the money allocated to them, but as Senator Nelson is the chair of the Senate Finance Committee, this was not seen as a significant obstacle. However, as of May 23, SB 10 was hanging on by a thread as an amendment to SB 11 and HB 10 was effectively dead.

With six days left in the legislative session, SB 10 was placed on the General State Calendar in the House - unusual as it pertains to a governor emergency item and would have been more fit to be placed on the Major State Calendar. It was read for the second time and Rep. Stickland called a point of order, prompting a 45-minute recess to research. The point of order was sustained around 7:00 PM, sending the bill back to committee and effectively killing it. Hours of brainstorming later, in an attempt to avoid going to a special session, resulted in Rep. Zerwas proposing an amendment to add SB 10 to SB 11, the school safety bill. Despite Rep. Stickland's efforts to call another point of order, it was overturned, and the amendment passed 114-15. The bill passed the House and was sent to the Senate where it went through a series of changes in the conference process. Ultimately, both chambers worked out their differences and the bill was signed and sent to the governor. HB 10 was placed on intent in the Senate on May 22<sup>nd</sup>. It was not called up and, therefore, missed the deadline and died in the Senate.<sup>215</sup>

Though SB 10 seeks to learn from other states' efforts and incorporate some of their methods into Texas' own consortium, it is important, as it is in all policy, to be aware that one size does not fit all. Some advocates continue to reiterate that mental health is a complex issue

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<sup>215</sup> Texas Legislature Online. "Senate Bill 10." *Senate Bill 10*.  
<https://capitol.texas.gov/BillLookup/History.aspx?LegSess=86R&Bill=SB10> (May 24, 2019).

that cannot be solved by a blanket policy and are concerned that both SB 10 and HB 10 would not translate into direct services and that populations older than 18 may be ignored. While it may be true that most mental health issues originate early on for individuals, it is possible that this bill will create the misconception that all issues start and present in childhood. One potential limitation of the approach is that it may neglect to address mental health problems that are the result of trauma occurring at any age. In addressing the issue of mental health across the state, older populations must not be left out of the policy solution. The institute and the consortium start a very important dialogue for legislators and citizens alike, but this should not be considered the end of the debate.

## Disaster Relief

LEAH MCKINLEY



## Defining the Status of Emergency Preparedness, Response, and Recovery in 2019

With Hurricane Harvey having ravaged the Texas coast, affecting millions of Texas families, communities, and businesses, the Governor declared emergency preparedness, response, and recovery as an emergency item. The Governor’s Commission to Rebuild Texas was formed on September 7, 2017, in order to advocate for Texas communities affected by Hurricane Harvey. The Commission, in working with communities and local, state, and federal agencies, issued a report on the current status of Harvey recovery in Texas. The report, called “Eye of the Storm,” details the effects of Harvey, the organization of emergency management in Texas, and how Texas responded to Harvey.<sup>216</sup> The report ends with recommendations for future natural disasters, as well as recommended changes that should be made prior to the next Hurricane Harvey.

### Hurricane Harvey Response and Recovery

On August 25, 2017, Hurricane Harvey made landfall on San Jose Island off the coast of South Texas, and remained for 6 days, causing sizable damage to the coast. Harvey set records for the most direct deaths resulting from a tropical cyclone in Texas since 1919, the highest rainfall resulting from a tropical cyclone ever recorded, and the largest response to a disaster in Texas history.<sup>217</sup>

It is estimated that Harvey caused \$125 billion in damages, affecting almost 13 million people, including 68 direct deaths and 35 indirect deaths; it flooded over 200,000 structures,

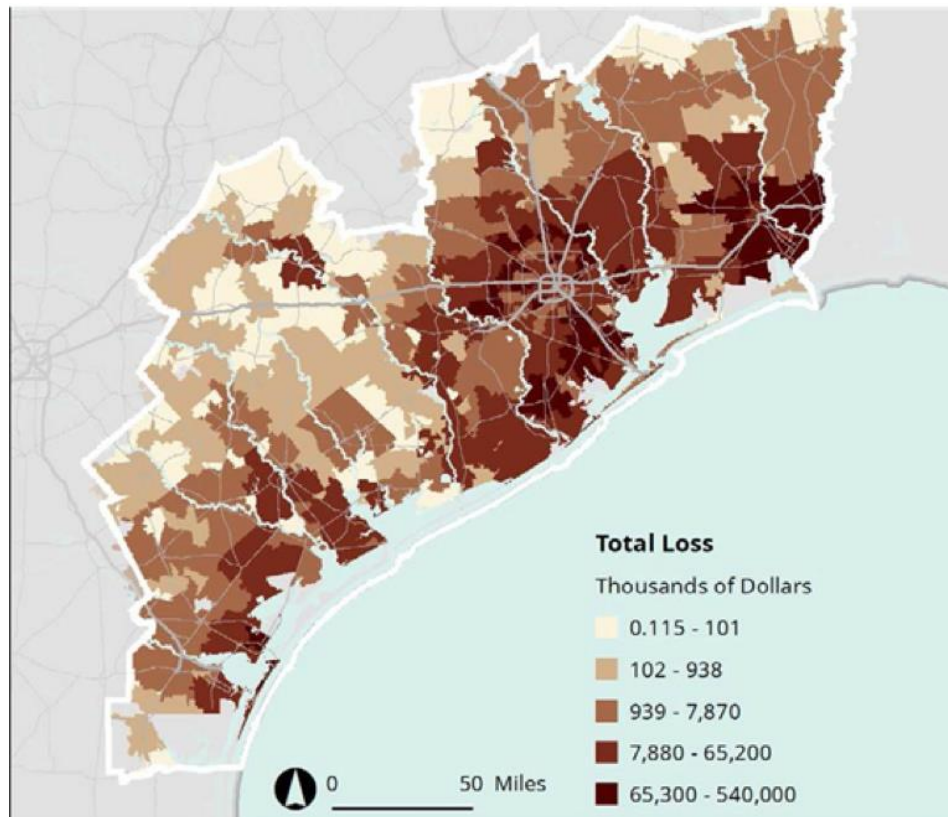
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<sup>216</sup> The Governor’s Commission to Rebuild Texas. 2018. *Eye of the Storm*. <https://www.rebuilddtexas.today/wp-content/uploads/sites/52/2018/12/12-11-18-EYE-OF-THE-STORM-digital.pdf> (May 25, 2019).

<sup>217</sup> *Ibid.*

destroying almost 13,000 in the process, and almost 40,000 people were displaced from their homes.<sup>218</sup> With the extensive economic impact of the Hurricane, as shown in Figure 25, resiliency, relief, and responsiveness came to the forefront of Texas issues.

*Figure 25 Total Direct Losses Resulting from Hurricane Harvey, by ZIP Code*



Immediate disaster relief and response is done at the local level, with local governments having little to no warning for sudden or impending natural disasters. However, local governments often run out of resources quickly as they attempt to mitigate the effects of the disaster.<sup>219</sup> Eventually, local governments, nonprofit organizations, and residents may need more

<sup>218</sup> *Ibid.*

<sup>219</sup> *Ibid.*

resources from state and federal governments. In the case of Hurricane Harvey, these resources were vital to recovery which is still ongoing to this day.

However, because natural disasters have the ability to affect millions of people in Texas, coordination between different levels of government, nonprofits, and other voluntary organizations is necessary. State law requires that all counties or interjurisdictional areas either have emergency management programs or are involved in an emergency management program.<sup>220</sup> These emergency management programs can be developed with assistance from the state. However, given that Texas has thousands of rural communities, their representative political subdivisions may not have a person specifically trained in emergency management despite being required to have a program dedicated to emergency response and management.

At the state level, the Texas Division of Emergency Management (TDEM), a branch within the Department of Public Safety (DPS), works with the Texas Emergency Management Council to coordinate responses to emergencies. The Texas Emergency Management Council is made up of 30 state agencies, nonprofits, and others participating in emergency response to disasters.<sup>221</sup> There are more levels to disaster response and preparedness that make recovery more fragmented and less efficient, as shown in Figure 26. Other states that often experience

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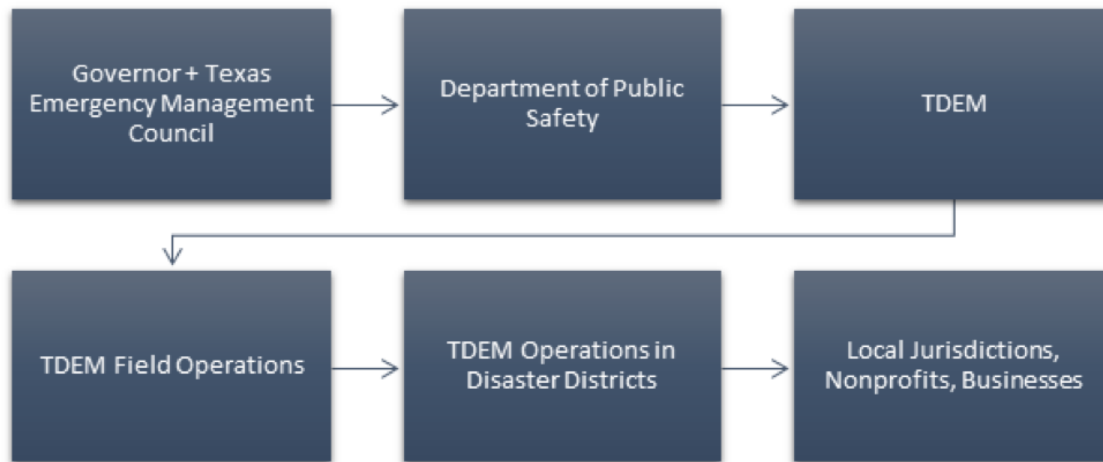
<sup>220</sup> *Ibid.*

<sup>221</sup> Legislative Reference Library. 1979. *Journal of the Senate of the State of Texas, Regular Session of the Sixty-sixth Legislature*. Retrieved from <https://lrl.texas.gov/scanned/govdocs/William%20P%20Clements/1979/mess10.pdf> (May 4, 2019).



natural disasters like Florida and Louisiana also have their emergency management divisions organized similarly.<sup>222,223 224</sup>

*Figure 26 Organizational Structure of Emergency Management in Texas*



TDEM must also coordinate with federal agencies like the Federal Emergency Management Agency (FEMA), the U.S. Army Corp of Engineers, the U.S. Department of Housing and Urban Development, and others. This fragmentation can make the response to a sudden natural disaster difficult, and better coordination and integration will be necessary for future response. Local governments were also prepared for natural disasters in different levels, with many smaller cities not having a person trained in emergency management.

<sup>222</sup> Florida Division of Emergency Management. 2019. <https://www.floridadisaster.org> (May 25, 2019).

<sup>223</sup> State of Louisiana. Governor's Office of Homeland Security and Emergency Preparedness. "GOHSEP Administration." <https://gohsep.la.gov/ABOUT/ADMINISTRATION> (May 25, 2019).

<sup>224</sup> *Ibid.*

The response to Hurricane Harvey began on August 25 with a federal state of disaster declaration by President Trump for the Texas coast, which includes 53 counties.<sup>225</sup> Response to Harvey was challenging given the flooding, high winds, massive rainfall, and power outages, as well as communication issues with some agencies not having "radios to communicate with their own responders or those of neighboring jurisdiction...some lack the resources needed to train responders on the proper use of the equipment they do have...a few areas of the state have no radio coverage,"<sup>226</sup> Communication is the cornerstone of response to a natural disaster, and improving communication between federal, state, and local governments, nonprofits, volunteers, and affected residents is necessary to improve response to future natural disasters. Improving the "ability of different teams of responders to share information through radio or other communications," called interoperability, is one of several recommendations from the Governor's Commission to Rebuild Texas.<sup>227</sup>

Recovery efforts began immediately after affected areas were hit by Harvey, all while the storm was still travelling through the state. Both short-term recovery efforts and long-term recovery efforts had to be distinguished and implemented. One of the most difficult problems resulting from Hurricane Harvey was the amount of debris which brought along structural damage and public health risks associated with the increase in snakes, rodents, and

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<sup>225</sup> *Ibid.*

<sup>226</sup> The Governor's Commission to Rebuild Texas. 2018. *Eye of the Storm*. pp. 63.  
<https://www.rebuildtexas.today/wp-content/uploads/sites/52/2018/12/12-11-18-EYE-OF-THE-STORM-digital.pdf>  
(May 25, 2019).

<sup>227</sup> *Ibid.*

mosquitos.<sup>228,229</sup> Not all affected jurisdictions had debris management plans, and many of those jurisdictions that did have plans could not account for the devastation. Many jurisdictions also faced complications with debris removal. If a jurisdiction had a contract with a debris removal company, it was often expired, insufficient, or not honored by the contractor; many jurisdictions had no contracts at all.<sup>230</sup> Debris removal from bodies of water also proved difficult because the responsibility of debris removal was hard to determine .

Other issues facing the state in relation to recovery include financing property repair for those without flood insurance, price gouging by gas stations and restaurants, attempts to scam property owners, construction worker shortages, and more.<sup>231</sup> Texas is recognized as a resilient state, but Hurricane Harvey put into perspective how many changes are needed to improve preparedness and response in the occurrence of another natural disaster.

#### History of Emergency Preparedness, Response, and Recovery as an Emergency Item

Prior to 2019, emergency preparedness was listed numerous times as an emergency item in the form of disaster relief. The first time disaster relief was a Governor's emergency item was in 1935—three years of little rain and a high amount of winds bring drought to the western part of Texas. Soil was negatively impacted by wind erosion and dust storms were harming the public. In response, the Lieutenant Governor requested that emergency legislation be passed that would allow for the creation of agencies dedicated to protecting Texas' natural resources and

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<sup>228</sup> Fox, Maggie. 2017. "Mosquitoes, Medicine, and Mold: Texas Battles Post-Harvey Health Issues." *NBC News*, September 9. <https://www.rebuildtexas.today/wp-content/uploads/sites/52/2018/12/12-11-18-EYE-OF-THE-STORM-digital.pdf>

<sup>229</sup> *Ibid.*

<sup>230</sup> *Ibid.*

<sup>231</sup> *Ibid.*

minimizing disaster.<sup>232</sup> Again in 1941, bad weather effects made its way onto the list of emergency items. Flooding in Shackelford County, located in North Central Texas, caused the "loss of many lives and damage to property running into millions of dollars, [constituting] a great public calamity,"<sup>233</sup> S.B. 502 passed in the 47<sup>th</sup> regular session which authorized grant funding to Shackelford County from taxes collected within the county in order to repair damages from the flooding.<sup>234,235</sup>

Including 2019, disaster relief was declared an emergency item five more times. In 1955, an extended period of drought in Texas prompted an emergency item from Gov. Shivers to urge the legislature to create an emergency disaster fund with the purpose of "handling all economic or natural disaster situations which may develop,"<sup>236</sup> This fund, called the Disaster Contingency Fund, was created in 1975 and is administered by the Texas Department of Emergency Management (TDEM).<sup>237</sup> In 1979, a tornado caused an estimated \$241 million in damages in Wichita Falls, TX and flooding in Southeast Texas caused an estimated \$500 million in damages, all within a two-week span.<sup>238</sup> In response, Governor Clements requested \$6,126,000 as an

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<sup>232</sup> Legislative Reference Library. 1935. *Journal of the Senate of Texas Being the Regular Session of the Forty-fourth Legislature*. Retrieved from

<https://lrl.texas.gov/scanned/govdocs/James%20V%20Allred/1935/message041635.pdf> (May 2, 2019).

<sup>233</sup> Legislative Reference Library. 1941. *Journal of the Senate of the State of Texas, Regular Session of the Forty-seventh Legislature*. pp. 2162. Retrieved from

<https://lrl.texas.gov/scanned/govdocs/W%20Lee%20ODaniel/1941/message061241.pdf> (May 2, 2019).

<sup>234</sup> *Ibid.*

<sup>235</sup> Texas Legislature. 1941. 47<sup>th</sup> Legislative sess., S.B. 502.

[https://lrl.texas.gov/LASDOCS/47R/SB502/SB502\\_47R.pdf#page=4](https://lrl.texas.gov/LASDOCS/47R/SB502/SB502_47R.pdf#page=4) (May 3, 2019).

<sup>236</sup> Legislative Reference Library. 1955. *Journal of the House of Representatives of the Regular Session of the Fifty-fourth Legislature of the State of Texas*. pp. 741. Retrieved from

<https://lrl.texas.gov/scanned/govdocs/Robert%20Allan%20Shivers/1955/message031455.pdf> (May 3, 2019).

<sup>237</sup> Legislative Budget Board. 2017. *Legislative Budget Board Staff Reports*.

[http://www.lbb.state.tx.us/documents/publications/staff\\_report/3729\\_lbb\\_staff\\_reports.pdf](http://www.lbb.state.tx.us/documents/publications/staff_report/3729_lbb_staff_reports.pdf) (May 4, 2019).

<sup>238</sup> Legislative Reference Library. 1979. *Journal of the Senate of the State of Texas, Regular Session of the Sixty-sixth Legislature*. Retrieved from

<https://lrl.texas.gov/scanned/govdocs/William%20P%20Clements/1979/mess10.pdf> (May 4, 2019).

emergency appropriation to the Disaster Contingency Fund from the General Revenue Fund.<sup>239</sup>

In response to these expenses, disaster relief was declared an emergency item in 1981, when Gov. Clements requested \$6 million be appropriated to the Disaster Contingency Fund in response to the spending from the fund for disasters in prior years.<sup>240</sup>

Prior to 2019, 1985 was the most recent year that disaster relief was on a Governor's list of emergency items. In the 69<sup>th</sup> Legislative Session, Gov. White requested a "transfer of funds and supplemental appropriations to the Disaster Contingency Fund for disasters and emergencies," because the fund faced shortages due to more prevalent disasters during the fiscal year. By declaring this an emergency item, the Disaster Contingency Fund had enough money to continue the Texas Disaster Act of 1975, which established the governor's Emergency Services Council.<sup>241</sup> This council eventually became the Division of Emergency Management within the Department of Public Safety.<sup>242</sup> Table 22 below lists all past emergency item declarations by Governors in Texas.

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<sup>239</sup> *Ibid.*

<sup>240</sup> Legislative Reference Library. 1981. *Journal of the Senate of the State of Texas, Regular Session of the Sixty-seventh Legislature*. Retrieved from <https://lrl.texas.gov/scanned/govdocs/William%20P%20Clements/1981/mess10.pdf> (May 4, 2019).

<sup>241</sup> Legislative Reference Library. 1985. *Journal of the Senate of the State of Texas, Regular Session of the Sixty-ninth Legislature*. Retrieved from <https://lrl.texas.gov/scanned/govdocs/Mark%20W%20White,%20Jr/1985/mess6.pdf> (May 4, 2019).

<sup>242</sup> Marten, James A. 2010. "Emergency Management." *Texas State Historical Association*, June 10. <https://www.macalester.edu/las/wp-content/uploads/sites/41/2012/09/APSASStyleGuide.pdf> (May 23, 2019).

Table 22 History of Disaster Relief and Emergency Preparedness Emergency Items

Year	Session	Governor	Emergency Item
1935	44 <sup>th</sup> Regular Session	James V. Allred	Legislation to minimize disaster of extremely dry conditions in the western portion of the state
1941	47 <sup>th</sup> Regular Session	W. Lee O'Daniel	Recent disastrous floods in Shackelford County
1955	54 <sup>th</sup> Regular Session	Robert Allan Shivers	Emergency disaster fund for financing disaster relief operations relating to drought
1979	66 <sup>th</sup> Regular Session	William P. Clements	Emergency appropriation of \$6,126,000 from the General Revenue Fund to the Disaster Contingency Fund
1981	67 <sup>th</sup> Regular Session	William P. Clements	Emergency appropriation of \$6 million to the Disaster Contingency Fund
1985	69 <sup>th</sup> Regular Session	Mark W. White, Jr.	Disaster Contingency Fund for disasters and emergencies
2019	86 <sup>th</sup> Regular Session	Greg Abbott	Legislation relating to emergency preparedness, response, and recovery

### Emergency Preparedness, Response, and Recovery Legislation

There have been around 20 bills filed this session to address the issues presented in “Eye of the Storm,” as well as bills more broadly related to natural disasters and emergency management. However, SB 6, introduced by Senator Kolkhorst, is the most comprehensive bill

meant to address emergency preparedness, response, and recovery based on recommendations from the Governor's "Eye of the Storm" report.<sup>243</sup>

### Senate Bill 6

The purpose of this bill is to help local governments improve their emergency preparedness and provide more resources to these local governments for disaster recovery.<sup>244</sup> SB 6 aims to achieve this in the following ways:

1. TDEM will develop a comprehensive model guide for local officials for disaster response and recovery. This guide must include information on contracting for debris removal, obtaining federal disaster funding, coordinating the construction and availability of short-term and long-term housing, and obtaining assistance from federal, state, and local volunteer organizations. TDEM, in coordination with will also provide training to local officials with emergency management or supervisory responsibilities based on this disaster response guide.
2. TDEM, along with "the Emergency Management Council, the Texas A&M AgriLife Extension Service, the Texas A&M Engineering Extension Service, the Texas Commission on Environmental Quality, the Texas Department of Transportation, the comptroller, and political subdivisions" will develop a "catastrophic debris management plan and model guide" for political subdivision use in the occurrence of a disaster,"<sup>245</sup> This debris management plan must provide guidance on "clearance and disposal of debris caused by a disaster,"<sup>246</sup> and include standards for contracting of debris removal services and "provisions for the use of trench burners and air curtain incinerators of vegetative debris."<sup>247</sup> The Texas A&M Engineering Extension Service will also "establish a training program for state agencies and political subdivisions on the use of trench burners,"<sup>248</sup> in the removal of debris.
3. The establishment of a wet debris study group consisting of "representatives of the division, any other state agencies selected by the division, and local and federal

<sup>243</sup> Texas Legislature. Homeland Security & Public Safety Committee. 2019. Bill Analysis: C.S.S.B. 6. 86<sup>TH</sup> Sess. <https://capitol.texas.gov/tlodocs/86R/analysis/pdf/SB00006H.pdf#navpanes=0> (May 20, 2019).

<sup>244</sup> *Ibid.*

<sup>245</sup> Texas Legislature. 2019. An Act relating to emergency and disaster management, response, and recovery. 86<sup>th</sup> Sess., C.S.S.B. 6, page 2 lines 8-10. <https://capitol.texas.gov/tlodocs/86R/billtext/pdf/SB00006H.pdf#navpanes=0> (May 26, 2019).

<sup>246</sup> Texas Legislature. 2019. An Act relating to emergency and disaster management, response, and recovery. 86<sup>th</sup> Sess., C.S.S.B. 6, page 2 lines 12-13. <https://capitol.texas.gov/tlodocs/86R/billtext/pdf/SB00006H.pdf#navpanes=0> (May 26, 2019).

<sup>247</sup> Texas Legislature. 2019. An Act relating to emergency and disaster management, response, and recovery. 86<sup>th</sup> Sess., C.S.S.B. 6, page 2 lines 16-17. <https://capitol.texas.gov/tlodocs/86R/billtext/pdf/SB00006H.pdf#navpanes=0> (May 26, 2019).

<sup>248</sup> Texas Legislature. 2019. An Act relating to emergency and disaster management, response, and recovery. 86<sup>th</sup> Sess., C.S.S.B. 6, page 3 lines 2-3. <https://capitol.texas.gov/tlodocs/86R/billtext/pdf/SB00006H.pdf#navpanes=0> (May 26, 2019).

government entities,"<sup>249</sup> The group will study issues "related to preventing the creation of wet debris and best practices for clearing wet debris following a disaster,"<sup>250</sup> The wet debris study group will issue a report on their recommendations no later than November 1, 2020. The study group will be abolished on January 1, 2021.<sup>251</sup>

4. The establishment of an Emergency Management Work Group made up of members who are knowledgeable on emergency management. The work group will study and develop a proposal for "enhancing the training and credentialing of emergency management directors and emergency management coordinators,"<sup>252</sup> The work group will submit their proposal to the Texas Legislature and the governor no later than November 1, 2020. The work group will expire on January 1, 2021.<sup>253</sup>

### Conclusion / Status of Disaster Relief

The path that SB 6 took was relatively smooth compared to other emergency items such as school finance and property tax reform. After being filed on March 6, testimony was heard from the public on March 11 in the Senate Water and Rural Affairs committee. The committee heard from the Texas Floodplain Management Association, the Harris County Flood Control District, the City of Houston, and others. There was no one registered against this bill, a unique characteristic that is not often seen on comprehensive legislation that affects millions of people. After SB 6 passed 7-0 out of the committee, it went to the Senate floor for a vote. There were two amendments added to the legislation, one amendment by Senator Kolkhorst that was just a clarifying amendment that changed section numbers, and one amendment by Senator Lucio that added a study to be conducted by the Health and Human Services Commission on the feasibility

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<sup>249</sup> Texas Legislature. 2019. An Act relating to emergency and disaster management, response, and recovery. 86<sup>th</sup> Sess., C.S.S.B. 6, page 3 lines 8-10. <https://capitol.texas.gov/tlodocs/86R/billtext/pdf/SB00006H.pdf#navpanes=0> (May 26, 2019).

<sup>250</sup> Texas Legislature. 2019. An Act relating to emergency and disaster management, response, and recovery. 86<sup>th</sup> Sess., C.S.S.B. 6, page 3 lines 13-15. <https://capitol.texas.gov/tlodocs/86R/billtext/pdf/SB00006H.pdf#navpanes=0> (May 26, 2019).

<sup>251</sup> *Ibid.*

<sup>252</sup> Texas Legislature. 2019. An Act relating to emergency and disaster management, response, and recovery. 86<sup>th</sup> Sess., C.S.S.B. 6, page 4 lines 9-10. <https://capitol.texas.gov/tlodocs/86R/billtext/pdf/SB00006H.pdf#navpanes=0> (May 26, 2019).

<sup>253</sup> *Ibid.*



of a comprehensive form that would outline how a resident can receive disaster assistance. SB 6 passed out of the Senate and onto the House with a vote of 31 Yeas to 0 Nays.<sup>254</sup>

After getting to the House, SB 6 was heard by the Homeland Security and Public Safety Committee on May 15 where it was voted out 7-0. SB 6 was placed on the calendar for a vote on May 22 where it was amended only one time by Representative Morrison. The amendment added a disaster recovery loan program that can provide local governments and other political subdivisions with short-term loans for disaster recovery projects.<sup>255</sup> SB 6 was passed out of the House as amended with 144 Yeas, 0 Nays, and 2 Present Not Voting.<sup>256</sup>

SB 6 then went back to the Senate, where Senators refused to concur on the version amended by Representative Morrison. Because the Senate did not agree with the amendment, a conference committee was appointed on May 24 consisting of five Senators and five Representatives who were tasked with coming to a compromise on SB 6. On May 25, the conference committee came to an agreement on SB 6, agreeing to include the disaster recovery loan program added by Representative Morrison. However, this loan program will only be implemented if there is money appropriated specifically for the program; if there is not funding specifically appropriated to TDEM, then they are not required to implement it.<sup>257</sup>

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<sup>254</sup> Texas Legislature. 2019. Senate Journal, Eighty-sixth Legislature—Regular Session. *Proceedings*. <https://journals.senate.texas.gov/sjrnl/86r/pdf/86RSJ03-20-F.PDF#page=8> (May 20, 2019).

<sup>255</sup> Texas Legislature. 2019. House Journal, Eighty-sixth Legislature, Regular Session. *Proceedings*. <https://journals.house.texas.gov/hjrnl/86r/pdf/86RDAY70CFINAL.PDF#page=6> (May 20, 2019).

<sup>256</sup> Texas Legislature. 2019. House of Representatives. Record Vote #2019. May 26.

<sup>257</sup> Texas Legislature. 2019. Conference Committee Report Form. Retrieved from <https://lrl.texas.gov/scanned/86ccrs/sb0006.pdf#navpanes=0> (May 26, 2019).

SB 6 was an overall apolitical piece of legislation. Because so many individuals, communities, and businesses were impacted personally and economically, the Texas Legislature spent most of the session conflicted over the much more controversial issues—school finance and property tax reform. SB 6 is not an argumentative bill, and the purpose and motivation of SB 6 was clearly laid out in “Eye of the Storm,” making specific recommendations that legislators took seriously in their implementation of SB 6. The path that this emergency item took was simpler than others with the legislature successfully coming to an agreement to pass SB 6 before the end of the regular legislative session.

## Conclusion

The emergency items presented by Governor Greg Abbott were vast in nature, which meant that their results would be varied. The Capstone Scholars measured the performance of each of the six items throughout session in order to see if their corresponding bills made it to the Governor's desk to be signed. The six items were: school finance reform, teacher pay increases, property tax relief, school safety, disaster response, and mental health programs. As shown by the emergency items called on by Governors George W. Bush and Rick Perry, items can be modified in later sessions in order to adjust for possible unintended consequences.

The Texas Legislature is considered to be a moderately professionalized body; staff members within the Capitol are professionalized, many coming with higher level educational backgrounds and the knowledge and experience necessary to pass the substantive bills required for Texans. Capstone Scholars responded meaningfully to a survey presented to them during session regarding their observations about what they saw in session. Capstone Scholars collectively helped send multiple bills to the Governor's desk, thus creating meaningful policy changes for the State of Texas.

Overall, this session was a learning experience for each of the seven scholars and provided the opportunity to cultivate new skills to enter into their future careers. Seeing how policy has been developed throughout session can allowed the scholars to have new insight into civic participation. The emergency items that were studied all session are meant to positively impact the lives of all Texans. This paper is meant to show how the final language of these bills came to be. Moving forward, the emergency items will be enacted and studied by the Texas government in order to see what changes may need to occur in the 87<sup>th</sup> Legislative Session. Until then, these bills serve as a way to make Texans lives better and to mitigate the errors the Governor has seen over the interim.