

HEARING AGENDA
SENATE FINANCE COMMITTEE
SENATOR STEVE OGDEN, CHAIRMAN
WEDNESDAY, MAY 12, 2010, 10:00 A.M.
CAPITOL EXTENSION E1.036

- I. Call to Order
- II. Roll Call
- III. Committee Business

Consider and make recommendations relating to the constitutional constraints and fiscal implications of exempting real property, leased to a school, as defined by Section 11.21 of the Tax Code, from ad valorem taxation.

Monitor the use of Byrne Grant Border security funds, including whether additional funds need to be spent on communications interoperability.

Monitor the Cancer Prevention and Research Institute of Texas grant making process to ensure that funds are spent efficiently and effectively.

Study the impact of changing the constitutional and statutory spending limit based on the sum of the rate of population growth and the rate of inflation. Examine what past biennial spending limits would have been, and what the next biennium's limit might be, under a new definition. Consider the impact of exempting growth from federally mandated programs.

A. Invited Testimony

- 1. Implications of Exempting Real Property Leased to a School
 - Texas Comptroller of Public Accounts - *Deborah Cartwright, Director, Property Tax Assistance Division*
 - Texas Charter Schools Association - *David Dunn, Executive Director*
- 2. Byrne Grants and Radio Interoperability
 - Office of the Governor - *Senator Ken Armbrister, Legislative Director*
 - Legislative Budget Board - *Eduard Rodriguez, Analyst*
Gerry Dube, Analyst
 - Department of Public Safety - *Steve McCraw, Executive Director*
Cheryl MacBride, Assistant Director for Finance
- 3. Cancer Prevention and Research Institute of Texas - *James Mansour, Board Chairman*
Bill Gimson, Executive Director
- 4. Constitutional and Statutory Spending Limit
 - Legislative Budget Board - *Stewart Shallow, Analyst*

B. Public Testimony

- IV. Recess/Adjourn

Texas
Comptroller of
Public
Accounts



Presentation to the

Senate Finance Committee

Identify and evaluate potential improvements to the property tax system. Consider and make recommendations relating to the following: The constitutional constraints and fiscal implications of exempting real property, leased to a school, as defined by Section 11.21 of the Tax Code, from ad valorem taxation.

May 12, 2010

Presented by:

Deborah Cartwright, Director
Property Tax Assistance Division
Texas Comptroller of Public Accounts

Exempting Property Leased to a School



Constitutional Authority: Article VIII, Section 2(a)

“ . . .the legislature may, by general laws, exempt from taxation . . . any property that is owned by a church or by a strictly religious society and is leased by that church or strictly religious society to a person for **use as a school**, as defined by Section 11.21, Tax Code, or a successor statute, for educational purposes; . . . **all buildings used exclusively and owned by persons or associations of persons for school purposes and the necessary furniture of all schools . . .**”

Exempting Property Leased to a School



Statutory Authority: Section 11.21, Tax Code

- Buildings (and the land reasonably necessary for the use of the building) and tangible personal property owned and used by a private school are exempt from taxation
- The school may be operated by an individual, a corporation, or an association.
- A school may qualify for the exemption if it meets the following requirements:
 - is organized and operated primarily for the purpose of engaging in educational functions;
 - normally maintains a regular faculty, has a regular curriculum, and has an organized body of students in attendance at the place where the education functions occur;
 - is operated exclusively by the individual, corporation, or association that owns the property;
 - is operated in a way that does not result in the accrual of distributable profits or the realization of private gain from excessive compensation or other gain;
 - if a corporation, is organized under the Texas Non-Profit Corporation Act; and
 - must direct in the school's charter, bylaws or other regulation that upon dissolution that the organization's assets must be transferred to the State of Texas, the United States, or an organization qualified as a charity under Section 501(c)(3), Internal Revenue Code

Exempting Property Leased to a School



Statutory Authority: Section 11.21, Tax Code (Cont.)

- The school property must be owned exclusively by the persons who operate the school
- Includes other ownership requirements
- Property must be used exclusively for educational functions
- Property of a qualified organization may be exempted while it is under construction
- Endowment funds that are owned and used exclusively for the school's support may be exempt

Exempting Property Leased to a School



Case Law

- In **Circle C Child Development Child Development Center, Inc. v. Travis Cent. Appraisal Dist.** 981 S.W.2d 483 (Tex.App.-Austin 1998, no writ), the court ruled that if there is a non-educational use that is substantial, such as a day care center, the property would not qualify as a school for purposes of Section 11.21. The center was not used exclusively for educational functions
- A property cannot be exempt if its primary use is as the residence of the school president or any other member of the administration. **Bexar Appraisal District and Bexar County Appraisal Review Board v. Incarnate Word College**, 824 S.W.2d 295 (Tex. App.—San Antonio 1992, writ denied)

Questions?



Deborah Cartwright, Director
Property Tax Assistance Division
Texas Comptroller of Public Accounts

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Texas Charter
Schools
Association -

No written
testimony

Office of the
Governor

Presentation on Byrne Justice Assistance Grant Program

Senate Finance Committee, May 12, 2010

Criminal Justice Division

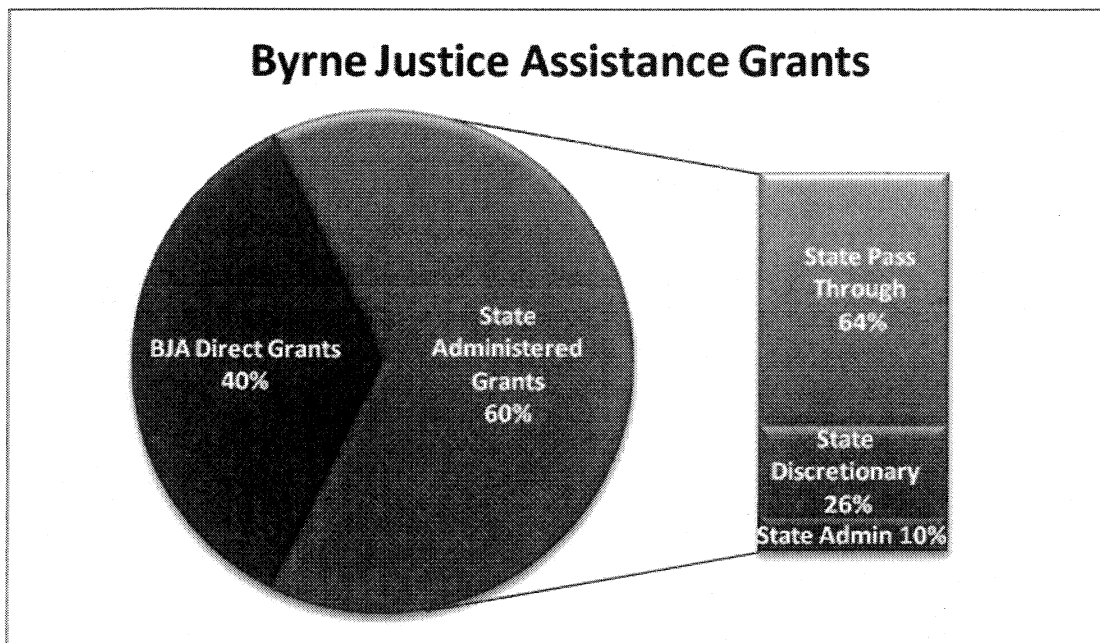
JAG OVERVIEW

The Governor's Criminal Justice Division (CJD) is the designated State Administering Agency for the federal Byrne Justice Assistance Grants (JAG) Program. JAG funding comes from the Bureau of Justice Assistance (BJA) and provides states and local governments with funding to support a range of program areas including law enforcement, prosecution and court, corrections, drug treatment and enforcement, technology improvement, and crime victim and witness initiatives.

JAG FORMULA:

The Bureau of Justice Statistics (BJS) calculates, for each state and territory, a minimum base allocation which is then enhanced by the state's population and violent crime statistics (Uniform Crime Reporting data). Once the state funding is calculated, 60 percent of the allocation is awarded to the State Administering Agency (SAA). The remaining 40 percent is allocated by formula to local governments within each state who may apply directly to BJA for local JAG funds.

States also have a variable percentage of the 60% allocation awarded to the SAA that it is required to "pass through" to units of local government. This amount, also calculated by BJS, is based on each state's crime expenditures. The remaining balance may be used by the SAA for discretionary projects and administrative costs.



CJD has historically used a portion of the State Pass Through funds to provide grants directly to local governments in support of local border security efforts. State Discretionary funds have been awarded to the Texas Department of Public Safety and the Texas Border Sheriff's Coalition in support of state-level border security efforts and coordination.

Presentation on Byrne Justice Assistance Grant Program

Senate Finance Committee, May 12, 2010

Criminal Justice Division

FEDERAL AWARD PROCESS

- Each year BJA posts a grant solicitation for the State Administered portion of the JAG funds.
- CJD completes the federal application and gives notice to the public via the Texas Register and the Legislature via letter or email.
- Upon award CJD draws down the funds and places in an interest bearing account.

HISTORICAL FEDERAL AWARD AMOUNTS 2005 – 2010

Federal Block	JAG	Recovery Act JAG	Total
2005	\$ 22,740,822		\$ 22,740,822
2006	\$ 14,045,713		\$ 14,045,713
2007	\$ 21,557,120		\$ 21,557,120
2008	\$ 8,310,661		\$ 8,310,661
2009	\$ 23,066,845	\$ 90,295,773	\$ 113,362,618
2010 ¹	\$ 21,889,320		\$ 21,889,320
Total	\$ 111,610,481	\$ 90,295,773	\$ 201,906,254

STATE AWARD PROCESS

CJD coordinates with the Texas Office of Homeland Security Division and the Texas Department of Public Safety to identify funding through CJD that will be used in support of the Texas Homeland Security Strategic Plan (2010 – 2015). Since 2006, CJD has awarded nearly \$100 million in grants with the Byrne Justice Assistance program contributing \$78 million.

- Eligible applicants apply online through CJD's eGrants system.
- CJD staff review all applications.
- Funding recommendations are made to the governor based on the how well the applicant's proposal aligns with the Texas Homeland Security Strategic Plan and local priorities as well as the reasonableness and cost effectiveness of the program.
- Grant awards are issued electronically through CJD's eGrants system.
- Grantee's receiving an award must submit regular financial reports to CJD detailing expenditures.

¹ CJD is in the process of applying for the FFY 2010 JAG federal award. BJA has published the expected award amounts by state with Texas' allocation at \$21,889,320. This number is not considered final, until receipt of the federal award statement.

Presentation on Byrne Justice Assistance Grant Program

Senate Finance Committee, May 12, 2010

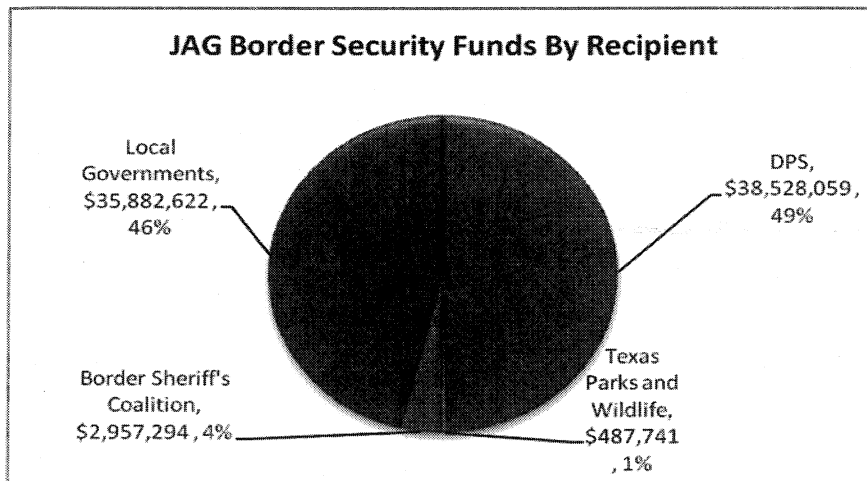
Criminal Justice Division

HISTORICAL AMOUNTS AWARDED BY CJD FOR BORDER SECURITY INITIATIVES 2006 – 2010

State FY	JAG	Recovery Act JAG	Other Federal Funds	Other State Funds	Total
2006	\$21,825,948	\$0	\$724,842	\$3,389,706	\$25,940,496
2007	\$1,139,472	\$0	\$700,000	\$12,165,701	\$14,005,173
2008	\$8,668,551	\$0	\$0	\$0	\$8,668,551
2009	\$4,096,809	\$0	\$0	\$2,000,000	\$6,096,809
2010 ²	\$4,326,792	\$39,349,647	\$0	\$1,785,350	\$45,172,379
Total	\$39,314,069	\$39,349,647	\$1,424,842	\$19,340,757	\$99,429,317

HISTORICAL JAG BORDER SECURITY FUNDING BY RECIPIENT TYPE 2006 – 2010

Since 2006 CJD has dedicated \$78 million in federal JAG funding to support border security initiatives. The chart below demonstrates the distribution of this \$78 million between local grantees, the Texas Department of Public Safety (DPS), the Border Sheriff's Coalition and the Texas Parks and Wildlife Department.



² FY 2010 numbers are as of May 1, 2010.

Presentation on Byrne Justice Assistance Grant Program

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Criminal Justice Division

JAG GRANTEE ELIGIBILITY REQUIREMENTS AND ACTIVITIES

Uniform Crime Reporting – Applicant must assure that it is current and has been current in reporting required Part I violent crime data for the three previous years to the Texas Department of Public Safety, and will continue timely reporting of required crime data throughout the grant period.

Criminal History Reporting - Applicant must assure that they are currently reporting and will maintain timely reporting of all information required under the *Texas Code of Criminal Procedure, Chapter 60*.

Information Systems – Applicant must assure that any new criminal justice information systems will comply with data sharing standards for the Global Justice XML Data Model and the National Information Exchange Model.

Central Contractor Registry - Applicant must assure that it is currently registered or will register in the federal Central Contractor Registration database.

Non-Supplanting - Federal funds must be used to supplement existing state and local funds for program activities and must not replace those funds that have been appropriated for the same purpose.

Allowable Activities – The JAG program has seven broad purpose areas under which programs may be funded including:

- Law enforcement programs.
- Prosecution and court programs.
- Prevention and education programs.
- Corrections and community corrections programs.
- Drug treatment and enforcement programs.
- Planning, evaluation, and technology improvement programs.
- Crime victim and witness programs (other than compensation).

Border security programs are typically funded under the either the Law Enforcement program area or Prosecution and court program area.

MONITORING OF JAG PROGRAMS

CJD uses a variety of mechanisms to monitor and oversee recipients of funding including:

- CJD's on-line grants management system is set-up to limit the program activities and budget items to only those eligible under JAG. In addition, each application undergoes an intensive multi-layered review incorporating checks and balances to ensure proposed activities and budget items are eligible, reasonable, and cost effective.

Presentation on Byrne Justice Assistance Grant Program

Senate Finance Committee, May 12, 2010

Criminal Justice Division

- CJD's Monitoring Section performs on-site reviews, desk reviews, grantee contact visits and technical assistance reviews. These reviews are primarily financial, but do incorporate limited testing of programmatic factors and performance progress.
- CJD's Programs Sections perform on-site programmatic reviews to ensure grantees are following through with the approved activities. Technical assistance is provided as necessary.
- CJD contracts with each of the 24 Regional Councils of Governments (COGs) to conduct either a detailed technical assistance site visit or phone contact using CJD prescribed checklists.
- CJD contracts with the Public Policy Research Institute (PPRI) at Texas A&M University to collect federally required performance data from the JAG grantees.

IMPACT OF ARRA

With the award of \$90 million in JAG ARRA funds, came a unique opportunity to strengthen the foundation of the criminal justice system in Texas by equipping agencies and communities with resources to enhance public safety. CJD looked to distribute this one-time influx of funding where it would have the greatest impact without an expectation for long-term support. Priority has been given to programs incorporating or addressing:

- Border Security
- Capacity Building in Rural Texas Regions
- Regional and Local Priorities

As of April 30, 2010, CJD has awarded \$39.3 million of the JAG ARRA funds in support of Border Security initiatives. Award recipients include:

- Local sheriffs and police departments along the Texas/Mexico and coastal borders,
- Texas Department of Public Safety (DPS), and
- Texas Parks and Wildlife.

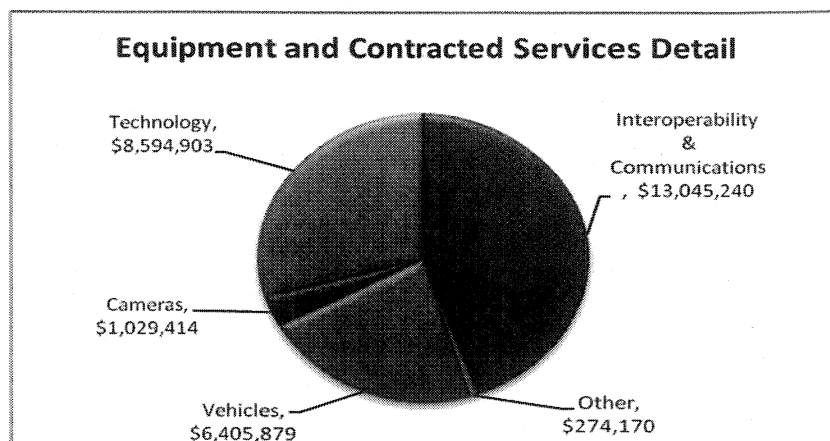
In the coming weeks CJD anticipates awarding an additional \$1.7 million to DPS to enhance gang intelligence systems within the Fusion Center. In addition, over the next few months, CJD will continue to coordinate with DPS and Texas Office of Homeland Security to deploy an additional \$2.5 million among local law enforcement agencies.

Of the funds awarded to date, \$30 million or 77% will be used to increase the capacity of law enforcement resources through the purchase of equipment and contracted services.

Presentation on Byrne Justice Assistance Grant Program

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Criminal Justice Division



Planned expenditures include:

- Technology and communication purchases, including enhancements to TDEX, TxMAP, and local law enforcement records management systems.
- 425 computers for local law enforcement officers, many of which will be installed as part of mobile data terminal units.
- 290 radios for local law enforcement officers.
- 195 law enforcement vehicles, 6 all terrain vehicle, and 3 patrol boats.


Planned Law Enforcement Personnel expenditures total nearly \$7 million, with \$6.6 million dedicated to overtime expenses for existing law enforcement to support increased law enforcement patrols and presence within local communities in an effort to deter criminal activity.

FUTURE CONSIDERATIONS

CJD anticipates that all JAG ARRA grants will close on or before December 2011. While we expect to continue to receive the regular JAG award each year, one can tell by the Chart on page 2 that there is a history of widely varying award amounts year to year (e.g. \$23 million awarded in 2009 and \$8 million awarded in 2008). These fluctuations are compounded by the federally mandated funding splits described on page 1 and the eligibility requirements described on page 4. In addition, as the administrator of federal grant funds, CJD requires flexibility to adapt to new or changing federal requirements and to respond to the fast-changing threats and sophistication level of those engaging in criminal activities.

Presentation on Byrne Justice Assistance Grant Program

Senate Finance Committee, May 12, 2010

 Criminal Justice Division

Presentation on Byrne Justice Assistance Grant Program

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Criminal Justice Division

Primary Impact County	Grantee	Border Security Grants by County and Fiscal Year				Grand Total
		2006	2007	2008	2009	
Bee	Bee County			\$ 36,237	\$ 62,720	\$ 94,159
Brewster	Brewster County	\$ 367,478		\$	\$	\$ 74,294
Brooks	Brooks County					\$ 51,067
Cameron	Brownsville, City of					\$ 500,000
	Cameron County	\$ 345,397		\$ 587,225	\$ 269,792	\$ 503,866
	Harlingen, City of					\$ 250,000
Culberson	Culberson County	\$ 364,317		\$		\$
	Culberson County			\$ 30,596	\$ 48,360	\$ 423,728
Dewitt	DeWitt County					\$ 24,500
Dimmit	Dimmit County	\$ 367,500		\$	\$ 17,004	\$ 460,697
Duval	Duval County	\$ 371,786				\$ 75,000
El Paso	Anthony, Town of					\$ 100,000
	El Paso County	\$ 2,300,578	\$ 847,342	\$ 1,385,229	\$ 1,538,169	\$ 4,442,293
	El Paso, City of					\$ 750,000
	Horizon City, Town of					\$ 100,000
Frio	Frio County					\$ 73,711
Goliad	Goliad County					\$ 31,284
Gonzales	Gonzales County					\$ 36,682
Guadalupe	Guadalupe County					\$ 117,226
	Seguin, City of					\$ 102,850
Hidalgo	Edinburg, City of					\$ 250,000
	Hidalgo County	\$ 335,481		\$ 90,971		\$ 900,000
	La Joya, City of					\$ 100,000
	McAllen, City of					\$ 250,000
	Mission, City of					\$ 250,000

Presentation on Byrne Justice Assistance Grant Program

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Criminal Justice Division

Primary Impact County	Grantee	Border Security Grants by County and Fiscal Year				Grand Total
		2006	2007	2008	2009	
	Palmview, City of				\$ -	\$ -
	Pharr, City of				\$ 250,000	\$ 250,000
	Sullivan City, City of				\$ 100,000	\$ 100,000
Hudspeth	Hudspeth County	\$ 367,500	\$ 132,775	\$ 162,392	\$ 616,000	\$ 1,278,667
Impact is Statewide - Nonprofits	Texas Border Sheriff's Coalition	\$ 3,389,706	\$ 2,175,329	\$ 2,298,708	\$ 483,257	\$ 8,347,000
Impact is Statewide - State Agency	Office of the Governor		\$ 252,625			\$ 252,625
	Texas Department of Public Safety	\$ 11,224,842	\$ 12,865,701	\$ 3,000,000	\$ 800,000	\$ 25,828,059
	Texas Parks and Wildlife Department					\$ 487,741
Jackson	Jackson County				\$ 45,069	\$ 45,069
Jeff Davis	Jeff Davis County	\$ 244,211			\$ 50,000	\$ 294,211
Jim Hogg	Jim Hogg County	\$ 253,659			\$ 599,999	\$ 853,658
Jim Wells	Jim Wells County				\$ 114,992	\$ 114,992
	Orange Grove, City of				\$ 25,000	\$ 25,000
Karnes	Karnes County				\$ 25,412	\$ 25,412
Kenedy	Kenedy County				\$ 100,000	\$ 100,000
Kinney	Kinney County	\$ 367,500	\$ 112,376	\$ 126,165	\$ 455,551	\$ 1,061,591
Kleberg	Kingsville, City of				\$ 93,779	\$ 93,779
	Kleberg County				\$ 135,957	\$ 135,957
La Salle	LaSalle County				\$ 99,346	\$ 99,346
Lavaca	Lavaca County				\$ 25,000	\$ 25,000
Live Oak	Live Oak County				\$ 55,138	\$ 55,138

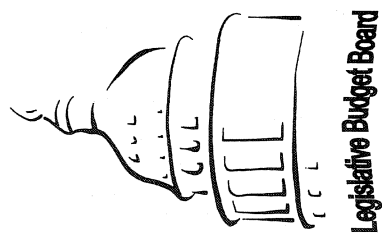
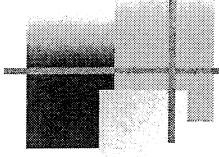
Presentation on Byrne Justice Assistance Grant Program

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Criminal Justice Division

Primary Impact County	Grantee	Border Security Grants by County and Fiscal Year					Grand Total
		2006	2007	2008	2009	2010	
Maverick	Maverick County	\$ 367,500		\$ 8,405	\$ 783	\$ 300,000	\$ 676,688
Nueces	Corpus Christi, City of Nueces County					\$ 499,849	\$ 499,849
Pecos	Pecos County					\$ 57,067	\$ 57,067
Presidio	Presidio County	\$ 366,040				\$ 529,085	\$ 529,085
Refugio	Refugio County						\$ 366,040
San Patricio	San Patricio County					\$ 120,000	\$ 120,000
Starr	Rio Grande City					\$ 100,000	\$ 100,000
Terrell	Starr County	\$ 1,074,687		\$ 323,632	\$ 313,557	\$ 1,025,814	\$ 2,737,689
Val Verde	Terrell County	\$ 330,316		\$ 23,820	\$ 38,549	\$ 58,433	\$ 451,119
Victoria	Del Rio, City of Val Verde County	\$ 421,480		\$ 53,023	\$ 127,311	\$ 414,499	\$ 240,000
Webb	Victoria County Victoria, City of Laredo, City of					\$ 485,775	\$ 485,775
Willacy	Webb County	\$ 1,852,714	\$ 39,505	\$ 708,933	\$ 158,300	\$ 400,000	\$ 1,016,313
Zapata	Raymondville, City of Willacy County					\$ 50,000	\$ 485,775
Zavala	Zapata County	\$ 484,300			\$ 135,000	\$ 297,400	\$ 297,400
Grand Total	Zavala County					\$ 342,657	\$ 342,657
		\$ 25,196,993	\$ 14,005,173	\$ 8,668,551	\$ 6,096,809	\$ 45,461,789	\$ 99,429,315

Legislative
Budget
Board

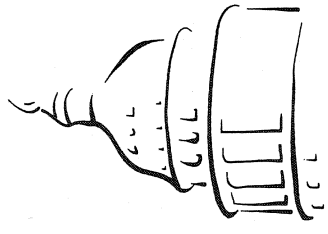
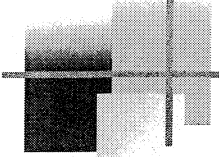


Byrne Justice Assistance Grants and Interoperable Communications Funding

Senate Finance Committee

May 12, 2010

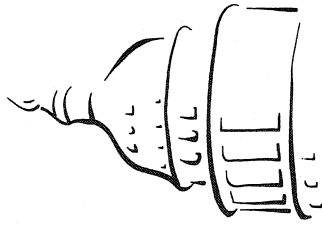
Prepared by the Legislative Budget Board



Legislative Budget Board

Byrne Justice Assistance Grant Program

Byrne Justice Assistance Grant Program



Legislative Budget Board

The U.S. Department of Justice (DOJ) administers the Byrne Justice Assistance Grant Program (JAG), which provides funds to states and local governments to support all components of the criminal justice system including the following:

- Law enforcement;
- Prosecution and courts;
- Prevention and education;
- Corrections and treatment; and
- Planning, evaluation, and technology improvement.

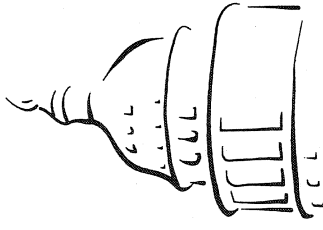
Federal Fiscal Year	2007 Actual	2008 Actual	2009 Actual	2010 Estimated
National	\$304.7	\$107.7	\$546.0	\$511.0
National ARRA	NA	NA	\$2,000.0	NA
Texas ^{1, 2}	\$33.2	\$11.0	\$183.4	\$43.5
% Share	10.9%	10.2%	7.2%	8.5%

Source: U.S. Department of Justice

¹ Includes one-time funding provided through the American Recovery and Reinvestment Act (ARRA).

² Award amounts include funds that are distributed to units of local government.

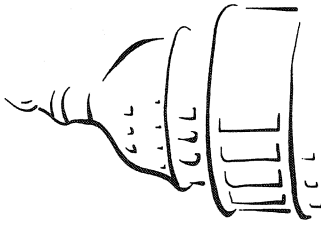
Distribution of Funds



Legislative Budget Board

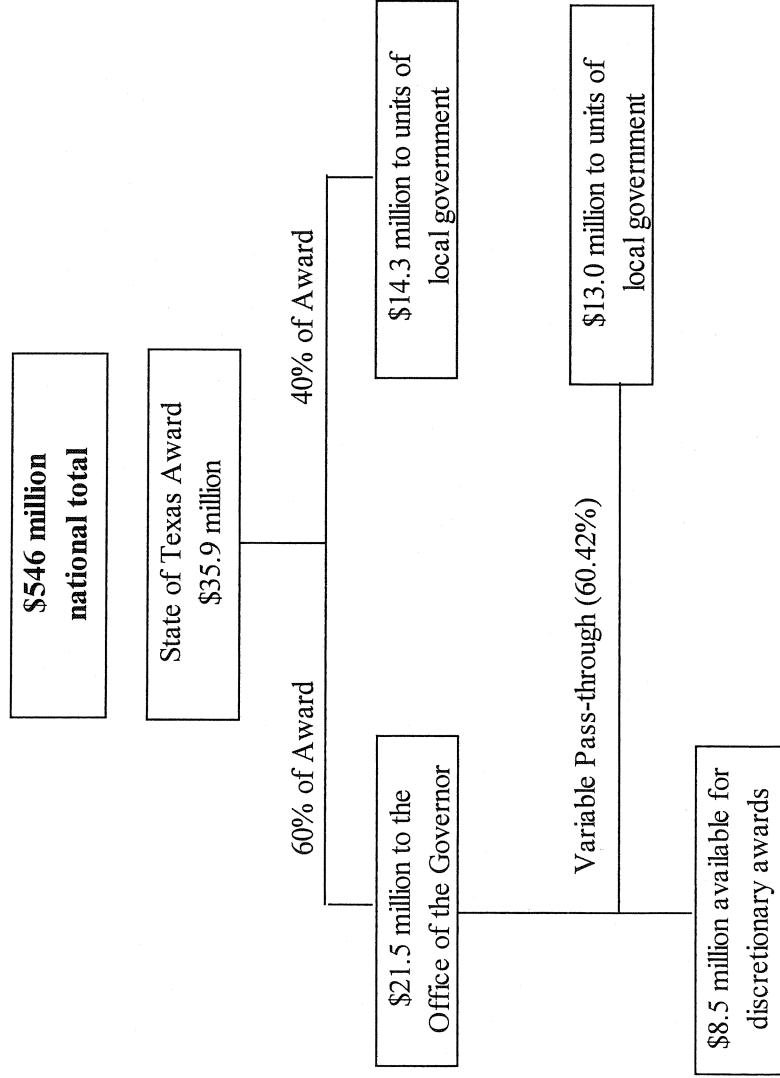
- The DOJ distributes JAG funds to states through a formula allocation based on a state's share of violent crime and general population. At a minimum, each state receives an award equal to 0.25 percent of the total JAG allocation.
- Sixty percent of a state's allocation is awarded directly to the state's JAG administrative agency (In Texas, The Office of the Governor) and 40 percent to units of local government.
- Each state administrative agency is further required to award/pass-through an additional percentage (variable pass-through) of their award to units of local government. Texas' variable pass-through percentage for fiscal years 2009 and 2010 is 60.42 percent and 64.02 percent, respectively.
- After all pass-through amounts have been determined, the remaining funds are then distributed at the discretion of the state administrative agency.

Distribution of Funds (Continued)



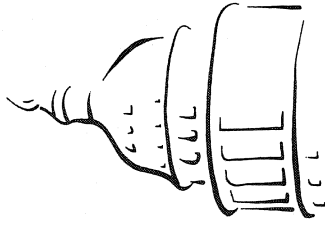
Legislative Budget Board

DISTRIBUTION OF FY 2009 JAG FUNDS



Note: National total does not include JAG funds provided through the American Recovery and Reinvestment Act.

81st Legislature: General Appropriations Act 2010-11



Legislative Budget Board

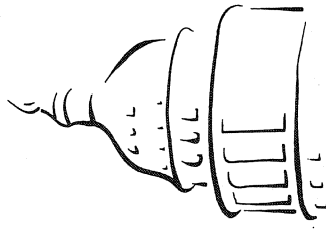
Article I

- **Rider 23: Requirements for House Bill 2086** In accordance with House Bill 2086, Eighty-first Legislature, Regular Session, 2009, relating to the prevention, investigation, prosecution, and punishment for certain gang-related and other criminal offenses and to the consequences and costs of engaging in certain activities of a criminal street gang or certain other criminal activity, it is the intent of the Legislature that at least \$5,500,000 in appropriations by this Act for the Trusteed Programs within the Office of the Governor, including federal Byrne grant allocations, be used to implement the provisions of the legislation.

Article IX

- **Sec. 17.80. Contingency for Senate Bill 11 (Not Enacted)** Contingent upon the enactment of Senate Bill 11, or similar legislation relating to the prevention, investigation, prosecution, and punishment for certain gang-related and other criminal offenses and to the consequences and costs of engaging in certain activities of a criminal street gang or certain other criminal activity, by the Eighty-first Legislature, Regular Session, 2009, it is the intent of the Legislature that at least \$5,500,000 in appropriations by this Act for the Trusteed Programs within the Office of the Governor, including federal Byrne grant allocations, be used to implement the provisions of the legislation.

81st Legislature: General Appropriations Act 2010-11



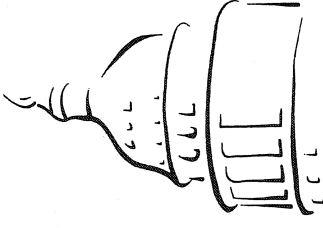
Legislative Budget Board

Article XII

Sec. 3. Informational Item: American Recovery and Reinvestment Act funding not included in this Act. In addition to the amounts appropriated in this Article, it is estimated that the following amounts will not be appropriated to state agencies but available for distribution to local entities.

-	Urban and Non-Urban Transit Funds	\$ 325,000,000	←
-	Byrne Justice Assistance Grants	\$ 57,000,000	
-	Medicaid Disproportionate Share Hospital Funds		
-	Allocated to Hospitals	\$ 71,000,000	
-	Homelessness Prevention Funds Allocated to Locals	\$ 63,000,000	
-	Clean Water State Revolving Fund	\$ 181,000,000	
-	Safe Drinking Water State Revolving Fund	\$ 161,000,000	
-	Total	\$ 858,000,000	

81st Legislature: General Appropriations Act 2010-11

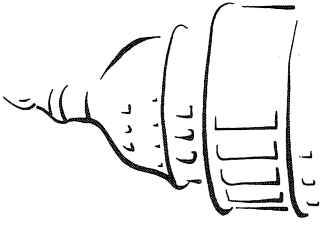
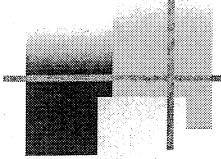


Legislative Budget Board

Article XII

Sec. 14: Informational Item: Border Security Appropriations It is the intent of the legislature that the Byrne Justice Assistance Grants appropriated above be distributed based on the following priorities first to:

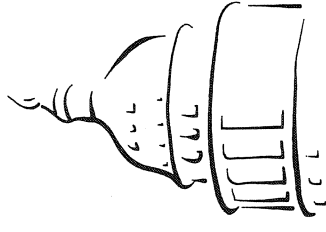
- (1) \$9,000,000 to the Department of Public Safety for overtime and operational costs for increased patrol and investigative capacity for certified peace officers (DPS and local) and to purchase 150 patrol vehicles to increase patrol capacity in support of border security and statewide gang enforcement efforts.
- (2) \$6,500,000 to the Department of Public Safety for border-wide crime mapping and surveillance capability to support resource deployment and assessments. This includes funding TxMAP, a geospatial platform that provides a statewide information sharing and crime and situational mapping capability to support border security operations and cartel and gang enterprise investigations and prosecutions at the local, state and federal level.
- (3) \$1,500,000 to the Department of Public Safety to establish a multi-agency gang intelligence section in the Texas Fusion Center to provide local law enforcement with technical support and equipment.
- (4) \$500,000 to the Texas Parks and Wildlife Department for patrol boats and related capital budget authority.
- (5) \$10,500,000 to the Department of Public Safety for expanding radio interoperability, communications and night vision capabilities. Communications will include funding a web-based records management system and jail management system for local law enforcement agencies to ensure timely communication of border and gang related data among agencies.
- (6) \$250,000 to the Department of Criminal Justice-Office of the Inspector general for surveillance equipment, investigative software, and travel and overtime.
- (7) \$800,000 to the Board of Pardons and Paroles for technology upgrades, computers, and video conferencing equipment.
- (8) \$150,000 to the Youth Commission for security wands, metal detectors, and laptop computers.
- (9) \$350,000 to the Alcoholic Beverage Commission for computer and technology upgrades.



Legislative Budget Board

Texas Public Safety Interoperable Communications Funding

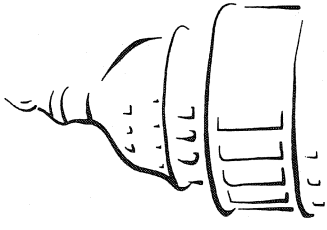
Texas Public Safety Interoperable Communications Funding



Legislative Budget Board

- Texas adopted a Statewide Communications Interoperability Plan (SCIP) in November of 2007, which was approved by the U.S. Department of Homeland Security in April of 2008.
- The SCIP goal is to bring Texas under the national interoperability suite of standards for digital two-way wireless communications products and systems, known as Project 25 (P25).
- The P25 standards are created by a committee of manufacturers, public safety agencies and state and federal communications professionals so that all purchasers of P25-compatible equipment can communicate with each other.

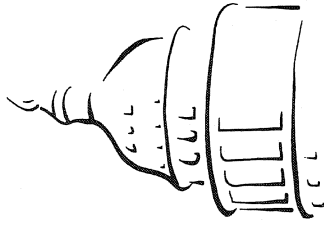
Texas Public Safety Interoperable Communications Funding



Legislative Budget Board

- The SCIP goal is to provide very high frequency (VHF) P25 capability in mostly rural areas and 700/800 mega hertz (MHz)P25 capability in mostly urban areas by 2015.
- The latest published SCIP anticipated that approximately \$212.8 million in state, local and federal funds, would be required to complete targeted P25 projects in fiscal years 2008 through 2010.
- According to the Texas Department of Public Safety (DPS), completion of the entire SCIP by 2015 was last projected at a cost of \$793.7 All Funds.

Texas Public Safety Interoperable Communications Funding



Legislative Budget Board

Texas received a one time federal Public Safety Interoperable Communications (PSIC) grant of \$65.1 million in fiscal year 2007 to implement the SCIP.

- Selected state agency allocations total \$11.1 million plus a state match of \$2.7 million.
- Approximately \$50.0 million has been allocated to local entities.
- Funds have been allocated to state and local entities and are available to be expended until fiscal year 2011.
- DPS collects quarterly reports from state agencies and local entities for the Public Safety Interoperability Communications (PSIC) grants.
- DPS review of state agency and local implementation plans insures compliance with state and federal regulations.

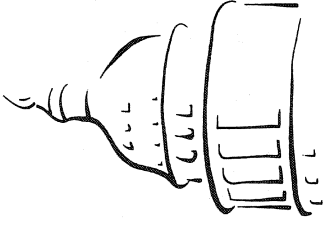
Public Safety Interoperability Communications Funding

Public Safety Interoperable Communications Grant Allocations by State Agency for Fiscal Years 2007 - 2011			
State Agency	Federal Grant	State Match Requirement	All Funds
Texas Alcoholic Beverage Commission	\$ 300,000.00	\$ 75,000.00	\$ 375,000.00
Texas Department of Criminal Justice	\$ 110,000.00	\$ 27,500.00	\$ 137,500.00
Texas Forest Service	\$ 110,000.00	\$ 27,500.00	\$ 137,500.00
Texas Parks & Wildlife Department	\$ 1,000,000.00	\$ 250,000.00	\$ 1,250,000.00
Texas Department of Public Safety	\$ 5,989,518.00	\$ 1,497,379.00	\$ 7,486,897.00
Texas Department of Transportation	\$ 1,450,000.00	\$ 362,500.00	\$ 1,812,500.00
Texas Youth Commission	\$ 110,000.00	\$ 27,500.00	\$ 137,500.00
Texas Adjutant General/Military Facilities (State Reserve)	\$ 2,000,000.00	\$ 500,000.00	\$ 2,500,000.00
Totals	\$ 11,069,518.00	\$ 2,767,379.00	\$ 13,836,897.00

Source: Legislative Budget Board.

Notes: Texas received \$65.1 million as a one time PSIC federal grant in FY 2007 which will be available until FY 2011. This table does not reflect funds distributed to local entities.

Article IX Sec. 12.06 Interoperability Rider

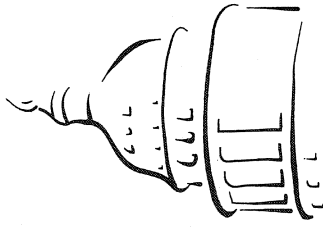


Legislative Budget Board

Sec. 12.06. Interoperability Communications Equipment: Federal Funding.

- (a) It is the intent of the Legislature that contingent upon receipt of any federal funds for interoperability communications equipment by a state agency, the state agency receiving the federal funding shall expend those funds to establish an interoperable communications system. The interoperable communications equipment shall be subject to guidelines established by the United States Department of Homeland Security, Office of Domestic Preparedness.
- (b) This section applies to federal funds appropriated by this Act and received by:
- (1) the Texas Parks and Wildlife Department;
 - (2) the Texas Department of Transportation;
 - (3) the Texas Youth Commission;
 - (4) the Texas Alcoholic Beverage Commission;
 - (5) the Department of Public Safety of the State of Texas;
 - (6) the Texas Department of Criminal Justice; and
 - (7) the Texas Forest Service.
- (c) Except as provided by Subsection (e) of this section, none of the federal funds received by an agency named under Subsection (b) of this section to establish an interoperable communications system may be used to purchase new agency radio equipment until equipment required to achieve system interoperability has been established at the agency. The interoperable communications equipment shall be subject to guidelines established by the United States Department of Homeland Security, Office of Domestic Preparedness.

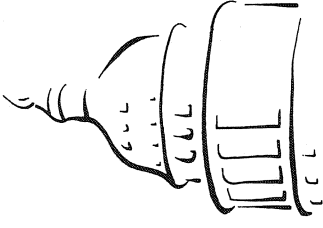
Article IX Sec. 12.06 Interoperability Rider (Continued)



Legislative Budget Board

- (d) Except as provided by Subsection (e) of this section, after the establishment of a interoperable communications system by all seven of the state agencies listed under Subsection (b) of this section, no federal communications interoperability grants or funds provided to the State of Texas for distribution to local, county, or municipal government agencies shall be spent by those local, county, or municipal government agencies for new radio equipment purchases unless such funds are first used for equipment to connect to an interoperable system established by the state agencies. The interoperable communications equipment shall be subject to guidelines established by the United States Department of Homeland Security, Office of Domestic Preparedness.
- (e) (1) A state or local entity may use any funds not otherwise restricted to replace broken or failing communications equipment and maintain an existing communications system until an interoperable system can be created.
- (2) This section is not a limitation on maintenance of an existing communications system or replacement of broken or failing communications equipment.
- (f) Quarterly, each agency named under Subsection (b) of this section to establish an interoperable communications system shall report to the Legislative Budget Board and the Governor regarding the agency's progress to achieve system interoperability and meet any interoperable communications equipment guidelines established by the United States Department of Homeland Security, Office of Domestic Preparedness.

Article IX Sec. 12.07 Interoperability Rider

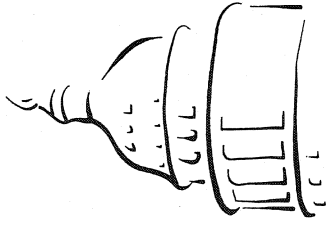


Legislative Budget Board

Sec. 12.07. Interoperability Communications Equipment: All Appropriated Funding.

- (a) It is the intent of the Legislature that except as provided by Subsection (c) of this section, none of the funds appropriated to a state agency listed under Subsection (b) of this section shall be expended by the state agency for the purchase of new radio equipment until the state agency has established an interoperable communications system. The interoperable communications equipment shall be subject to guidelines established by the United States Department of Homeland Security, Office of Domestic Preparedness.
- (b) This section applies to the following state agencies:
- (1) the Texas Parks and Wildlife Department;
 - (2) the Texas Department of Transportation;
 - (3) the Texas Youth Commission;
 - (4) the Texas Alcoholic Beverage Commission;
 - (5) the Department of Public Safety of the State of Texas;
 - (6) the Texas Department of Criminal Justice; and
 - (7) the Texas Forest Service.

Article IX Sec. 12.07 Interoperability Rider (Continued)



Legislative Budget Board

- (c) (1) A state agency may use any funds not otherwise restricted to replace broken or failing communications equipment and maintain an existing communications system until an interoperable system can be created.
- (2) This section is not a limitation on maintenance of an existing communications system or replacement of broken or failing communications equipment.
- (d) Quarterly, each agency named under Subsection (b) of this section to establish an interoperable communications system shall report to the Legislative Budget Board and the Governor regarding the agency's progress to achieve system interoperability and meet any interoperable communications equipment guidelines established by the United States Department of Homeland Security, Office of Domestic Preparedness.

Department of Public Safety

Local Border Security Rider 52
Method of Finance is General Revenue Dedicated - Fund 099

Strategy	FTEs	C/N-C	Current	2010-11	
				Appropriated	Expended
DPS Troopers	56	56/0	37	\$9,500,000	
Less 5% General Revenue Reduction				(\$1,043,330)	\$964,884
				\$8,456,670	
DPS Texas Rangers	10	10/0	8	1,853,676	
Less 5% General Revenue Reduction				(256,670)	
				1,597,006	406,826
Overtime and Operational Costs				19,451,038	
Less 5% General Revenue Reduction				(10,377,153)	
				9,073,885	3,420,000
JOICs and Border Operations Center				9,000,000	4,241,701
RioGrande Border Sec. and Training Center Aircraft Operations				1,000,000	0
TOTAL FTE Costs	66		45	\$29,127,561	\$9,033,411

Method of Finance	2010/11	
	AMOUNT	2010/11 Expended
Article V-Rider 54		
DPS Laredo Crime Lab	Gen. Obl. Bonds \$ 6,100,000	\$0
	006 \$ 800,000	\$6,900,000
Article V-Rider 55		
Texas Task Force II	Gen. Rev. Ded. - 099	\$1,400,000
Article V-Rider 56		
Longview Helicopter	Fed Szd \$ 4,284,032	\$0
	Gen. Rev. Ded. - 099 \$ 600,000	\$4,884,032

Article XII - ARRA Funds for Border Security - Byrne Federal Funds	2010/11	
	Appropriated	Expended
Article XII, Additional Vehicles (150)	\$9,000,000	\$0
Article XII, Border-wide Crime Mapping	\$6,500,000	\$0
Article XII, statewide multi gang intelligence sect. in Fusion Center	\$1,500,000	\$0
Article XII, radio interoperability, communications, and night vis.	\$10,500,000	\$0
Article XII, law enforce. security tech. and capabilities at Capitol	\$1,550,000	\$0
ARRA funding for the Border	\$29,050,000	\$0

Border Security Related Costs (Rider 59 in 08/09 and Rider 49 in 10/11)

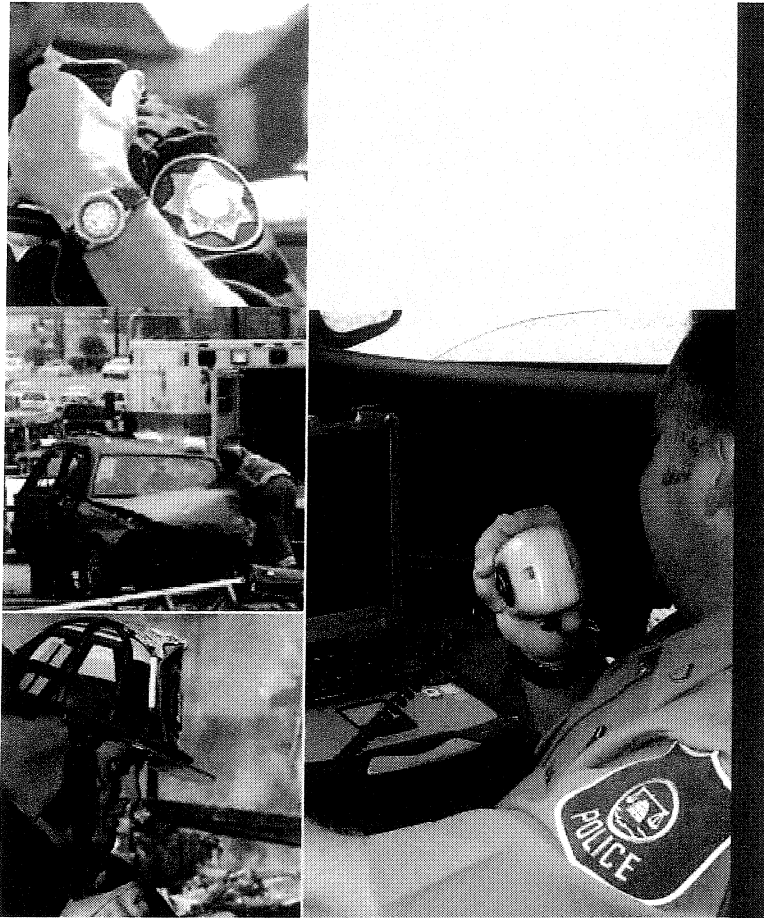
Method of Finance is Fund 006		2008-09		2010-11		
Strategy	FTEs	C/N-C as of 02/28	Appropriated	Expended	Appropriated	Expended
Highway Patrol	61	56/5	\$10,353,596	\$9,834,939	\$9,850,169	\$1,501,584
Narcotics	15	9/6	2,849,526	2,067,846	2,276,051	372,672
Motor Vehicle Theft	10	9/1	1,858,588	1,707,103	1,789,650	363,622
Criminal Intelligence	10	9/1	1,905,967	1,686,124	1,838,165	358,023
Texas Rangers	5	5/0	982,595	1,052,157	955,230	76,349
Recruit Schools	0	0	2,546,532	2,740,615		0
Aircraft Operations	19	18/1	23,948,061	24,161,036 *	6,653,408	1,307,934
TOTAL FTE Costs	120	103	\$44,444,865	\$43,249,820	\$23,362,673	\$3,980,184

*Helicopter Capital Costs Purchased in 2008/09		
Capital:	# of Items	Total Cost
Helicopter Type A	1	\$7,431,909
Helicopter Type B	3	\$8,941,293
TOTAL Helicopter Capital	4 Method of Finance	\$16,373,202

stationed in Laredo
stationed in Del Rio, Alpine and El Paso
This amt is in the Aircraft \$24,161,036*

Method of Finance is General Revenue		2008/09	
Additional Border Appropriations 2008/09		Appropriated	Expended
Article V (p.56) -GDEM	Surge Operation Overtime for Locals	\$20,000,000	\$19,829,877
Article IX (p.91-92) - Border Security	JOIC (equipment & operations)		\$ 6,500,000
	OT, per diem, & travel for peace officers & National Guard		\$20,000,000
	Grants to Locals for OT and per diem	\$ 43,704,714	\$ 43,191,230
TOTAL Additional Border Appropriations		\$63,704,714	\$63,021,107

Information as of February 28, 2010



When They Can't Talk

Lives are Lost

What Public Officials Need
to Know about Interoperability

NACO *National Association of Counties*
The Voice of America's Counties



You grew up watching cop shows on television. When the police were in trouble, they could pick up the radio anywhere, anytime, and help would instantly arrive. In reality, this is often not the case. We all watched in horror as the second tower of the World Trade Center collapsed on September 11, 2001. Did you know that police received the radio message that the building was going to collapse, but firefighters never received that message because they used different radio frequencies?

- **Did you know** that the police, EMS teams, and firefighters sometimes have to juggle as many as five different radios because each agency communicates on different systems?
- **Did you know** that first responders had to use runners to carry messages from one command center to another in the immediate aftermath of the Oklahoma City bombing because they did not have common radio systems?
- **Do you know** how often agencies cannot talk to one another or to agencies in their neighboring cities, counties, or states? Is yours one of them?

While events of the magnitude of the attacks of September 11, 2001, or Oklahoma City do not occur every day, there are many daily events that require different agencies and jurisdictions to be able to communicate with one another. Incidents such as traffic crashes, missing children, fires, high-speed chases, rescues, and chemical spills occur with frightening regularity and they know no boundaries. When they occur in your community, will your agencies be able to talk to one another?

Why Can't They Talk?

Public safety agencies historically have depended upon their own stand-alone radio communication systems and they are often incompatible with systems used in neighboring jurisdictions or with other disciplines like fire and EMS.

Not only are there different systems for different agencies within one community, different jurisdictions maintain their own systems, too. There are approximately 2.5 million public safety first responders in the United States. They work for 18,000 state and local law enforcement agencies, 26,000 fire departments, and more than 6,000 rescue departments, plus federal law enforcement, tribal law enforcement and other agencies, such as state and federal emergency management, transportation, and the public utilities who all need to talk to one another during critical incidents.



Who Is Public Safety?

According to definitions from the Public Safety Wireless Advisory Committee (PSWAC), public safety service providers perform emergency first response missions to protect and preserve life, property, and natural resources and to serve the public welfare through local, state, or federal governments as defined in law. Public safety support providers include those whose primary mission might not fall within the classic public safety definition, but who may provide vital support to the general public and/or the public safety official. Law enforcement, fire, and EMS fit the first category, while public health, transportation or public utility workers fit the second. Public safety service providers also include non-governmental organizations who perform public safety functions on behalf of the government. For example, a number of local governments contract with private groups for emergency medical services.

Why Is This Important To You?

The public looks to you — their elected and appointed officials — to provide basic public safety, and guidance and management during a crisis. You are responsible for making critical funding decisions using limited taxpayer dollars. You understand the political dynamics in your community and in the surrounding jurisdictions. Community residents expect the public sector to function like a business — consistent and effective customer service, everywhere and at any time.

Ultimately, the public expects their lives and property to be protected by all governments — local, state, or federal — without distinction as to who responds to their needs.

Understanding the current status of public safety communication systems in your community — its capabilities and limitations and plans for upgrading or replacing those systems — is critical. If your public safety agencies cannot communicate directly with one another by radio and data systems (such as computer systems) to coordinate life-saving activities, inevitably some lives will be lost.

Why can't they just use cell phones?

Unfortunately it's not that simple. Although public safety regularly use cellular phones, personal digital assistants (PDAs), and other commercial wireless devices and services, these devices are currently not sufficiently suited for public safety mission-critical communications during critical incidents. Wireless systems often become overloaded during a crisis preventing first responders from accessing them which makes this application less desirable to use in an emergency.

Public safety officials cannot depend upon commercial systems that can be overloaded and unavailable.



Interoperability. What Is It?

Interoperability is the ability of emergency responders to communicate among jurisdictions, disciplines, and levels of government, using a variety of frequency bands, as needed and as authorized. System operability is required for system interoperability. Most people assume that public safety is already interoperable. In too many cases, public safety officials can't even talk to their own agencies.

Equally as critical as interoperability is the need for basic communications within public safety agencies. When the issue of interoperability is raised, officials respond that they are unable to even talk to their own personnel. The first priority must be to provide public safety with mission critical communication systems that provide reliable agency-specific — police, fire, EMS — communications. (Mission-critical communications are those required when life or property is at stake.) As jurisdictions build or upgrade current systems, that priority should be expanded to include the provision of reliable and interoperable local and regional communications, and ultimately reliable and interoperable local, state, and federal communications.

Experience has shown such systems are often the most unreliable during critical incidents when public demand overwhelms the systems.

Public safety officials have unique and demanding communications requirements. Optimal public safety communication systems require:

- Dedicated channels and priority access that is available at all times to handle unexpected emergencies.
- Reliable operability for one-to-many broadcast capability, a feature not generally available in cellular systems.
- Highly reliable and redundant networks that are engineered and maintained to withstand natural disasters and other emergencies.
- The best possible coverage within a given geographic area, with a minimum of dead zones.
- And, unique equipment designed for quick response in emergency situations -- dialing, waiting for call connection, and busy signals are unacceptable during critical events when seconds can mean the difference between life and death.

Why Aren't Public Safety Communications Already Interoperable?

Five key reasons. Incompatible and aging communications equipment, limited and fragmented funding, limited and fragmented planning, a lack of cooperation and coordination, and limited and fragmented radio spectrum.

- Different jurisdictions use different equipment and different radio frequencies that cannot communicate with one another, just as different computer operating systems will not work together or an AM receiver will not accept an FM signal. While standards for technology and equipment are improving, they are incomplete. Plus, older "legacy" systems were created before newer standards were developed or implemented.
- There is limited funding to replace or update expensive communications equipment, and different communities and levels of government have their own budget cycles and funding priorities.
- Planning is limited and fragmented. Without adequate planning, time and money can be wasted and end results can be disappointing. Agencies, jurisdictions, and levels of government compete for scarce dollars, inhibiting the partnership and leadership required to develop interoperability.
- The human factor is a substantial obstacle — agencies are reluctant to give up management and control of their communications systems. Interoperability requires a certain amount of shared management, control, and policies and procedures.
- There is a limited and fragmented amount of radio spectrum available to public safety.



Today's Rapid Information-Sharing Environment

Today there are methods to share information with first responders that are rapidly changing how responders receive and transmit information. Gone are the days when radio transmissions were the only way for responders to share information. Mobile Data Terminals (MDTs) are commonplace in emergency vehicles, and are even used on such vehicles as police motorcycles.

An MDT is a laptop computer set up to work in a vehicle such as the cab of a fire truck or police cruiser. It is used to communicate with a central dispatch office as well as to connect with state and federal criminal information databases. It is more common now for responders to rely on an MDT to advise their dispatching office on their location, duty status, and to request information.

MDTs are also used by responders to access databases such as sophisticated geographic information system (GIS) maps, building floor plans, driver's license and vehicle registration information, and criminal histories. Rapid and reliable access to these data is an important life-safety issue for responders.

MDTs feature a screen on which to view information and a keypad for entering information, and may be connected to various peripheral devices, such as a two-way radio. Today, most MDTs contain full, PC-equivalent software and hardware, including secure wireless capabilities.

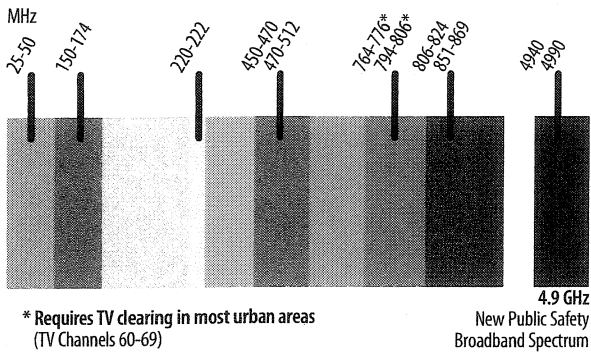
While there are standards for interoperable data systems to share information, the same challenges apply to these systems as to radio systems in accessibility, operability, reliability, coverage areas, and security.



What Is Radio Spectrum?

It is electronic real estate — the complete range of frequencies and channels that can be used for radio communications. Spectrum is the highway over which voice, data, and image communications travel. Radio spectrum, one of our nation's most valuable resources, is a finite resource — what exists today is all there ever will be.

Public Safety Radio Spectrum Bands



The Federal Communications Commission (FCC) has allocated certain frequencies or channels to public safety, but it is inadequate and scattered widely in 11 discrete bands (each indicated with a frequency range in the illustration) across the spectrum, making it difficult for different agencies and jurisdictions to communicate.

Initially, almost all public safety communications were confined to the low end of the frequency range, but as technology advanced and improved, transmission at higher frequencies became possible, offering a temporary solution for congestion and crowding. The result — public safety currently operates in 10 separate bands, which has added capacity, but which has also caused the fragmentation that characterizes the public safety spectrum today.

How Can I Help My Constituents and Colleagues Understand the Importance of Interoperability?

Your role as a public official provides you the unique opportunity to take the initiative. Your constituents and colleagues need to be educated about the

importance of an operable and interoperable public safety communications system that will make it possible for local, state, and federal public safety agencies to talk to one another, to coordinate life-saving operations, and to provide a basic level of public safety.

Public perceptions are shaped by the news shows and articles, movies, and television that tell a different story from the true state of public safety communications. The public that reads news stories about computers in patrol cars, amazing life-saving technologies in rescue vehicles, and the latest state-of-the-art dispatch center may find it difficult to believe that their public safety agencies cannot talk to one another.

This is a job that requires policymakers across jurisdictions to work together for the common good — to plan, fund, build, and govern interoperable public safety communications systems. Policymakers at all levels need to collaborate to develop communications interoperability for emergency response and incident prevention. It begins with a dialogue among the stakeholders.

What Is Your Role?

Creating interoperability requires leadership, planning, and the development of partnerships among disparate groups at the local, state, and federal level. In order to effectively respond to emergencies, all levels of government and industry must plan for interoperability among all parties from the outset. The ability to be in voice contact and to read and exchange data among all emergency responders should be designed in from the start.



State and local governments must take the lead to collaboratively formulate an interoperability architecture that provides a roadmap for all to follow.

In short, public officials at all levels of government should:

- Understand the importance of operability and interoperability
- Be able to communicate the benefits of interoperability effectively to the public
- Understand the political and institutional barriers within the public safety community that can impede interoperability
- Facilitate collaborative planning among local, state, and federal government agencies
- Find out where your local jurisdiction fits with the Statewide Communications Interoperability Plan (SCIP) and learn about the larger role of the National Emergency Communications Plan.
- Encourage the development of flexible and open architectures and standards; and
- Support funding for public safety agencies that work to achieve interoperability within an agreed-upon plan.

Where Are You Now?

What Is the Status of Your Public Safety Communications?

The basic questions to consider are:

- What types of emergencies like traffic crashes typically occur in your community, region, or state and which public safety agencies would respond to each of them?
- How about major crimes like bank robberies or large-scale fires or natural disasters like hurricanes or earthquakes?
- Who needs to talk to one another every day?
- Who should be able to communicate and share data in the first eight hours of an emergency?
- Who will need to be added to that initial group if the emergency continues for longer than eight hours?

Once you know the answers to these questions, assess your resources. For example, what existing communications infrastructure such as radio towers do you already have? What financial resources are budgeted for public



safety communications? There are assessment tools that can be used to determine the level of interoperability in your community, region, or state.

How Much Will It Cost?

There are several issues to consider, including what is already being spent on public safety communications in your area and how much it will cost if you don't develop interoperability. Planning for interoperability can be incorporated into the process of replacing and upgrading communication systems.

Individual costs will depend on the state of communications in your area and which short-and long-term direction you choose to follow. The nationwide investment in radio systems and supporting infrastructures is substantial.

As agencies replace aging equipment and adopt new technologies, the amount of money invested in communications equipment will continue to grow.

Solutions to this national issue can only be achieved through cooperation between all levels of government.

How Can You Achieve Interoperability?

Interoperability begins with leadership and partnerships. It begins with open, equitable discussions among all the stakeholders. Look beyond turf concerns and focus on partnerships. Develop a common voice to

facilitate budget and policy decisions. Strength in improving interoperability is built by working together with agencies and jurisdictions that have traditionally been viewed as competitors for scarce dollars.

Before developing the solution, define the problem by performing a complete assessment of your current state of communications. This includes understanding what your first responders need. Planning includes policies and procedures, building a governing structure, and identifying potential resources.

This is not a “one size fits all” problem and there is no single solution. There are short- and long-term strategies for improving interoperability — some involve improving coordination and cooperation among responding agencies and jurisdictions. Other strategies require longer term planning and implementation of new systems, policies, and operating procedures. Expectations need to be realistic, solutions take time.

Where Can I Learn More About Interoperability?

A guide collectively created by a task force of national associations representing public officials at local and state levels, titled, *Why Can't We Talk? Working Together to Bridge the Communications Gap to Save Lives*. This booklet begins to answer these questions and more.

Much more information is kept updated on the SAFECOM Program website at www.safecomprogram.gov.



Working Together

The inability of our public safety officials to readily communicate with one another threatens the public's safety and often results in unnecessary loss of lives and property. Recognizing that solutions to this national issue can only be achieved through cooperation between all levels of government, representatives from state and local government and associations serving local and state governments, meet regularly through the SAFECOM Program.

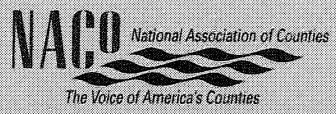
Created in 2003, the SAFECOM Program brings together public safety practitioners and policymakers. Guided by an Executive Committee which provides strategic leadership, the SAFECOM Emergency Response Council is a vehicle to provide a broad base of input from the public safety community on its user needs to the SAFECOM program. The ERC provides a form for individuals with specialized skills and common interest to share best practices and lessons learned so that interested parties at all levels of government can gain from one another's experience. Emergency responders and policymakers from federal, state, local, and tribal governments comprise the SAFECOM EC and ERC.

Achieving interoperability is a challenging job. Without the collective voices of elected and appointed officials, without partnership, cooperation, and leadership at all levels, it is a job that will not get done. It is hoped that this guide will serve as a catalyst for public officials to begin other, continuing dialogues with public officials in their localities, regions, and states.

This brochure was produced by the National Association of Counties Research Foundation with the assistance of the National Public Safety Telecommunications Council (NPSTC) under a Cooperative Agreement provided by the U. S. Department of Homeland Security Office for Interoperability and Compatibility (OIC). Award number 2006-ST-086-000003. Any opinions, findings and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Homeland Security.

During 2002, 18 national associations representing elected and appointed and public safety officials worked together on the National Task Force on Interoperability (NTFI) to develop the original foundation of this brochure for the U.S. Department of Justice AGILE Program. These associations included:

- Association of Public Safety Communications Officials International, Inc.
- International Association of Chiefs of Police
- International Association of Fire Chiefs
- International City/County Management Association
- Major Cities Chiefs
- Major County Sheriffs' Association
- National Association of Counties
- National Association of State Chief Information Officers
- National Association of State Telecommunications Directors
- National Conference of State Legislatures
- National Criminal Justice Association
- National Emergency Management Association
- National Governors Association
- National League of Cities
- National Public Safety Telecommunications Council
- National Sheriffs' Association
- The Council of State Governments
- The United States Conference of Mayors



*25 Massachusetts Avenue, NW Suite 500 Washington, DC 20001
202.393.6226 fax 202.393.2630 www.naco.org*

Operation Texas Talks

“When They Can’t Talk Lives Are Lost”

“The inability of our public safety officials to readily communicate with one another threatens the public’s safety and often results in unnecessary loss of lives and property”¹

Objective: Provide consistent funding for ongoing development, maintenance, and capital replacement of interoperable communications systems for emergency first responders statewide, allowing them to talk within and across agencies and jurisdictions on demand, in real time, and when authorized.

More than 5,300 fire, police and emergency medical service agencies respond daily to emergency and life-threatening incidents throughout Texas. They often rely on aging and/or proprietary communication systems that limit their ability to share vital information with other agencies on-scene. In many cases, public safety responders can’t even talk to their own people on the radio.

“Operable” voice radio communications are vital for first responders to meet their everyday communication requirements while performing the most basic elements of their jobs.

“Interoperable” voice radio communications allow public safety and service agencies (police, fire, EMS, not-for-profit non-governmental entities, public works, transportation, hospitals, etc.) to communicate across agencies and jurisdictions on demand, in real time, and when authorized. It means, in any multi-agency, multi-discipline emergency response, everyone is able to talk to one another by radio.

Texas Public Safety Radio Communications Problems

- ✓ No radio communications for some agencies, thus no “operability.”
- ✓ No radio coverage in some areas, thus, no “operability.”
- ✓ Aged and crumbling radio towers and antenna systems,
- ✓ Aged and outmoded radio systems, thus limited “operability”.
- ✓ Dissimilar radio systems, thus limited “interoperability” with others.
- ✓ Changing regulatory environment may cause some agencies to lose communications capabilities.

Texas Public Safety Agencies need \$84-million per year in state funds, plus federal and local funds, for five years to achieve basic statewide interoperable communications

Strategy: Create partnerships among public safety agencies throughout Texas to build and maintain a cost-effective interoperable communications network using shared resources. A statewide assessment and analysis of current needs has been conducted. *Operation Texas Talks* proposes to use federal, state, and local funding to provide interoperable communications to state and local public safety agencies and emergency responders. (For more information, go to <http://txrc.region49.org>.)

Consequences of Doing Nothing:

- Citizens and property are at risk because emergency responders cannot communicate by radio to coordinate the most efficient and effective delivery of emergency services.
- Emergency responders are at risk.
- Loss of some federal funding due to inability to meet the cash-match requirements.

¹ “When They Can’t Talk Lives Are Lost, What Public Officials Need to Know about Interoperability”, National Association of Counties (NACO)

http://www.naco.org/Template.cfm?Section=New_Technical_Assistance&template=/ContentManagement/ContentDisplay.cfm&ContentID=28702

Fact Sheet: OPERATION TEXAS TALKS

When critical incidents and disasters strike, effective response requires rapid coordination among all emergency first responders. Without “operable” and “interoperable” communications, *a coordinated and effective emergency response is simply not possible.*

“Operable” voice radio communications are vital for first responders to meet their everyday communication requirements while performing the most basic elements of their jobs.

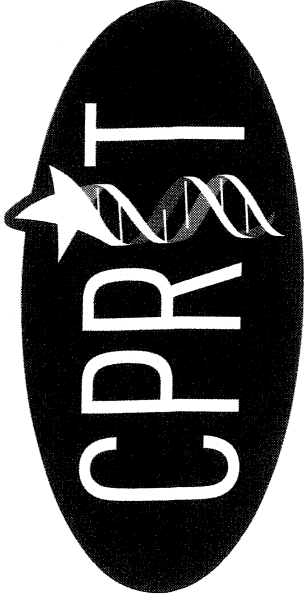
“Interoperable” voice radio communications allow public safety and service agencies (police, fire, EMS, not-for-profit non-governmental entities, public works, transportation, hospitals, etc.) to communicate across agencies and jurisdictions on demand, in real time, and when authorized. It means, in any multi-agency, multi-discipline emergency response, everyone is able to talk to one another by radio.

Citizens look to their elected and appointed officials to ensure that public safety agencies can respond effectively in a crisis. To provide effective operable and interoperable communications for emergency first responders across Texas, ***\$84-million per year is needed for five years in State funding to build and maintain a statewide “system of systems,” which is a network of local and regional communication systems connected together to provide seamless “interoperability.”***

Frequently Asked Question: Why \$84-million per year in state funding?

- Many current radio systems and towers are 25-30 years old and can no longer be maintained. They must be replaced. Spending \$84-million per year for five years (\$420-million, plus \$393-million in anticipated federal grant funds) will provide a basic statewide "interoperable wireless communications" infrastructure (state and local agencies will have to fund the majority of their own mobile and portable radios).
- Lack of basic operability means, in some parts of Texas, first responders use runners to carry messages from one unit to another when responding to emergencies.
- Traffic accidents, missing children, fires, high speed chases, rescues, and chemical spills occur with frightening regularity and do not respect jurisdictional boundaries. When they occur in your community, will your agency responders be able to talk to one another?
 - The ability, or the inability, to communicate in a timely manner can mean the difference between life and death.
- Citizens expect a call to 9-1-1 for help to bring emergency responders who can effectively work together to secure the situation. Unfortunately, fire, police, and EMS often cannot talk to each other over the radio because their systems are not interoperable. Responding quickly and effectively to a 9-1-1 call is contingent on the ability of responders being able to effectively communicate by radio with each other.
- First responders often must juggle multiple radio units (if they even have them) to talk across agencies and disciplines, because the police department's radio system is different from the sheriff's system, which is different from the fire department's system. This slows response times and increases operational and maintenance costs.
- Economics support shared systems. Systems that share infrastructure (towers, dispatch centers, etc.) and cover large areas are THE MOST EFFECTIVE USE OF TAXPAYER DOLLARS. Throwing in together and sharing radio system infrastructure LOWERS THE COST TO GOVERNMENT IN PROVIDING INTEROPERABILITY between agencies.
- There is limited funding to replace or update communications equipment, which mandates that governments collaborate.
- The amount of money needed to build and maintain a statewide "system of systems" requires a coordinated effort and assistance from the State and Federal Governments.
- Public safety agencies save lives and protect property. To be effective, they require radios that allow them to communicate with each other. This issue is too important for any of us to ignore and too big for any of us to solve on our own. We need to work together to make sure our public safety responders are equipped to do their jobs. We all will reap the benefits.

Cancer
Prevention and
Research
Institute of
Texas



CANCER PREVENTION &
RESEARCH INSTITUTE OF TEXAS

TEXAS TAKES ON CANCER

Presentation to the Senate Finance Committee
May 12, 2010

CPRIT OVERSIGHT COMMITTEE



James Mansour
Austin



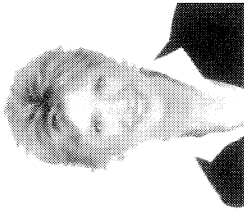
Dr. Joseph Bailes
Austin



Lionel Sosa
San Antonio



Charles Tate
Houston



Cindy Brinker Simmons
Dallas



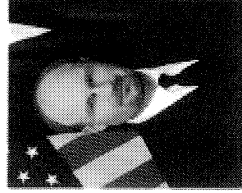
Barbara Canales
Corpus Christi



Faith Simmons Johnson
Dallas



Joyce King
Plano



Phil Wilson
Austin

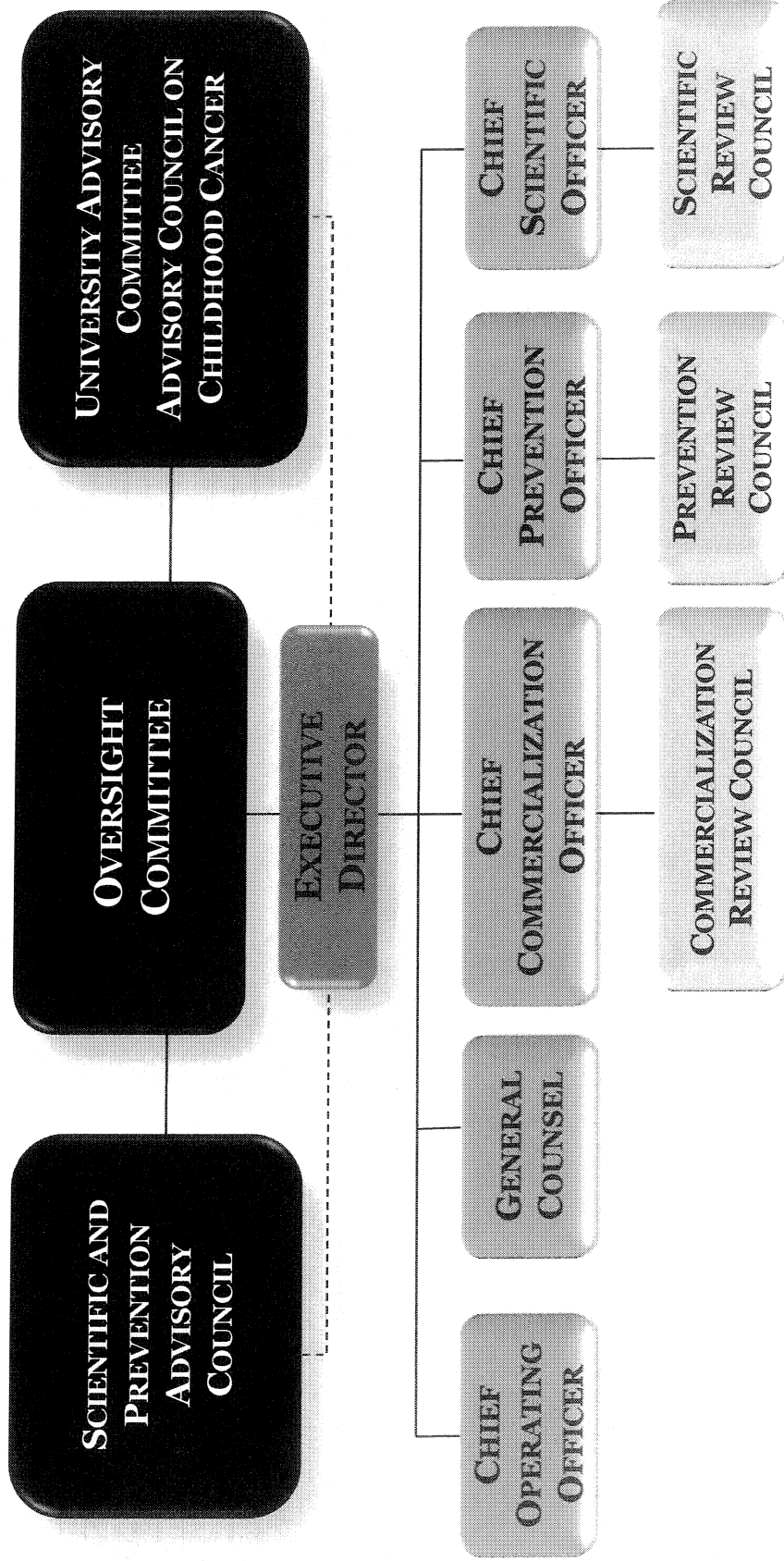


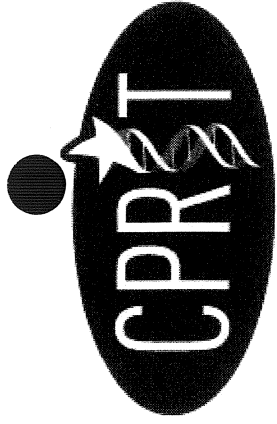
Susan Combs



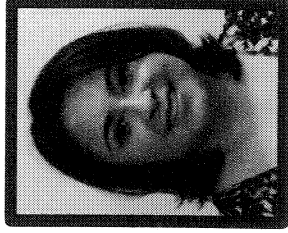
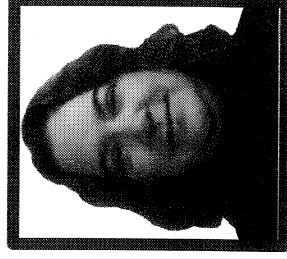
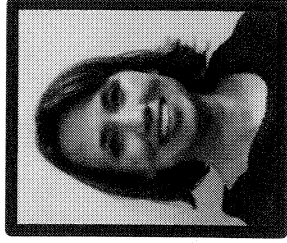
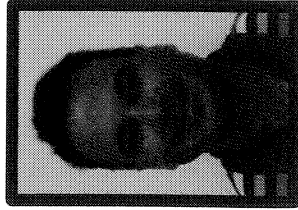
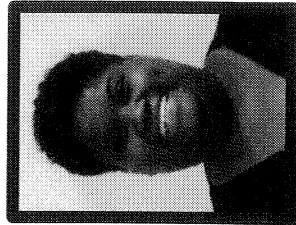
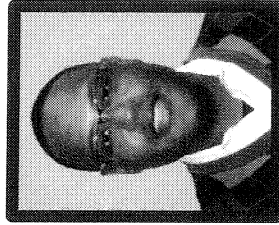
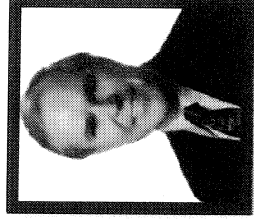
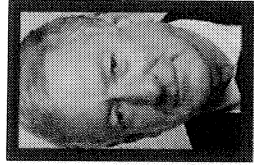
Greg Abbott

CPRIT OPERATING STRUCTURE





The Cancer Prevention & Research Institute of Texas



FY 2010 MILESTONES

August
September

- Issue First Request for Research and Prevention Proposals

October
November

- 930 + Proposals Submitted
- First CPRIT Grant Awarded – Recruitment of Dr. Ralf Kittler to UT Southwestern Medical Center
- Issue Request for 2nd Cycle Research and Prevention Proposals

January

- Inaugural Research Grant Awards Announced (77 awards - \$61 million)

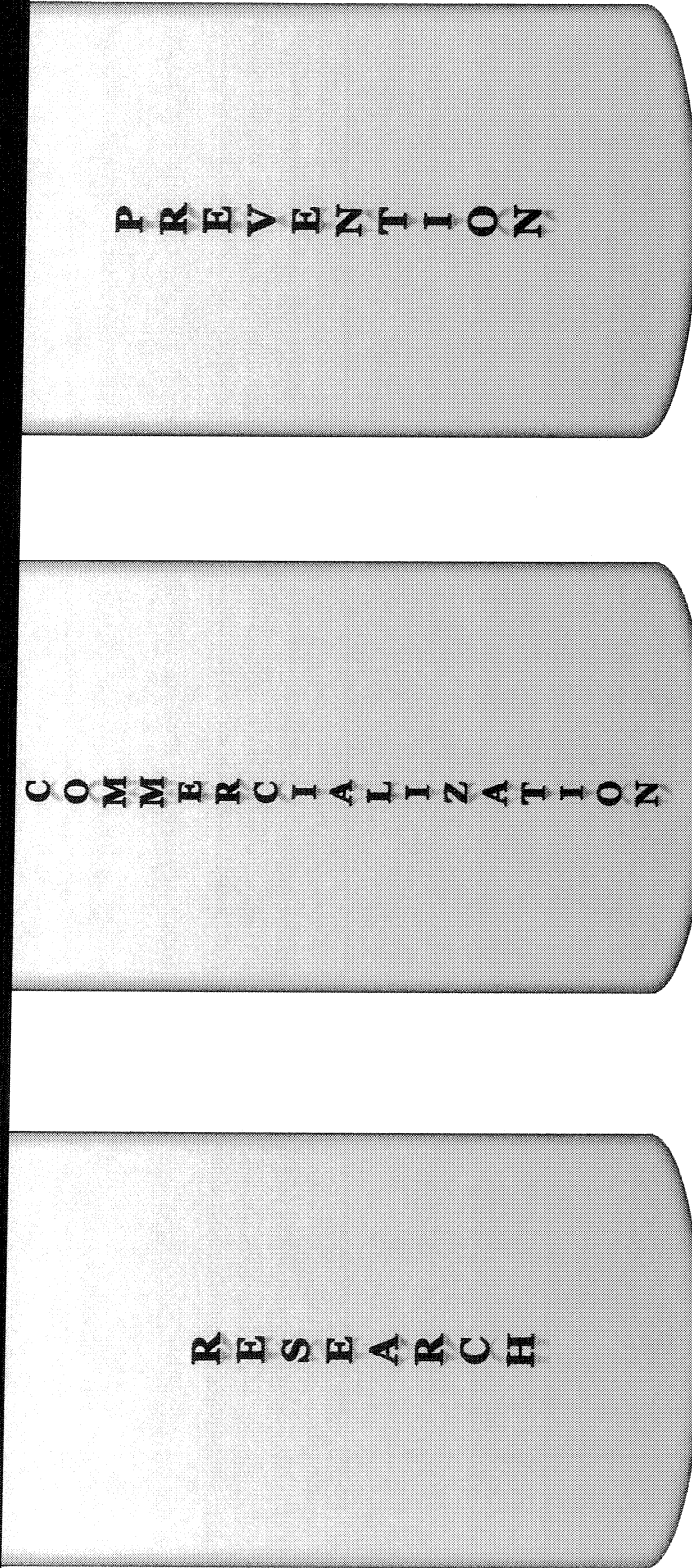
March

- Inaugural Prevention Grant Awards Announced (13 awards - \$7 million)
- 140 + Proposals Submitted for 2nd Cycle Research and Prevention Awards

June

- 2nd Cycle Research and Prevention Grant Award (\$140 m)

Cancer Prevention & Research Institute of Texas



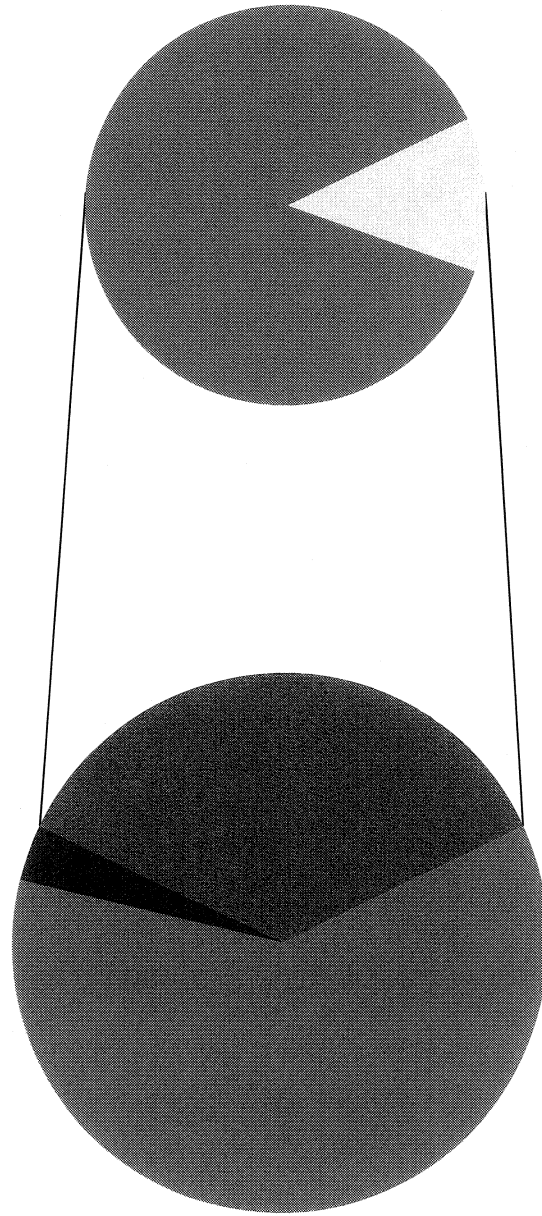
- ★ Accountability
- ★ Transparency
- ★ Stewardship

● ● ● HOW WILL WE MEASURE SUCCESS

- ★ Lives Saved
- ★ Cancer Prevented
- ★ Revenue Flow & Jobs Created in Texas

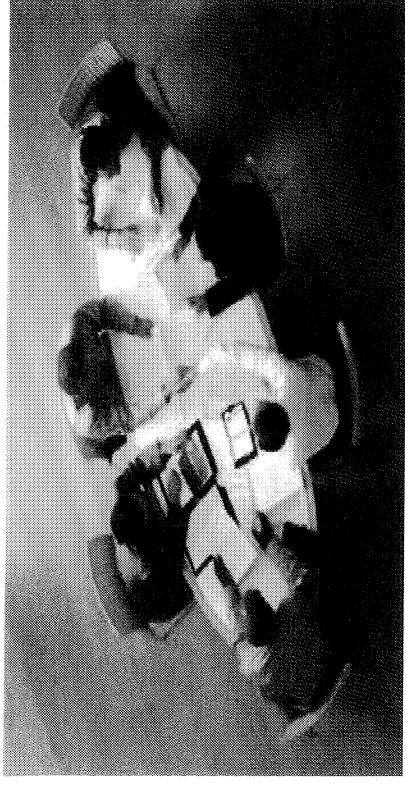
FY 2010 Appropriations

\$225 million in Bond Proceeds



- Available to be Awarded in June \$142.8 Million
- Administration (Budgeted) \$7.9 Million
- Prevention Awards \$10.5 Million
- Research Awards \$63.8 Million

RIGOROUS PEER REVIEW



- ★ Objective proposal review process without conflicts of interest.
- ★ Recruit 150 scientific experts from outside Texas to review proposals.
- ★ Approved proposal reviewed by more than 20 experts

SCIENTIFIC REVIEW COUNCIL CHAIR

Phillip A. Sharp, Ph.D.



- ★ Professor –Koch Institute for Integrative Cancer Research at MIT
- ★ Former Director – Koch Institute
- ★ Nobel Laureate, 1993; “split genes”
- ★ Co-Founder of Biogen

PREVENTION REVIEW COUNCIL CHAIR

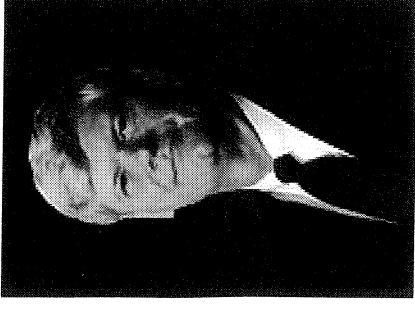


Steve W. Wyatt, DMD, MPH

- ★ Dean College of Public Health at the University of Kentucky
- ★ Former Director of the Division of Cancer Prevention and Control, CDC
- ★ Developed the National Breast and Cervical Cancer Early Detection Program, and
- ★ National Program of Cancer Registries.

COMMERCIALIZATION REVIEW COUNCIL CHAIR

Robert D. Ulrich, Ph.D, M.S.



★ General Partner and Managing Member of
Vanguard Venture Partners

*Jones
School
Business-Rice*

★ CEO of Five Start-up Companies Resulting in
Four Acquisitions and one IPO

★ Management in Three Major Corporations:

- ★ Johnson and Johnson,
- ★ General Electric and
- ★ Monsanto

Review Committees

Research

- 8 Committees
- 130 members

Scientific Review Council (SRC)

- Clara Bloomfield, M.D.
- Sanjiv “Sam” Gambhir, M.D., Ph.D.
- Tyler Jacks, Ph.D.
- William Kaelin, Jr., M.D.
- Richard Kolodner, Ph.D.
- Charles Sherr, M.D., Ph.D.
- Everett Vokes, M.D.

Prevention

- 3 Committees
- 28 members

Prevention Review Council (PRC)

- Lawrence W. Green, Dr. P.H.
- Nancy L. Lee, M.D., LLC

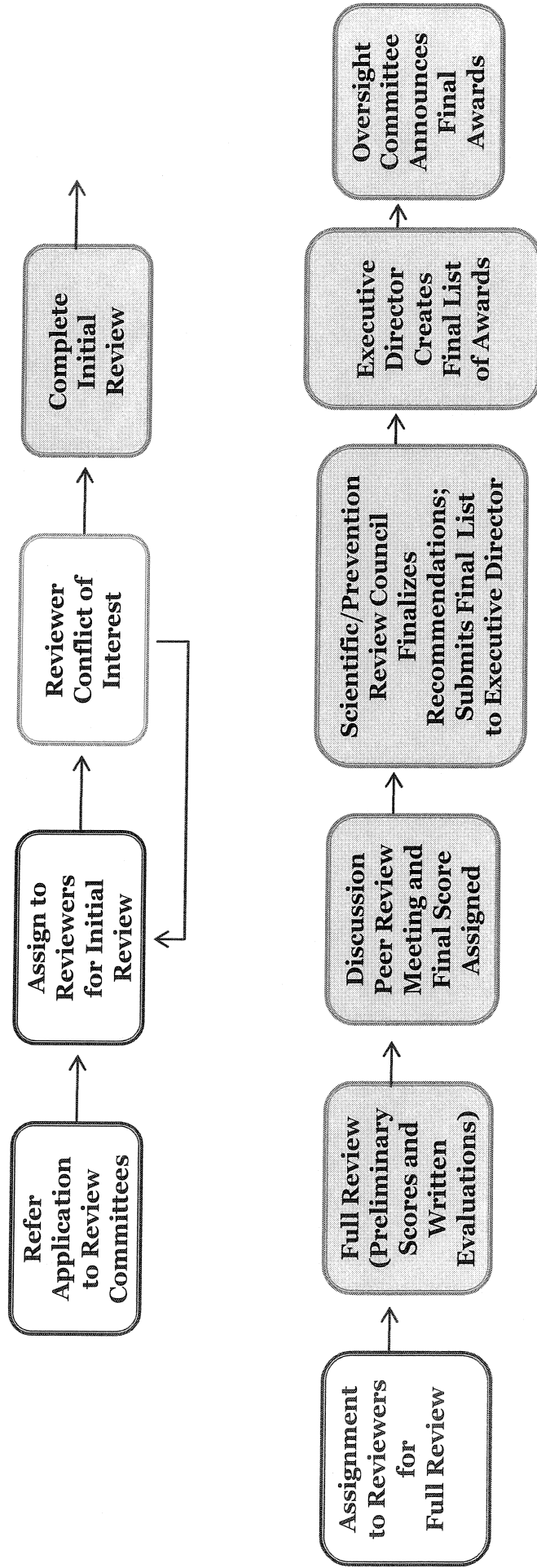
Commercialization

- 1 Committee
- 10 members

Commercialization Review Council (CRC)

- Kapil Dhingra, M.D.
- Todd M. Fruchterman, M.D., Ph.D.
- Bruce D. Given, M.D.
- Helen Maslocka

PEER REVIEW PROCESS



Research Award Areas

Requests for Application (RFA)

Maximum Award

Maximum Duration

Individual Investigator Award

For innovative research proposals directed by a single investigator addressing critically important questions that will significantly advance knowledge of the causes, preventions and/or treatment of cancer.

\$500,000 per year

3 years

High Impact/High Risk Award

For short-term projects that are developmental or exploratory in nature targeting new avenues of cancer research that can contribute to major new insights into the etiology, diagnosis, treatment, or prevention of cancers.

\$200,000 for 24 months

2 years

Multi Investigator

For integrated programs of collaborative and cross-disciplinary research among multiple investigators for projects in critical areas of cancer research that cannot be effectively addressed by an individual researcher or a group of researchers within the same discipline, such as shared instrumentation, core laboratories, or clinical trials.

No limit

5 years

Training Awards

To attract promising predoctoral or postdoctoral (Ph.D. or M.D./Ph.D.) candidates in integrated institutional research training programs focused on the area of cancer research at eligible Texas-based institutions.

\$750,000

5 years

Recruitment

To recruit to Texas academic institutions outstanding researchers who can make important contributions to the field of cancer research.

No limit (starting at \$2,000,000)

5 years

Prevention Award Areas

Requests for Application (RFA)	Maximum Award	Duration
<p>Health Promotion, Education, Outreach For projects that propose education using culturally competent and evidence-based methods that would change personal behaviors, leading to cancer prevention, risk reduction, early detection, and improved quality of life for survivors.</p>	<p>\$300,000</p>	<p>2 years</p>
<p>Evidence Based Preventive Programs/Services For projects that propose services aimed toward prevention and reduction of the risk of cancer, early detection, and improved quality of life for survivors.</p>	<p>\$1,000,000</p>	<p>2 years</p>
<p>Community Collaborative Awards For comprehensive projects that can address the continuum of preventive care services through traditional and nontraditional partnerships. Services can range from education and outreach, primary preventive measures (e.g., vaccines), early detection, and diagnostic services as well as patient navigation and other post-diagnosis services.</p>	<p>\$3,000,000</p>	<p>3 years</p>
<p>Professional Education and Training For projects that focus on the delivery of education for healthcare providers that is designed to improve practice behaviors related to primary and secondary prevention of cancer as well as cancer survivorship issues.</p>	<p>\$300,000</p>	<p>2 years</p>
<p>Innovation Awards Projects or pilot programs that are exceptionally innovative and/or propose new ways to improve cancer prevention and control programs and services.</p>	<p>\$150,000</p>	<p>18 months</p>

Commercialization Award Area

Requests for Application (RFA)	Maximum Award	Duration
<p>Company Investment Finance the development of innovative products, services, and infrastructure with significant potential impact for the diagnosis, treatment, or prevention of cancer; establishing infrastructure that is critical to the development of a robust industry; or to fill a research/treatment gap. Companies must be located in Texas or willing to relocate to Texas.</p>	No limit	3 years

Research Proposals 1st Cycle 2010

Submitted: 881 (\$1.2 B)

Full Review: 400 (\$545 M)

Discussed: 175 (\$240 M)

Recommended for
Funding: 66 (\$59 M)

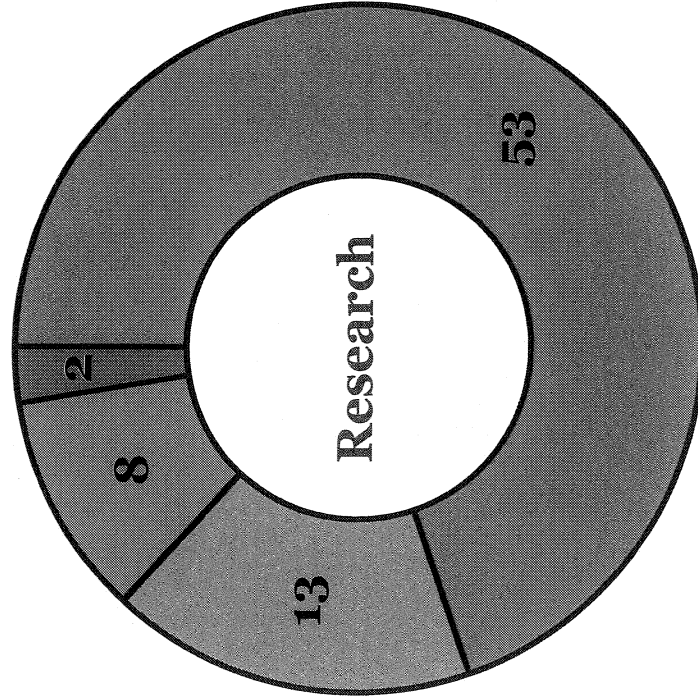


CPRIT has established the highest standard
for the selection of research awards.

RESEARCH FUNDING PRINCIPLES

- ★ Invest in the Best
- ★ Focus on Innovation, Importance, Impact
- ★ Encourage risk – Share risk
- ★ Fund spectrum of health: Bench to patient/public
- ★ Recruit talent to – and train talent in Texas
- ★ Recipient must have matching funds
- ★ Limit spending on indirect costs

Funded Research Awards



- Individual Investigator (\$57,072,613)
- High Impact/High Risk (\$2,596,950)
- Planning (\$133,845)
- Recruitment (\$4,000,000)

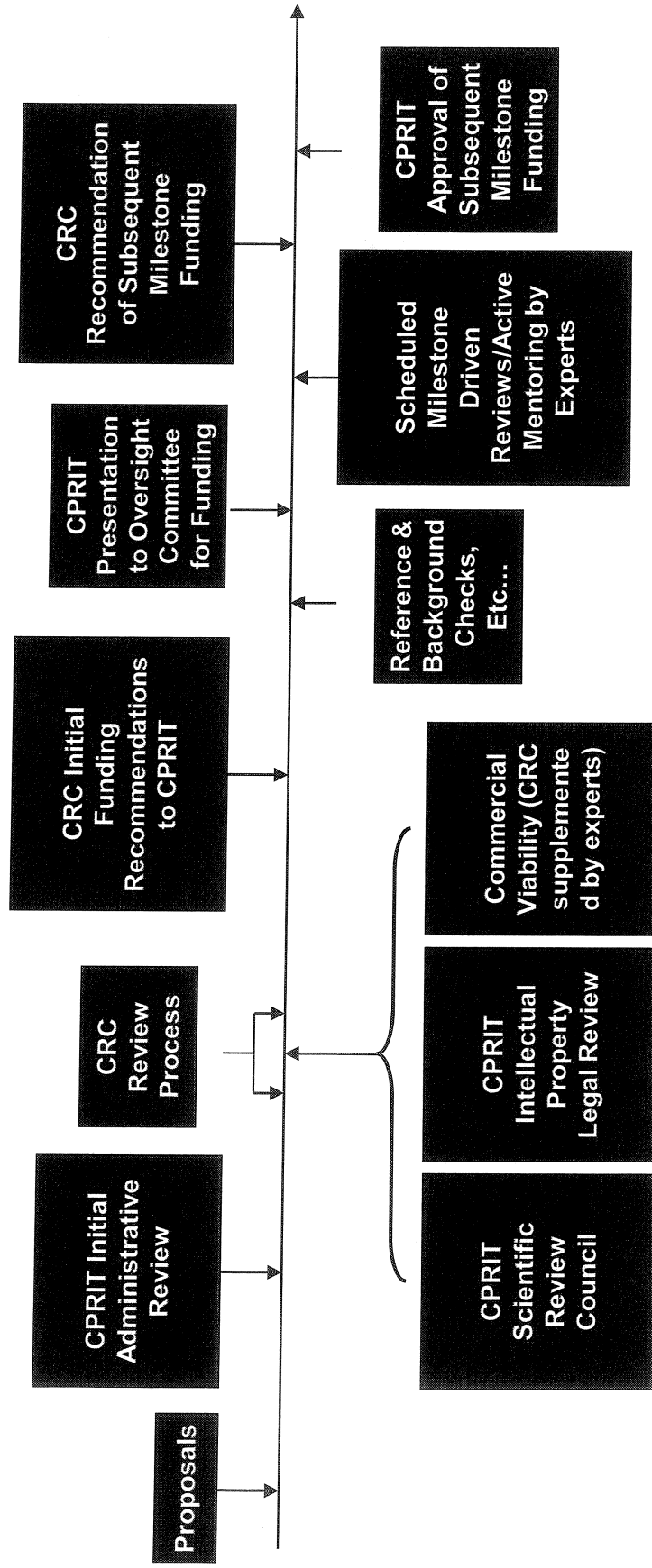
Type of Research Funded

Type	Number	Percent
Basic Research carried out to increase understanding of fundamental scientific principles.	16	24%
Translational Research that transforms scientific discoveries arising from laboratory, clinical, or population studies into clinical applications.	40	61%
Clinical Research conducted with human subjects or on human material, such as tissues, specimens, etc., for which an investigator directly interacts with human subjects [example is a clinical trial].	10	15%

COMMERCIALIZATION EMPHASIS

- ★ Support Development Infrastructure
- ★ Invest with “Smart Money”
- ★ Manage Intellectual Property
- ★ Bring the Benefits to Texas
- ★ High quality Jobs

COMMERCIAL DUE DILIGENCE STEPS



Return on investment - where does money go?
 Sunset commission TPFA - 31 million
 Ogden - awards money goes to comptroller
 change the law - "Commercialization"
 Texas Lifesciences Committee

Income comes right back to the institute
 Public Money going to private purpose
 commercialization - needs institutional
 23

Prevention Proposals 1st Cycle 2010

Submitted: 56 (\$28.5 Million)

Full Review: 52

Discussed: 32

Recommended for

Funding: 12 (\$6.9 Million)



CPRIT has established the highest standard for the selection of prevention awards.

Prevention Funding Principles

- Cancers that affect most Texans
- Populations that have worse outcomes
- Regions of the state that have greatest need
- Ability to leverage existing resources
- Evidence based screening & education

Funded Prevention Awards

Application Type	Number	Awards
Health Promotion, Public Education and Outreach Programs	6	\$1,771,993
Evidence-Based Prevention Programs and Services	6	\$5,110,734
TOTAL	12	\$6,882,727

Prevention Programs and Services

Fund projects with the potential to:

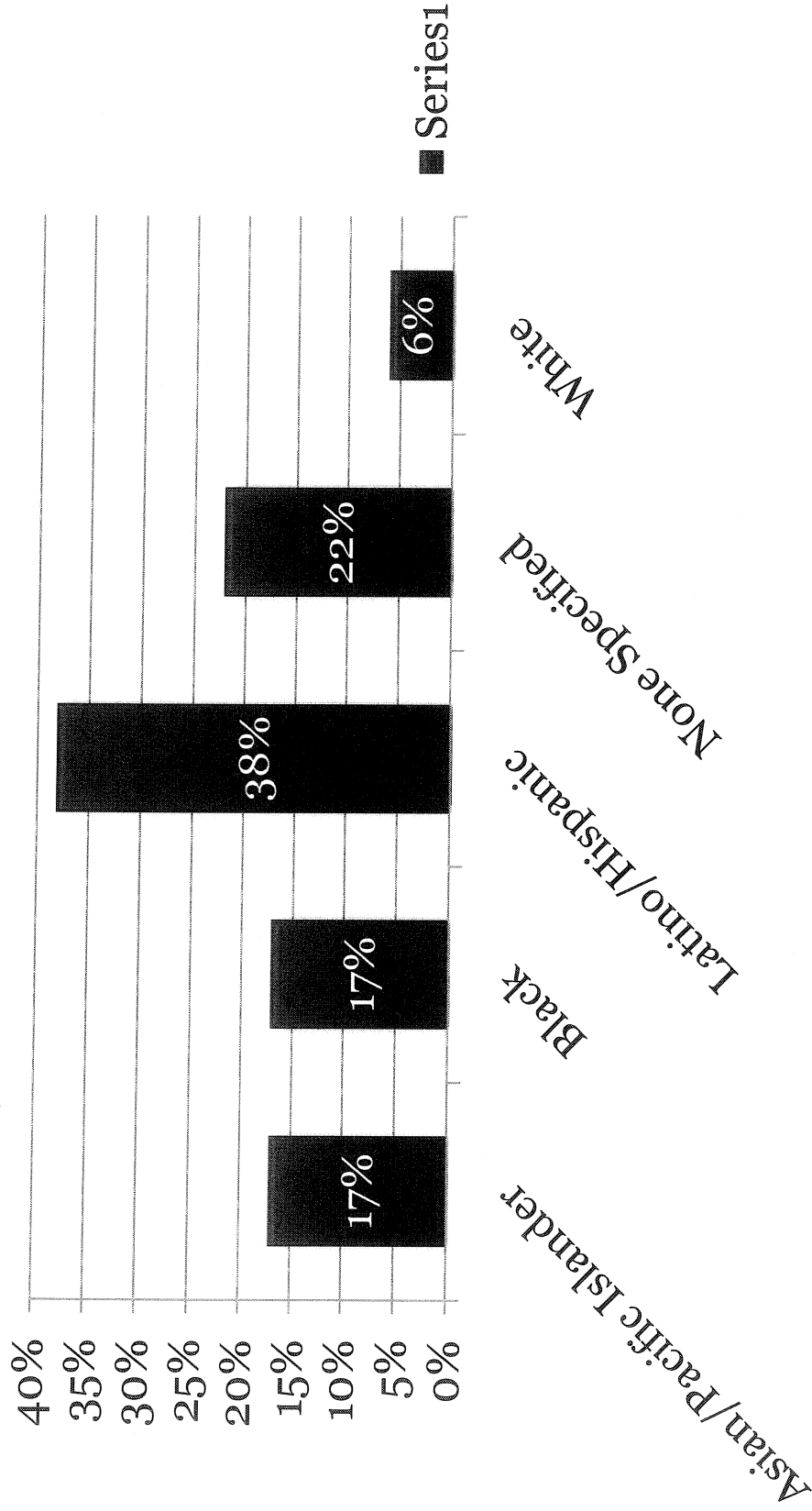
- Reduce deaths
- Reduce new cases
- Improve quality of life

Shorter term outcomes:

- Increased screening rates in high-risk populations
- Earlier stage diagnoses to improve likelihood that cancer can be treated.

Target Population by Ethnicity

100% Focus on Underserved



Prevention Program Stimulating Collaboration

Academic Centers

- ★ Working through safety net hospitals (Parkland, John Peter Smith)
- ★ Nonprofits and community groups (UNT HSC—Dallas Cancer Disparities Coalition)
- ★ Consulting with other academic centers

Non –Profit Organizations

- ★ Partnering with other organizations
- ★ Collaborating with academic centers

CPRIT Collaborations with other organizations

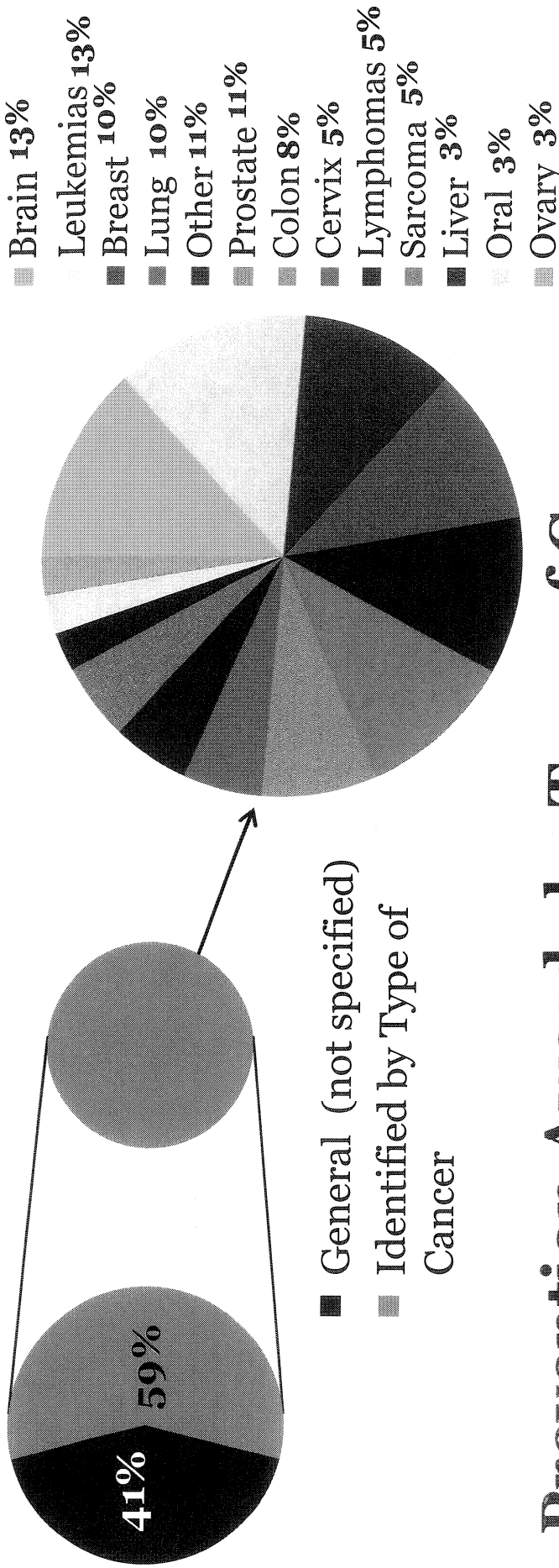
- ★ Department of State Health Services (DSHS)
 - Texas Cancer Registry
 - Breast and Cervical Cancer Services
 - Mental Health and Substance Abuse (Tobacco initiatives)

- ★ Cancer Alliance of Texas (Texas Cancer Plan)

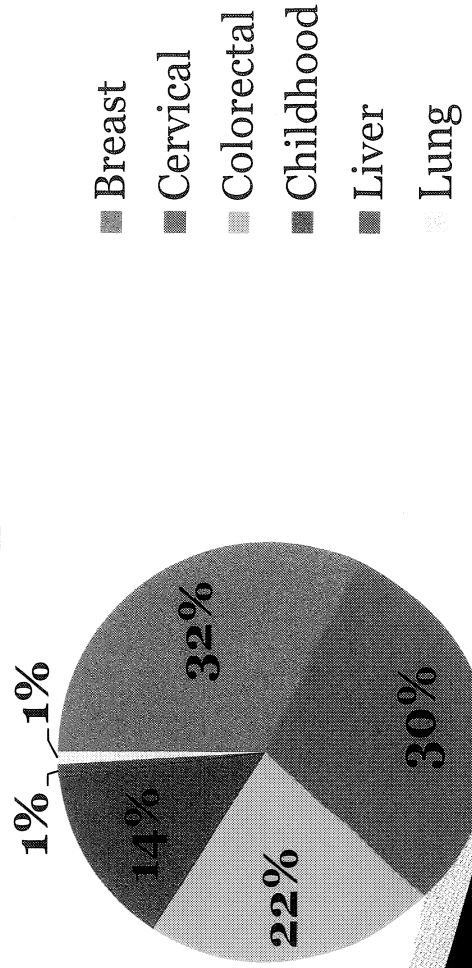
SUMMARY OF GRANTS AWARDED

Institution/Organization	No. Prevention Awards 2010	No. Research Awards 2010	Institution/ Organization Totals 2010
Baylor College of Dentistry-TAMU Health Science Center	1	203,244	\$ 203,244
Baylor College of Medicine	1	953,131	\$ 11,359,766
Baylor University	0		\$ 12,312,909
Cancer Foundation for Life	1	100,000	\$ 200,000
Cancer Services Network	1	99,581	\$ 100,000
Daughters of Charity Health Services of Austin (dba SETON Healthcare Network)	1	128,640	\$ 99,581
Funding Solutions	1	157,494	\$ 128,640
Asian American Health Coalition of Greater Houston (dba Hope Clinic)	1	300,000	\$ 157,494
Ingeneron, Inc. (Houston)	0		\$ 300,000
Mercy Ministries of Laredo	1	300,000	\$ 198,111
Methodist Hospital Research Institute	0		\$ 198,112
Rice University	1		\$ 300,000
The Rose (Houston)	1	998,045	\$ 1,155,019
Texas Department of State Health Services	1	335,271	\$ 2,034,699
Texas A&M Health Science Center	0		\$ 998,045
Texas A&M University	0		\$ 335,271
Texas A&M University System HSC Research Foundation	1	339,932	\$ 947,367
Texas Agrilife Extension Service	1	412,125	\$ 199,894
Texas Life Science Foundation	0		\$ 339,932
Texas Medical Association	1	467,425	\$ 412,125
Texas Nurses Foundation	1	713,588	\$ 7,745
Texas Tech University Health Science Center	1	165,891	\$ 467,425
University Health System (San Antonio)	1	300,000	\$ 713,588
University of Houston	1	272,753	\$ 1,344,300
University of North Texas Health Science Center at Fort Worth	1	299,930	\$ 1,510,193
The University of Texas at Austin	0		\$ 300,000
The University of Texas at Dallas	0		\$ 272,753
The University of Texas Health Science Center at Houston	1	961,021	\$ 9,500
The University of Texas Health Science Center at San Antonio	1	299,310	\$ 3,319,732
The University of Texas M.D. Anderson Cancer Center	2	521,300	\$ 886,693
The University of Texas Medical Branch at Galveston	1	15,000	\$ 3,319,735
The University of Texas Southwestern Medical Center	3	2,198,537	\$ 4,522,225
Visualase, Inc. (Houston, Texas)	0		\$ 3,772,908
Total Awards	27	10,542,218	\$ 63,803,408
			\$ 74,345,700

Research Awards by Type of Cancer



Prevention Awards by Type of Cancer



Melanie Williams - Texas Cancer Registry

Protecting and Promoting Texas' Interest

- ★ Research and prevention programs must be done in Texas.
- ★ CPRIT is active, engaged investor.
- ★ Intellectual Property agreement part of every grant award contract – creating revenue stream.
- ★ Contract terms require fiscal and program accountability.
- ★ Encourage dissemination of knowledge gained from prevention programs and research projects.

Eyes on Benefits to Texans

- ☆ Return on Investment – jobs created, patents and invention discoveries filed, early stage cancers detected and prevented.
- ☆ Commercial development plans required – encourages marketable projects.
- ☆ Specific reporting requirements and project progress will influence renewal potential.

FY 2011 Funding Cycles

Awards Cycles	October	January	March	July
1	Dark Gray	Light Gray	Light Gray	Light Gray
2	Light Gray	Dark Gray	Light Gray	Light Gray
3	Light Gray	Light Gray	Dark Gray	Light Gray
4	Light Gray	Light Gray	Light Gray	Dark Gray

Legislative
Budget
Board

Presentation to the

Senate Finance Committee

Study the impact of changing the constitutional and statutory spending limit based on the sum of the rate of population growth and the rate of inflation. Examine what past biennial spending limits would have been, and what the next biennium's limit might be, under a new definition. Consider the impact of exempting growth from federally mandated programs.

May 12, 2010

Presented by:
Stewart Shallow, Analyst
Legislative Budget Board

Texas Constitution

Article VIII, Section 22

- (a) In no biennium shall the rate of growth of appropriations from state tax revenues not dedicated by this constitution exceed the estimated rate of growth of the state's economy...

What Appropriations are Limited?

- Only appropriations funded with tax revenue not dedicated by the Constitution
 - Sales tax
 - Motor Vehicle Sales Tax
 - Franchise Tax
- Appropriations funded with other revenue are not limited
 - Motor Fuel Taxes (constitutionally dedicated)
 - Fee, Fines, Penalties
 - Interest and Investment Income

FY 2010-11 General Revenue-Related Collections
Amounts in \$ Millions

TAX COLLECTIONS	Total 2010-11	Tax Revenue		Tax Revenue not
		Dedicated by the Constitution	Non Tax Revenue	
Sales Taxes	43,613			43,613
Motor Vehicle Sales and Rental Taxes	5,674			5,674
Motor Fuels Taxes	1,709	1,641		68
Franchise Tax	5,259			5,259
Insurance Taxes	2,675	610		2,065
Natural Gas Tax	1,994	498		1,495
Cigarette and Tobacco Taxes	1,118			1,118
Alcoholic Beverage Taxes	1,703			1,703
Oil Production and Regulation Taxes	1,830	457		1,372
Inheritance Tax	-			-
Utility Taxes	1,045	221		824
Hotel Occupancy Tax	725			725
Other Taxes	107	26		81
TOTAL TAXES	67,451	3,453	-	63,998

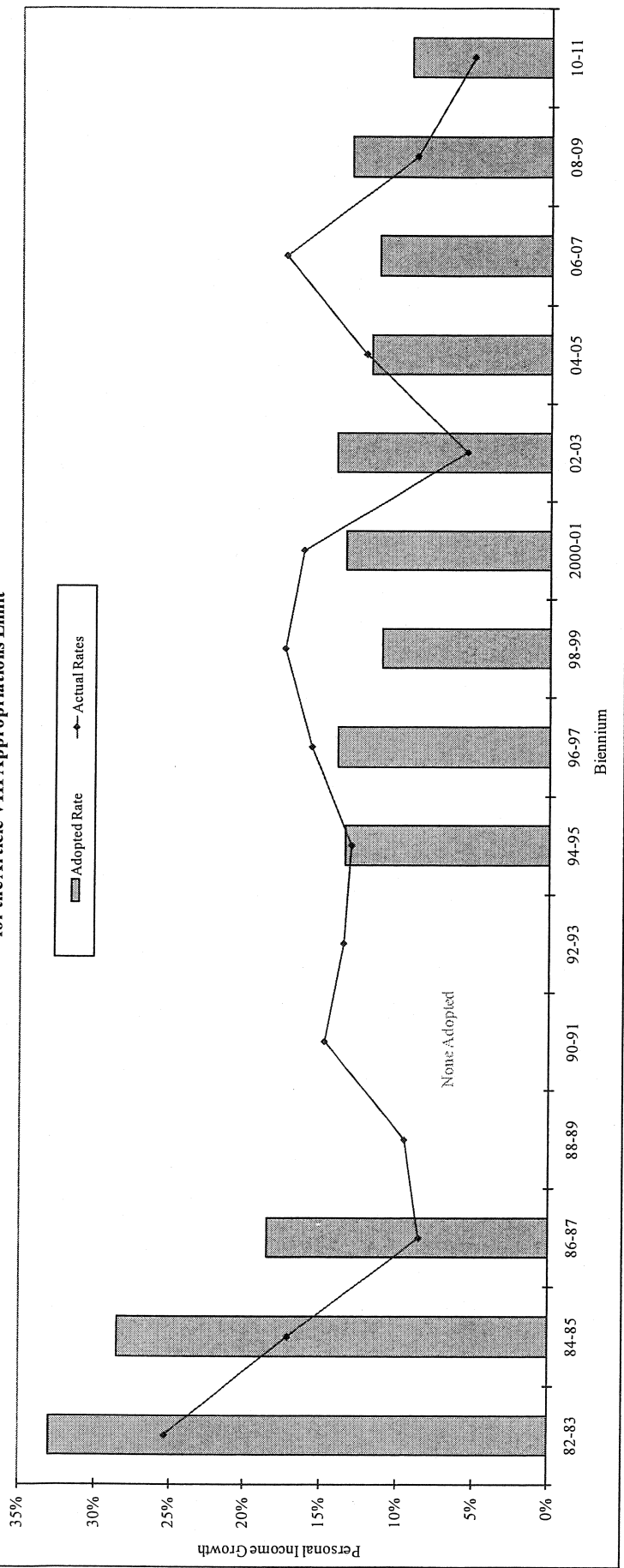
REVENUE BY SOURCE	Total 2010-11	Tax Revenue		Tax Revenue not
		Dedicated by the Constitution	Non Tax Revenue	
Tax Collections	67,451	3,453	-	63,998
Licenses, Fees, Fines, and Penalties	2,239		2,239	
Interest and Investment Income	233		233	
Lottery Proceeds	2,002		2,002	
Sales of Goods & Services	210		210	
Settlements of Claims	1,064		1,064	
Land Income	16		16	
Contributions to Employee Benefits	0		0	
Other Revenue Sources	3,003		3,003	
TOTAL REVENUE	76,219	3,453	8,768	63,998

Total 2010-11 Revenue Estimates are from the Comptroller's November 2009 Certification Revenue Estimate

How fast can appropriations subject to the limit grow?

- Constitution Article VIII, Section 22 (a)
 - Can not grow faster than the state’s economy
 - Legislature shall provide procedures to implement this subsection
- Government Code 316.002
 - Directs the LBB to use Texas personal income growth to measure growth in the state’s economy

**Texas Personal Income Growth
for the Article VIII Appropriations Limit**



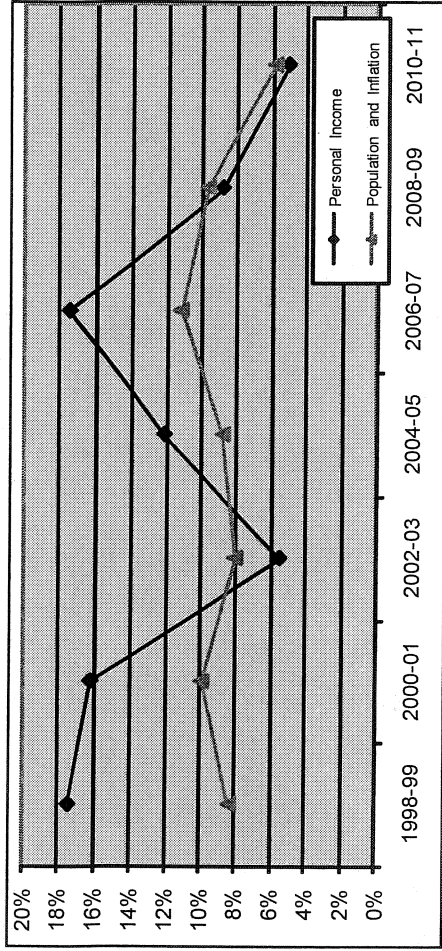
LBB Meeting Date	Biennium	Adopted Rate	Actual Rates
11/24/80	82-83	33.00%	25.30%
11/20/82	84-85	28.60%	17.10%
11/08/84	86-87	18.50%	8.51%
11/05/86	88-89	None Adopted	9.51%
10/20/88	90-91	None Adopted	14.78%
11/07/90	92-93	13.53%	13.53%
11/11/92	94-95	13.43%	13.04%
11/22/94	96-97	13.98%	15.67%
11/20/96	98-99	11.12%	17.45%
11/19/98	2000-01	13.44%	16.24%
11/29/00	02-03	14.09%	5.50%
11/25/02	04-05	11.83%	12.18%
11/17/04	06-07	11.34%	17.46%
01/11/07	08-09	13.11%	8.82%
11/15/08	10-11	9.14%	5.07%*

* Actual rates are based on data from the U.S. Bureau of Economic Analysis. FY 2010-11 forecasts are based on the Comptroller's Fall FY 2009 Economic Forecast.

Alternative Methodologies

- Type of Appropriation Subject to Limit – Requires a Constitutional Change
 - Apply to all non-federal appropriations
 - Exclude certain appropriations
- Measurement of Growth in State’s Economy – Requires a Statutory Change
 - Gross state product
 - Population and inflation

Comparison of Biennial Growth Rates



Personal Income and Population and Inflation

Biennium	Personal Income	Population and Inflation
1998-99	17.5%	8.3%
2000-01	16.2%	9.9%
2002-03	5.5%	8.0%
2004-05	12.2%	8.8%
2006-07	17.5%	11.2%
2008-09	8.8%	9.7%
2010-11	5.1%	5.9%

Note: Historical growth rates are based on data from the U.S. Bureau of Economic Analysis. FY 2010-11 growth rate forecasts are based on the Comptroller's Fall FY 2009 Economic Forecast.

Article VIII, Section 22 Spending Limit
in \$ millions

Biennium	Base Appropriations from Tax Revenue Not Dedicated by the Constitution		Adopted Personal Income Growth Rate		Current Article VIII Spending Limit		Appropriations from Tax Revenue Not Dedicated by the Constitution		Amount Below the Limit
	Constitution	44,795	14.09%	51,107	47,476	3,630			
2002-03	44,795	14.09%	51,107	47,476	3,630				
2004-05	47,476	11.83%	53,093	49,933	3,160				
2006-07	49,933	11.34%	55,595	54,808	787				
2008-09	54,808	13.11%	76,185	71,632	4,552				
2010-11	71,632	9.14%	78,179	72,337	5,842				

Note: FY 2007-11 appropriations include appropriations for property tax rate reductions. The FY 2008-09 spending limit includes an additional \$14.2 billion authorized by Senate Concurrent Resolution 20, 80th Regular Session, for property tax rate reductions.

Appropriations Subject to Current Limit Limited by the Growth of Population and Inflation
in \$ millions

Biennium	Base Appropriations from Tax Revenue Not Dedicated by the Constitution		Population & Inflation Growth Rate		Hypothetical Spending Limit		Appropriations from Tax Revenue Not Dedicated by the Constitution		Amount Below the Limit
	Constitution	44,795	8.02%	48,389	47,476 <th>913</th>	913			
2002-03	44,795	8.02%	48,389	47,476	913				
2004-05	47,476	8.76%	51,636	49,933	1,703				
2006-07	49,933	11.23%	55,542	54,808	734				
2008-09	54,808	9.71%	74,319	71,632	2,686				
2010-11	71,632	5.88%	75,844	72,337	3,507				

Note: The growth of this hypothetical spending limit is limited to the growth of population and inflation. FY 2007-11 appropriations include appropriations for property tax rate reductions. The hypothetical FY 2008-09 spending limit includes an additional \$14.2 billion authorized by Senate Concurrent Resolution 20, 80th Regular Session, for property tax rate reductions. This analysis does not consider what actions the legislature would have taken in response to this hypothetical spending limit. Historical growth rates are based on data from the U.S. Bureau of Economic Analysis. The FY 2010-11 growth rate forecast is based on the Comptroller's Fall FY 2009 Economic Forecast.

**Hypothetical Spending Limit Excluding Medicaid Appropriations
Limited by the Growth of Adopted Personal Income**
in \$ millions

Biennium	Base Appropriations from Tax Revenue Not Dedicated by the Constitution Excluding Medicaid Appropriations	Adopted Personal Income Growth Rate	Hypothetical Limit	Appropriations from Tax Revenue Not Dedicated by the Constitution Excluding Medicaid Appropriations	Difference
2002-03	37,805	14.09%	43,132	38,807	4,324
2004-05	38,807	11.83%	43,398	39,281	4,117
2006-07	39,281	11.34%	43,736	42,920	816
2008-09	42,920	13.11%	62,738	56,772	5,965
2010-11	56,772	9.14%	61,961	55,460	6,501

Note: This hypothetical spending limit excludes Medicaid appropriations, but includes appropriations for property tax rate reductions. The hypothetical FY 2008-09 spending limit includes an additional \$14.2 billion authorized by Senate Concurrent Resolution 20, 80th Regular Session, for property tax rate reductions. This analysis does not consider what actions the legislature would have taken in response to this hypothetical spending limit.

**Hypothetical Spending Limit Excluding Medicaid Appropriations
Limited by the Growth of Population and Inflation**
in \$ millions

Biennium	Base Appropriations from Tax Revenue Not Dedicated by the Constitution Excluding Medicaid Appropriations	Population & Inflation Growth Rate	Hypothetical Limit	Appropriations from Tax Revenue Not Dedicated by the Constitution Excluding Medicaid Appropriations	Difference
2002-03	37,805	8.02%	40,839	38,807	2,031
2004-05	38,807	8.76%	42,207	39,281	2,926
2006-07	39,281	11.23%	43,694	42,920	774
2008-09	42,920	9.71%	61,277	56,772	4,504
2010-11	56,772	5.88%	60,111	55,460	4,650

Note: This hypothetical spending limit excludes Medicaid appropriations, but includes appropriations for property tax rate reductions. The growth of this hypothetical spending limit is limited to the growth of population and inflation. The hypothetical FY 2008-09 spending limit includes an additional \$14.2 billion authorized by Senate Concurrent Resolution 20, 80th Regular Session, for property tax rate reductions. This analysis does not consider what actions the legislature would have taken in response to this hypothetical spending limit. Historical growth rates are based on data from the U.S. Bureau of Economic Analysis. The FY 2010-11 growth rate forecast is based on the Comptroller's Fall FY 2009 Economic Forecast.

Budget Restrictions in Other States

- Revenue Collection Limits
 - Total revenue collections are limited to an economic growth index like personal income or population and inflation
 - Excess revenue collections can be refunded to taxpayers
- Appropriation Limits
 - Appropriation growth is limited to an economic growth index like personal income or population and inflation

Budget Restrictions in Other States

(continued)

- Appropriations Limited to a Percentage of Revenue Collections
 - Ties appropriations to the revenue forecast, typically 95 percent to 99 percent of expected revenues
 - Does not establish an absolute limit or tie growth to an economic index
- Hybrids
 - Some states combine components of various limits

Tax Increase Restrictions in Other States

- Voter Approval Requirements
 - All tax increases, or tax increases over a certain amount, must receive voter approval
- Legislative Supermajority Requirements
 - Supermajority vote by legislature to pass tax increases



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State Tax and Expenditure Limits—2010

by Bert Waisanen

Overview

The first years of the 21st century have brought renewed interest in the structure and effectiveness of tax and expenditure limitations (TELS). These fiscal mechanisms are designed to provide certain strictures to restrain the growth of governmental budgets either on the tax side or the spending side or on both. This paper reviews the use of state TELS and explores the policy issues associated with fiscal limits.

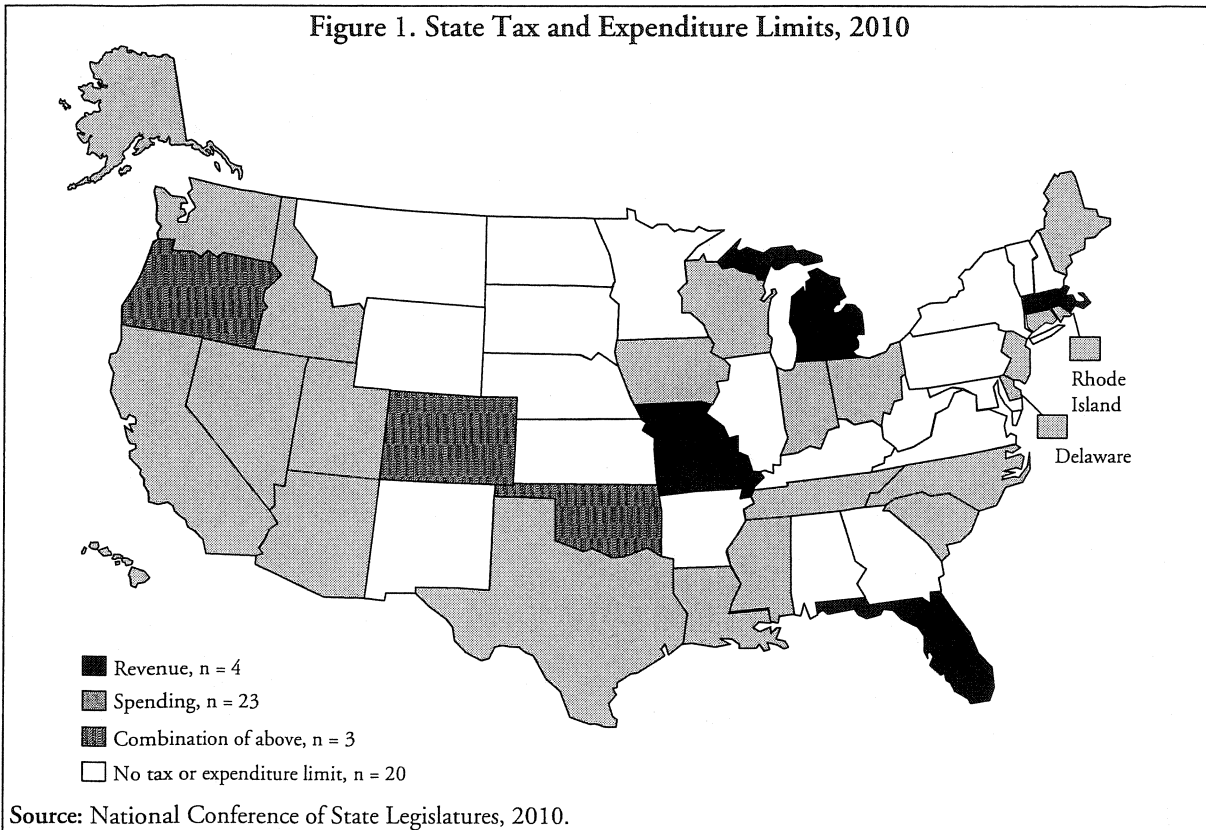
As of April 2010, 30 states operate under a tax or expenditure limitation. Ohio is the most recent state to impose one. In their 2006 session, legislators crafted a statutory spending limit based on population plus inflation growth or 3.5 percent, whichever is greater. This is the second enactment of a TELS in several years. Maine enacted a spending limit in 2005. Several states, like Maine and now Ohio, have statutory spending or tax limit mechanisms, while others, such as Colorado, have TELS embedded in their state constitutions. Colorado is commonly viewed as having the most restrictive set of fiscal limits, and will be further explored in this report.

Twenty-three states having spending limits, four have tax limits, and three have both. About half are constitutional provisions and the other half are statutory. Many of the existing TELS were enacted in two periods of time—the late 1970s and early 1990s. These periods coincided with economic fluctuations in the United States and began shortly after the property tax revolt in California that resulted in passage of Proposition 13. This paper will review the states' experience with TELS.

Types of Limits

In general, no two TELS are exactly alike in their design and characteristics. While the general goal of limits is the same—to restrain government tax revenues or spending outlays—they vary considerably in design, scope and restrictiveness. In the first NCSL report on TELS, four categories of traditional TELS were identified: expenditure limits, revenue limits, appropriations limited by the revenue estimate, and hybrids or combinations.¹ In addition, within these categories, some TELS also may include certain exceptions and exemptions. Also, some states have other provisions that require voter approval or supermajority legislative votes.

1. Mandy Rafool. "State Tax and Expenditure Limits." NCSL. 1996.



Traditional Limits

Traditional limits refer to revenue, expenditure or appropriation limits. The features and restrictiveness of these limits vary considerably. Such variations make it difficult to categorize state TELs, but generally, they fall into one of the categories described below:

Revenue limits. Revenue limits tie allowable yearly increases in revenue to personal income or some other type of index such as inflation or population. The limit provides for the refund of excess revenues to taxpayers.

Expenditure limits. This is the most common type of state TEL. Expenditure limits, like revenue limits, are typically tied to personal income or a growth index. The impact of expenditure limits depends upon the limit parameters. In many states, the limit is tied to a growth index related to the expansion of the economy. Somewhat more restrictive are expenditure limits with refund provisions if revenues exceed the authorized spending level.

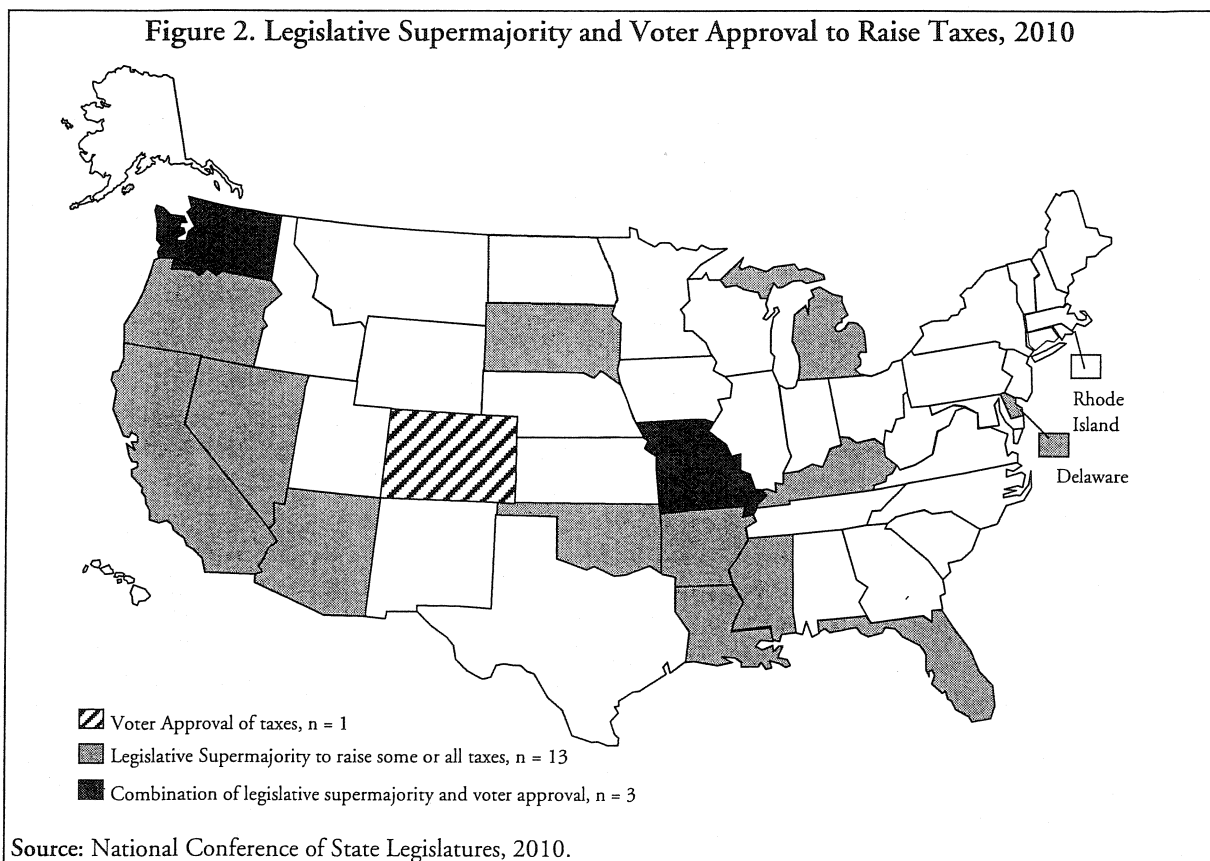
Appropriations limited to a percentage of revenue estimates. This variation of a spending limit simply ties appropriations to the revenue forecast, typically ranging from 95 percent to 99 percent of expected revenues. It does not establish an absolute limit or tie growth to a measurable index. Delaware, Iowa, Mississippi, Oklahoma and Rhode Island have this type of appropriation limit in place.

Hybrids. States also have combined components of various limits. For example, Oregon has a state spending limit tied to personal income growth, and a provision requiring refunds if revenues are more than 2 percent above the revenue forecast. This law limits spending and, in a sense, limits revenues by tying them to the forecasted amount. Colorado is another hybrid state.

Other Tax and Expenditure Limitations

A number of states operate under voter approval or supermajority requirements that are not tax or expenditure limitations in the traditional sense; however, they can limit state revenue and expenditure options. Therefore, they are discussed here as a type of limitation. Often these measures are more restrictive than traditional limits.

Voter approval requirements. This is the most restrictive type of limit since all tax increases or tax increases over a specified amount must receive voter approval. Only three states have adopted voter approval requirements. Currently Colorado requires voter approval for all tax increases, and Missouri and Washington require voter approval for tax increases over a certain amount.



Supermajority requirements. Fifteen states now require supermajority votes to pass tax increases. Supermajority requirements dictate either a three-fifths, two-thirds or three-fourths majority vote in both chambers to pass tax increases or impose new taxes. The effectiveness of supermajority

requirements depends upon the political makeup of the legislature. In states with one predominant party, the majority party may have enough votes to increase taxes or block tax proposals.

Formulas for Fiscal Restraint

Generally, two camps have developed regarding the formulas used in fiscal limits: the more strict restraints of population growth plus inflation and the more flexible economic responsiveness of percent of personal income. Why are certain economic indicators contained in these formulas viewed as having such impacts? Population growth is generally a steady, if not slow or stagnant, demographic indicator in a state. Generally it is not volatile, and it takes significant population inflows through interstate migration and international immigration to register a big increase year over year. Such events typically only occur in certain pockets of the country and from time to time. The consumer price index (CPI) inflation measure also has grown slowly in recent years. While the CPI trend is related to the low inflation environment experienced in the United States, it is by no means a guarantee of future levels. Also, it is widely accepted in economic circles that as the official government estimate of inflation, the CPI has the capacity to understate actual inflation. This occurs because of important adjustments that are made to the data over time. In general, the personal income growth measure tends to track economic ups and downs, with incomes decreasing during recessions and increasing during expansionary periods. As a result, use of this indicator is intended to keep budget growth restrained to the level of general economic growth in a state.

Interest Groups Are Generally in Two Camps

Supporters of TELs argue for their expansion into more states as a means of downsizing state government and containing spending and taxes. The CATO Institute is among groups that are strong advocates for TELs. CATO supports TELs that limit government spending to the inflation rate plus population growth index and mandate immediate rebates of government surpluses.² The Americans for Prosperity Foundation (APF) believes that TELs should be enacted in the states, and that states with them experience fewer tax increases. APF argues that TELs are most effective when they include the population and inflation formula, are put into state constitutions, and include voter approval for tax increases.³

On the other hand, groups such as The Bell Policy Center have reservations about the impact of TELs on a government's ability to fund public services adequately. The Bell Center concludes in its 10-year review of the Taxpayers' Bill of Rights (TABOR) in Colorado that TELs in the state have indeed limited government, that education and health programs have borne a disproportionate share of cuts, that TABOR prevents state budgets from recovering after recessions, and it has diminished the role of elected officials.⁴ The Center for Budget and Policy Priorities argues that while restrictive TELs sound reasonable, they are "actually a recipe for sharply reduced public services and an

2. Michael New. *Limiting Government through Direct Democracy: The Case of State Tax and Expenditure Limitations*. CATO. 2001.

3. Barry Poulson. *The Next Generation of Tax and Expenditure Limits*. Americans for Prosperity Foundation. 2004.

4. *Ten Years of TABOR: A Study of Colorado's Taxpayer's Bill of Rights*. Bell Policy Center. 2003.

impaired ability to respond effectively to public needs, federal mandates, and changing circumstances.”⁵ It also argues that public services have declined since the passage of TABOR and particularly since the latest recession.⁶

Studies on the Impact and Effectiveness of TELs

A number of academic studies have been completed over the past few years to examine how well TELs work and what other implications they may have had for state fiscal policy. For example, the Center for Tax Policy examined TELs, noting that limiting the growth of government through fiscal caps is much more prevalent than property tax limits. It outlined the structures of TEL mechanisms as follows:

- Method of codification (statutory or constitutional)
- Method of approving the limit (e.g., citizen vote, legislative referendum, legislative action)
- Formula of limit
- To what the limit applies
- Treatment of any surplus
- Waiver provisions
- Requirements for passing tax increases (legislative or popular vote)⁷

The Center then qualified the level of fiscal restrictiveness of each state’s TEL based on these criteria, with the key factors being the constitutional requirement, the population and inflation economic factor, voter approval requirements for spending and tax increases, and legislative supermajorities for considering tax increases.⁸ Colorado was ranked the most restrictive TEL state and Rhode Island the least.

A 1999 California study on the topic of TELs found that they may have an impact on borrowing costs, specifically the bond yields that affect debt servicing costs. Co-authors James Poterba and Kim Rueben found that states with strict spending limits faced lower borrowing costs during the previous two decades, while alternatively, states with strict tax limits faced higher than average borrowing costs. The authors concluded that higher bond costs may reflect the difficulties limits can add to raising revenue to meet debt payments.⁹

Another study considered the question of TELs’ impact on government growth and size. It found that since most TELs did not “outlaw growth in government” that they did not have a strong effect on the size of government. However, the study did find government size limitation effects in TELs states with low income growth, and increased government growth in states with high income

5. The Flawed “Population Plus Inflation” Formula: Why TABOR’s Growth Formula Doesn’t Work. Center on Budget and Policy Priorities (CBPP). 2005.

6. Public Services and TABOR in Colorado. CBPP. 2005.

7. Rafool. 1996.

8. Fiscal Cap Style TELs in the States: An Inventory and Evaluation. Phyllis Resnick. The Center for Tax Policy. 2004.

9. Fiscal Rules and Bond Yields: Do Tax Limits Raise the State’s Borrowing Costs? James Poterba and Kim Rueben. Public Policy Institute of California. 1999.

growth. In other words, TELs were responsive to income growth, perhaps because the majority of states use personal income in their TELs mechanisms.¹⁰

In 2004, as Wisconsin considered a TABOR-like fiscal limit mechanism, a University of Wisconsin study simulated what the state's budget trends would have been had TABOR been in effect since 1986.¹¹ It concluded that such a TEL would have restricted government spending, and estimated that state spending would have been \$8.4 billion lower from 1986 to 2003. This would have required "a dramatic reduction in state government and school district spending."

Pros and Cons

There are numerous arguments in favor of state tax and expenditure limitations. For example, limits are said to:

- Make government more accountable;
- Force more discipline over budget and tax practices;
- Make government more efficient;
- Make governments think of creative ways to generate revenues—for example, advertising on state-owned facilities;
- Control the growth of government;
- Enable citizens to vote on tax increases and determine their desired level of government service;
- Force government to evaluate programs and prioritize services;
- Raise questions about the advisability of some functions provided by state government;
- Help citizens feel empowered and result in more taxpayer satisfaction;
- Help diffuse the power of special interests;

There are arguments against state tax and expenditure limitations as well. For example, limits are said to:

- Shift fiscal decision making away from elected representatives;
- Cause disproportional cuts for non-mandated or general revenue fund programs;
- Fail to account for disproportionate growth of intensive government service populations like the elderly and school-age children;
- Make it harder for states to raise new revenue so that scarce resources may be shifted between programs;
- Cause a "ratchet-down" effect where the limit causes the spending base to decrease so that maximum allowable growth will not bring it up to the original level;
- Result in excess revenues that are difficult to refund in an equitable or cost-effective manner;
- Result in declining government service levels over time;

10. Ronald Shadbegian. *Do Tax and Expenditure Limitations Affect the Size and Growth of Government?* Contemporary Economic Policy. January 1996.

11. Andrew Reschovsky. *The Taxpayer Bill of Rights: A Solution to Wisconsin's Fiscal Problems or a Prescription for Future Crises?* State Tax Notes. July 26, 2004

- Fail to provide enough revenues to meet continuing levels of spending in hard economic times;
- Shift the state tax base away from the income tax to the more popular (but regressive) sales tax if voter approval is required;
- Shift the tax base away from broad taxes (property, sales and income) to narrowly defined sources such as lotteries and user fees.

TELEs in the News: Colorado's TABOR

Perhaps the most well known TELE is Colorado's Taxpayers' Bill of Rights. TABOR is a set of constitutional provisions Colorado voters adopted in 1992 that limits revenue growth for state and local governments and requires that any tax increase by state or local government (counties, cities, towns, school districts and special districts) be approved by the voters of the affected government.

TABOR is principally a revenue limit. It limits annual revenue the state government can retain from all sources except federal funds to the previous year's *allowed* collections (not necessarily actual collections) plus a percentage adjustment equal to the percentage growth in population plus the inflation rate. Any revenues received in excess of this limit must be refunded to the voters. When revenues fall, the following year's limit on collections is still based on the allowed collections of the previous year. The result is that in years following a recession, allowed revenues will grow only from the worst revenue collection year of the recession to the extent allowed by the rate of population growth and inflation. (This "ratchet" provision was eliminated in 2005, discussed later.) Although citizens may vote to allow the state to keep the excess, TABOR limits the times when such votes may occur.

TABOR also affected a 1991 limit on spending growth that the General Assembly had passed. This provision, known as Arveschoug-Bird, limits the growth of general fund expenditures to 6 percent more than the previous year or 5 percent of personal income, whichever amount is lower. It was assumed that the limit was impossible to amend except by a vote of the people. (A recent court decision found otherwise and legislation enacted in 2009 removed the 6 percent of appropriations alternative, leaving intact a general fund expenditures limit based on 5 percent of personal income).

Colorado's early experience with TABOR included very rapid demographic and economic growth because of substantial migration (30 percent population growth from 1990 to 2000) and the rapid expansion of the electronics and telecommunications industries in the state. Taxpayers saw substantial "TABOR refund checks" as revenues above the limit were returned to them. The General Assembly subsequently reduced personal income and sales tax rates to reduce surplus (returnable) revenues. However, TABOR itself was not responsible for economic growth in the state.¹²

Contraction in electronics and telecommunications industries occurred rapidly in 2000 and 2001, shrinking the state economy and tax collections.¹³ The interaction of an additional constitutional

12. Therese McGuire and Kim Rueben. *The Colorado Revenue Limit: The Economic Effects of TABOR*. Economic Policy Institute. 2005.

13. Adapted from NCSL's Talking Points on TABOR. Fiscal Affairs Program. 2004.
<http://www.ncsl.org/programs/fiscal/taborpts.htm>

provision with the TABOR revenue limit exacerbated the state's budget problems. Voters in 2000 approved Amendment 23, which requires the General Assembly to increase base per-pupil funding for K-12 education by inflation plus 1 percentage point annually through 2010, and by inflation thereafter. K-12 funding now accounts for 42 percent of the Colorado general fund budget.

Without any voter-approved adjustments to the limit, the TABOR cap ensures that state revenue growth will remain below the rate of economic growth in the state. At the same time, Amendment 23 requires an increasing share of allowable revenue growth be directed to K-12 education.

TABOR prevented the creation of a traditional state rainy day fund through implication as well as its requirement that revenues in excess of a limit be returned to the voters. Reserves of 3 percent of the general fund are allowed, but any use must be repaid in the following fiscal year. Thus the reserve fund is more like a cash-flow reserve than a rainy-day fund.

Changes to TABOR in 2005

Following the pressure points exposed by the impact of a severe recession in the early 2000s, there was bipartisan agreement that some easing of the existing limits would be helpful in allowing the state budget to recover and move forward. For example, former Republican Joint Budget Committee Chairman Brad Young states that TABOR shrinks state government relative to the economy every year, regardless of federally mandated spending and other budget demands, and results in direct democracy, rather than representative governance.¹⁴ Certainly there are other viewpoints about TABOR, but the challenges associated with post-recessionary fiscal policy under TABOR were shared by members of both parties in the state.

On November 1, 2005, voters in Colorado approved a legislative referendum related to TABOR's allowable revenue base. The approval of Referendum C allows the state to retain all revenues it will collect for the next five years. In FY 2011, a new revenue base will be selected, and growth from that base will be limited to the increase in population plus inflation. This change effectively removes the so-called "ratchet effect" which had frozen the revenue base at its 2002 recessionary low. By approving the referendum, voters decided to forego projected mandatory tax refunds that would have been required had allowable revenue collections been left at the former base level. The revenue impact over five years is \$3.743 billion.

Other State TELs Actions

Colorado voters are not the only ones considering TELs modifications. On November 8, 2005 voters in California defeated a proposal known as Proposition 76, which would have revised the state's spending growth limit from one based on income growth and population to one based on the average of revenue growth over the preceding three years.

Also in 2005, Maine enacted a spending limit. Under Maine's legislation, a statutory spending limit tied to average personal income growth limits state appropriations.

14. Brad Young. Presentation to Governing Magazine Conference. Washington, D.C. February 2005.

Ohio legislators approved a spending cap in 2006. Initially the Ohio TEL proposal had qualified to be on the November ballot as a constitutional change. However, a gubernatorial candidate who had earlier been a chief proponent of an initiative changed his approach and supported a statutory spending limit that was ultimately approved by the state legislature. The ballot question was then removed prior to the election. The new spending cap statute limits state spending growth to the percentage growth in population plus inflation or 3.5%, whichever is greater. It also imposed a 2/3 supermajority requirement or governor-declared emergency to exceed the new appropriations limit.

During the November 2006 elections, voters in Maine, Nebraska and Oregon rejected new tax and spending limit initiatives by wide margins. In Nebraska, for example, 70 percent of voters rejected the proposal. Earlier in the year, other TABOR-like proposals either did not qualify for the ballot or were disqualified and removed by courts. These included states such as Michigan, Missouri, Montana, Nevada and Oklahoma. The proposals all generally included a spending limit tied to population growth plus inflation and voter approval of tax increases.

As a result, the five statewide votes on TELs, from 2005 to 2006, all went against new limits, or in the case of Colorado, relaxed an existing one. In May 2009, California voters rejected a new, stronger spending limit by a 66 percent majority. The proposed limit was based on unanticipated revenues above a ten-year historic trend, adjusted for short-term tax changes, or, in some cases, the rate of growth in population plus inflation. Revenue in excess of the limit would have been diverted to a rainy day fund. In November 2009, Maine and Washington voters rejected ballot proposals that included spending limits tied to population plus inflation formulas and voter approval of tax increases.

While no single reason may exist to explain the results, out-of-state influences including financial support for petition drives and public relations activities, combined with the historical trend of good economic times reducing interest in new state fiscal limits, are among the possible explanations for the defeat of tax and spending limits in the most recent elections.

TELs Engineering: Things to Consider if Designing a Fiscal Limit

The details matter in the design of a fiscal limitation mechanism and many questions must be answered. The Minnesota House Fiscal Analysis Department published in 2004 an issue brief with some of the questions to consider regarding a tax or expenditure limit.¹⁵ Here is an overview:

1. What is limited, revenues or expenditures? Does the limit apply to all revenues or spending, or are there exclusions?
2. Should the growth factor limit be population plus inflation, or state personal income growth? Which measures of inflation and population will be used?
3. How is the growth measure calculated (e.g., what time periods are used)?

15. Revenue and Expenditure Limits. Issue Brief. House Fiscal Research Department. February 2004. <http://www.house.leg.state.mn.us/fiscal/files/ibrevexp.pdf>

4. Is the baseline revenue or spending a one-year amount or multi-year average?
5. What triggers the limit to be adjusted, and how often might that occur?
6. For revenue limits, is there a threshold after which a rebate is activated?
7. Is there a disaster or emergency exception?
8. Is an adjustment allowed for a major state-local funding relationship change?
9. Can a limit be overridden by a supermajority vote in the legislature?
10. Is there a sunset date on the fiscal limit?
11. Are any limits extended to local government revenues or outlays?

Conclusions

If state economies are volatile, state budget costs are higher than average inflation (such as for health care), or other external changes occur (such as natural disasters), then states with TELs may see pressure points develop when these forces and fiscal limitation mechanisms come into contact. The level of flexibility in a TEL's structure to respond to sweeping changes or volatile fiscal environments will help shape the responses legislatures make when these situations arise.

The most restrictive TELs will ensure that voters will have a direct say over fiscal issues in a state, and legislators will have reduced fiscal policy-making authority. In addition, interest groups whose funding priorities are exposed to fiscal restrictions may seek to carve out protections for those priorities.

State fiscal affairs are conducted in an atmosphere of continuous change resulting from economic fluctuations, demographic realities, intergovernmental relations and external factors. This makes it likely that the dual effort to deliver state government services and restrain state government growth will remain a delicate balance for the foreseeable future.

Legislative Supermajority to Raise Taxes—2010				
State	Year Adopted	Initiative or Referendum	Legislative Supermajority Vote Required	Applies To...
Arizona	1992	I	2/3	All taxes
Arkansas	1934	R	3/4	All taxes except sales and alcohol
California	1979	I	2/3	All taxes
Delaware	1980	R	3/5	All taxes
Florida	1971	R	3/5	Corporate income tax ¹
Kentucky	2000	R	3/5	All taxes ²
Louisiana	1966	R	2/3	All taxes
Michigan	1994	R	3/4	State property tax
Mississippi	1970	R	3/5	All taxes
Missouri	1996	R	2/3	All taxes ³
Nevada	1996	I	2/3	All taxes
Oklahoma	1992	I	3/4	All taxes
Oregon	1996	R	3/5	All taxes
South Dakota	1996	R	2/3	All taxes
Washington	1993	I	2/3	All taxes ⁴

1. Constitution limits corporate income tax rate to 5%. A 3/5 vote in the legislature is needed to surpass 5%. If voters are asked to approve a tax hike, it must be approved by 60% of those voting to pass.

2. Tax and fee increases can be voted on by the legislature in odd-numbered years.

3. If the governor declares an emergency, the legislature can raise taxes by a 2/3 legislative vote; otherwise, tax increases over approximately \$70 million must be approved by a vote of the people.

4. Tax increases producing revenue that do not exceed the spending limit must be approved by 2/3 legislative vote; tax increases that produce revenue over the limit must receive 2/3 approval by the legislature and voters. The 2/3 tax increase supermajority was suspended for two years and reduced to a simple majority through June 30, 2007, by legislation enacted in April 2005. It was again suspended by 2010 legislation, requiring a simple majority through June 30, 2011.

Source: National Conference of State Legislatures, 2010.

State Tax and Expenditure Limits 2010				
State	Year Adopted	Constitution or Statute	Type of Limit	Main Features of the Limit
Alaska	1982	Constitution	Spending	A cap on appropriations grows yearly by the increase in population and inflation.
Arizona	1978	Constitution	Spending	Appropriations cannot be more than 7.41% of total state personal income.
California	1979	Constitution	Spending	Annual appropriations growth linked to population growth and per capita personal income growth.
Colorado	1991	Statute	Spending	General fund appropriations limited to the lesser of either a) 5% of total state personal income or b) 6% over the previous year's appropriation.
	1992	Constitution	Revenue & Spending	Most revenues limited to population growth plus inflation. Changes to spending limits or tax increases must receive voter approval.
	2005	Referendum	Revenue & Spending	Revenue limit suspended by voters until 2011, when new base will be established.
	2009	Statute	Spending	Revised general fund appropriations limit to remove the 6% of prior year appropriations alternative, while retaining a limit based on 5% of total state personal income.
Connecticut	1991	Statute	Spending	Spending limited to average of growth in personal income for previous five years or previous year's increase in inflation, whichever is greater.
	1992	Constitution	Spending	Voters approved a limit similar to the statutory one in 1992, but it has not received the three-fifths vote in the legislature needed to take full effect.
Delaware	1978	Constitution	Appropriations to Revenue Estimate	Appropriations limited to 98% of revenue estimate.

State Tax and Expenditure Limits 2010				
State	Year Adopted	Constitution or Statute	Type of Limit	Main Features of the Limit
Florida	1994	Constitution	Revenue	Revenue limited to the average growth rate in state personal income for previous five years.
Hawaii	1978	Constitution	Spending	General fund spending must be less than the average growth in personal income in previous three years.
Idaho	1980	Statute	Spending	General fund appropriations cannot exceed 5.33% of total state personal income, as estimated by the State Tax Commission. One-time expenditures are exempt.
Indiana	2002	Statute	Spending	State spending cap per fiscal year with growth set according to formula for each biennial period.
Iowa	1992	Statute	Appropriations	Appropriations limited to 99% of the adjusted revenue estimate.
Louisiana	1993	Constitution	Spending	Expenditures limited to 1992 appropriations plus annual growth in state per capita personal income.
Maine	2005	Statute	Spending	Expenditure growth limited to a 10-year average of personal income growth, or maximum of 2.75%. Formulas are based on state's tax burden ranking.
Massachusetts	1986	Statute	Revenue	Revenue cannot exceed the three-year average growth in state wages and salaries. The limit was amended in 2002 adding definitions for a limit that would be tied to inflation in government purchasing plus 2 percent.
Michigan	1978	Constitution	Revenue	Revenue limited to 1% over 9.49% of the previous year's state personal income.
Mississippi	1982	Statute	Appropriations	Appropriations limited to 98% of projected revenue. The statutory limit can be amended by majority vote of legislature.

State Tax and Expenditure Limits 2010				
State	Year Adopted	Constitution or Statute	Type of Limit	Main Features of the Limit
Missouri	1980	Constitution	Revenue	Revenue limited to 5.64% of previous year's total state personal income.
Missouri, continued	1996	Constitution	Revenue	Voter approval required for tax hikes over approximately \$77 million or 1% of state revenues, whichever is less.
Montana*	1981	Statute	Spending	Spending is limited to a growth index based on state personal income. * In 2005 the Attorney General invalidated the statute, and it is not in force at this time.
Nevada	1979	Statute	Spending	Proposed expenditures are limited to the biennial percentage growth in state population and inflation.
New Jersey	1990	Statute	Spending	Expenditures are limited to the growth in state personal income.
North Carolina	1991	Statute	Spending	Spending is limited to 7% or less of total state personal income.
Ohio	2006	Statute	Spending	Appropriations limited to greater of either 3.5% or population plus inflation growth. To override need 2/3 supermajority or gubernatorial emergency declaration.
Oklahoma	1985	Constitution	Spending	Expenditures are limited to 12% annual growth adjusted for inflation.
	1985	Constitution	Appropriations	Appropriations are limited to 95% of certified revenue.
Oregon	2000	Constitution	Revenue	Any general fund revenue in excess of 2% of the revenue estimate must be refunded to taxpayers.
	2001	Statute	Spending	Appropriations growth limited to 8% of projected personal income for biennium.

State Tax and Expenditure Limits 2010				
State	Year Adopted	Constitution or Statute	Type of Limit	Main Features of the Limit
Rhode Island	1992	Constitution	Appropriations	Appropriations limited to 98% of projected revenue (becomes 97% July 1, 2012).
South Carolina	1980 1984	Constitution	Spending	Spending growth is limited by either the average growth in personal income or 9.5% of total state personal income for the previous year, whichever is greater. The number of state employees is limited to a ratio of state population.
Tennessee	1978	Constitution	Spending	Appropriations limited to the growth in state personal income.
Texas	1978	Constitution	Spending	Biennial appropriations limited to the growth in state personal income.
Utah	1989	Statute	Spending	Spending growth is limited by formula that includes growth in population, and inflation.
Washington	1993	Statute	Spending	Spending limited to average of inflation for previous three years plus population growth.
Wisconsin	2001	Statute	Spending	Spending limit on qualified appropriations (some exclusions) limited to personal income growth rate.

Source: National Conference of State Legislatures, 2010.

Resources:

- Americans for Prosperity Foundation. Washington, D.C. www.americansforprosperity.org
- The Bell Policy Center. Denver, Colo. www.thebell.org
- Cato Institute. Washington, D.C. www.cato.org
- Center on Budget and Policy Priorities. Washington, D.C. www.cbpp.org
- The Center for Tax Policy. Littleton, Colo. www.centerfortaxpolicy.org
- Economic Policy Institute. Washington, D.C. www.epi.org



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TESTIMONY TO THE SENATE FINANCE COMMITTEE REGARDING INTERIM CHARGES 4 AND 6

May 12, 2010

Patty Quinzi, Texas AFT Legislative Counsel

Texas AFT represents more than 64,000 teachers and other school employees, both active and retired. We are affiliated with the American Federation of Teachers, with 1.4 million members throughout the United States.

Tax Exemptions for Lease of Facilities to Charter Schools

We see major drawbacks to proposals for exempting facilities leased to charter schools from property taxation. First, at a time of severe budget constraints, the state should if anything be considering curtailment rather than expansion of exemptions from property taxation.

Second, as we understand it, under consideration is a potential extension of the benefits of property-tax exemption to for-profit entities not now eligible for exemptions available to operators of non-profit schools. We understand further that this expansion of tax-exempt treatment is being considered in part to aid in the proliferation of charter schools. We think this is bad policy on both counts.

Under the lax current charter authorization and oversight process in Texas, high-quality charter schools are few and far between. Generally, traditional public schools in Texas deliver better academic results, according to repeated annual official studies of charter schools conducted for the Texas Education Agency. The small number of high-quality charter schools, meanwhile, tend to shed their lower-performing students, who are increasingly concentrated in nearby traditional neighborhood schools without resources commensurate to their high needs. Before considering new ways to underwrite charter expansion, the state needs to establish much stronger quality controls and monitoring of the mostly mediocre or substandard existing charter operations, and it needs to address the negative impacts of the "filtering" of students associated with the small minority of higher-quality charters.

The example of one recent charter applicant, approved by the State Board of Education but still seeking TEA sign-off on its operating contract, highlights the need for careful assessment of charter schools' business models. Imagine Charter Schools are tied to a corporate conglomerate that has had trouble lately winning approval for similarly constructed charter operations in other states. Its school operations have been unable to qualify for non-profit treatment by the Internal Revenue Service. Its two proposed Texas charter schools are in the middle of a web of corporate affiliates that stand to profit from the lease of facilities and the provision of educational-management services to the schools. State-granted tax exemptions for facilities leased to charter schools may serve to

pad the profits of corporate stakeholders in such circumstances but will not serve a legitimate public purpose.

Spending Limitations

Through the experience of our fellow union members in other states, Texas AFT has seen the damage that can be done to schools by arbitrary spending limitations based on population growth and inflation. In light of that experience, we oppose any efforts that would limit the state's ability to respond to the growing needs of our state's population. Faced with various proposals of this sort over the past dozen-plus years, Texas AFT consistently has called on the legislature to go in the opposite direction--by guaranteeing in the state constitution that state education funding will keep pace to match student enrollment growth, inflation, and the cost of compliance with rising state requirements before restricting capacity to meet educational needs.

Using a rigid formula based on the overall rate of population growth and inflation ignores the higher needs of some of the fastest-growing subgroups in our state. Tying spending to overall population growth does not factor in the growth of higher-cost subgroups such as senior citizens, a group that is growing faster than others and is putting a heavier burden on agencies and programs that serve the elderly. Similarly, such policies ignore the higher needs of the rapidly growing student population in our public schools. According to a recent ten-year study of enrollment trends by TEA, some 97 percent of the nearly 800,000 students added to our public schools over the past decade were economically disadvantaged, lifting the percentage of economically disadvantaged students overall in our schools to 57 percent. Spending caps tied to overall population growth would not recognize the need for extra resources to provide the extra help these students require.

We therefore urge the committee not to support any measures that would lock into the state constitution or law such arbitrary and unrealistic spending caps.

CJD ITEMS			
Program		2010	2011
Article I			
Article I - Strategy A.1.3 Criminal Justice Programs		\$ 88,679,912.00	\$ 88,126,995.00
Crime Stoppers 5012		\$ 576,000.00	\$ 587,000.00
Criminal Justice Planning Account No. 421		\$ 28,129,120.00	\$ 28,258,120.00
State Planning Assistance Grants to COGs (Rider 16)		\$ 2,500,000.00	\$ 2,500,000.00
Drug Court Grants (Rider 20)		\$ 1,593,500.00	\$ 1,593,500.00
Child ID (Rider 21)		\$ 1,266,880.00	\$ 1,266,880.00
Article I - Strategy A.1.7 County Essential Services Grants		\$ 780,190.00	\$ 780,190.00

BORDER SECURITY			
		2010	2011
Article IX 17.04 to Trusteed Programs (From Operators and Chauffers Acct 099)			
Article I - Strategy A.1.11 Homeland Security			
Prosecution Resources for Districts - Awarded to El Paso County (Art IX 17.04)		\$ 4,000,000.00	
Equipment and Training to Support Patrol (Art IX 17.04)		\$ 3,000,000.00	
Overtime to Expand Gang Enforcement (Art IX 17.04)		\$ 2,500,000.00	
Overtime to Expand Multi-Jurisdiction Gang Investigation (Art IX 17.04)		\$ 1,750,000.00	
Expand Gang Prevention (Art IX 17.04)		\$ 2,000,000.00	
	Sub-Total	\$ 13,250,000.00	
Art IX 17.04 to Other Agencies (From Operators and Chauffers Acct 099)			
Article VI - Strategy C.1.1 and C.1.2			
Tx Parks and Wildlife - Hire Game Wardens (Art IX 17.04)		\$ 700,000.00	\$ 700,000.00
Tx Parks and Wildlife - Overtime and Operational Costs for Patrol (Art IX 17.04)		\$ 125,000.00	\$ 125,000.00
Article V - Strategy C.1.1 and C.1.2			
Tx Dept Criminal Justice - OIG for Fusion Ctr Staff to Coordinate Gang Intelligence (Art IX 17.04)		\$ 250,000.00	\$ 250,000.00
	Sub-Total	\$ 1,075,000.00	\$ 1,075,000.00
ARTICLE V DPS Items			
Article V - Strategy A.1.1 Highway Patrol (Rider 49)		\$ 6,014,367.00	\$ 3,835,802.00
Article V - Strategy C.1.1 Narcotics Enforcement (Rider 49)		\$ 1,301,354.00	\$ 974,697.00
Article V - Strategy C.1.2 Vehicle Theft Enforcement (Rider 49)		\$ 1,063,258.00	\$ 726,392.00
Article V - Strategy C.1.3 Criminal Intelligence Service (Rider 49)		\$ 1,110,173.00	\$ 727,992.00
Article V - Strategy C.1.4 Texas Rangers +5 (Rider 49)		\$ 579,342.00	\$ 375,888.00
Article V - Strategy F.1.10 Aircraft Operations (Rider 49)		\$ 3,622,980.00	\$ 3,030,428.00
Article V - Strategy D.1.5 Local Border Security			
DPS Troopers on Border (Rider 52)		\$ 7,000,000.00	
Texas Ranger Positions +10 (Rider 52)		\$ 1,853,676.00	
Increased Patrol and Investigative Capacity (Rider 52)		\$ 21,951,038.00	
Border Operations Center and JOICs (Rider 52)		\$ 9,000,000.00	
Rio Grande Valley Border Security & Tech Training Ctr (Rider 52)		\$ 1,000,000.00	
Article V - Strategy C.1.5 Crime Labs			
DPS Crime Lab in Laredo (Rider 54)		\$ 6,100,000.00	\$ 800,000.00
Article V - Strategy F.1.6 Physical Plant			
Governor's Regional Center for Operations and Intelligence in Laredo (Rider 54)		\$ 5,500,000.00	
	Sub-Total	\$ 66,096,188.00	\$ 10,471,199.00
		BORDER SECURITY FUNDS (Legislatively Appropriated)	\$ 91,967,387.00

Art XII, Section 14; "Legislative Intent" for JAG Recovery Act Funds (revised based on 5/4/10 letter from LBB)			
Operational Costs for Patrol and Investigative Capacity (Grant to DPS)		\$ 8,735,850.00	
Border Wide Crime Mapping and Surveillance (Grant to DPS)		\$ 6,227,209.00	
Multi Agency Gang Intelligence in Fusion Center (Grant to DPS)		\$ 1,700,000.00	
Patrol Boats and related Capital Budget Authority (Grant to TPWD)		\$ 487,741.00	
Expand Radio Interoperability (Grant to DPS)		\$ 10,500,000.00	
Local Border Star (Grants to Local Cities/Countries)		\$ 16,000,000.00	
	Sub-Total	\$ 43,650,800.00	
		TOTAL BORDER SECURITY FUNDING (with ARRA funds)	\$ 135,618,187.00



May 12, 2010

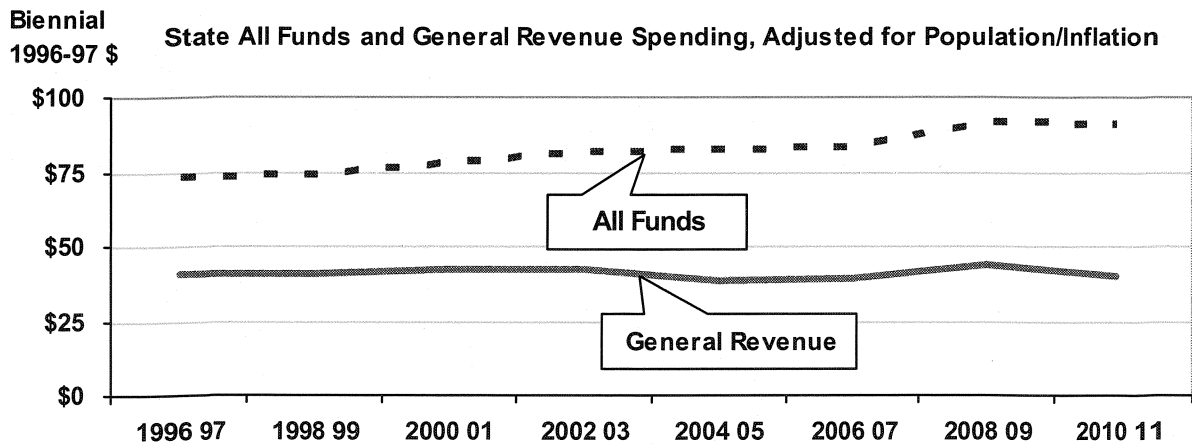
Contact: Eva DeLuna Castro, deluna.castro@cphp.org

STATE SPENDING LIMITS

The Texas state budget is subject to four constitutional limits: (1) General-Revenue-funded appropriations cannot exceed available General Revenue as estimated by the Comptroller; (2) assistance for needy children cannot exceed 1 percent of the state budget; (3) appropriations from tax revenue not dedicated by the Constitution cannot exceed growth in the state economy; and, (4) GR debt service cannot exceed 5 percent of the three preceding years' average total undedicated General Revenue. Because of these limits and a tax system that does not grow with the state economy or its residents' needs, Texas has been and continues to be a low-spending state (48th per capita in 2009). The following analysis provides more information on state spending growth and how alternative limits might affect the state budget.

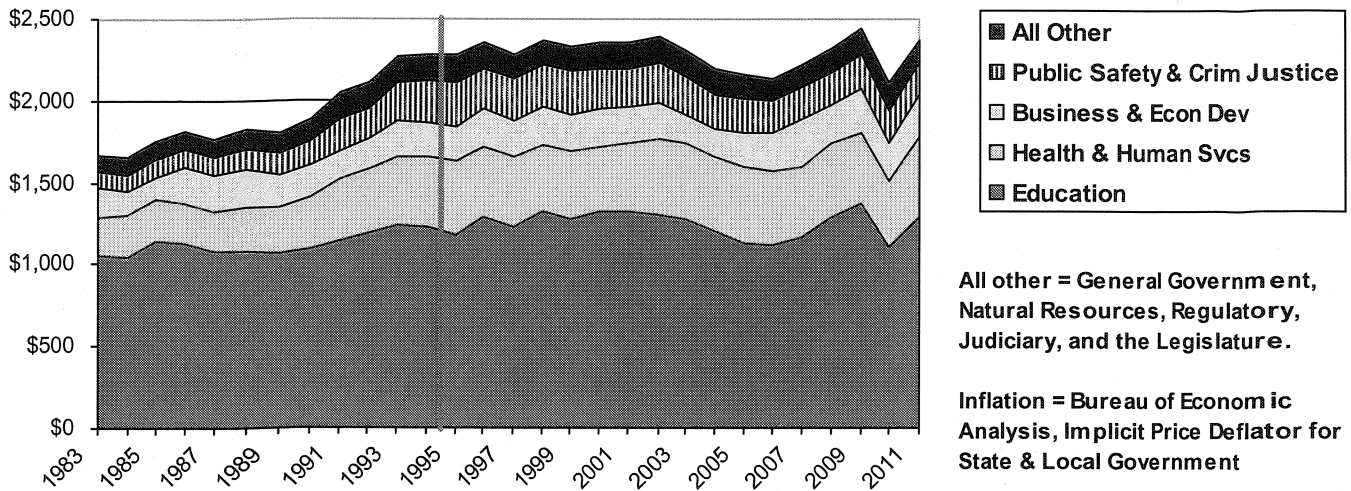
Has state spending grown, after adjusting for population and inflation?

Biennial information from the Legislative Budget Board (see *Fiscal Size-Up 2010-11*, page 9) makes it clear that General Revenue spending has been flat after adjusting for population and inflation, and will be lower in 2010-11 than in 1996-97. All Funds spending grew slightly since 2006-07 because of additional federal aid and state efforts to reduce property taxes. A population-inflation cap imposed on All Funds spending could therefore have constrained legislators in writing previous biennial budgets, but would not have affected General Revenue spending.



All nonfederal funds: As seen on the next page, state spending supported by General Revenue, General Revenue-Dedicated, and Other Funds (such as the Highway Fund, Property Tax Relief Fund, and the Rainy Day Fund) grew significantly through the early 1990s, but has not grown much since then. Growth in the pre-1995 period was driven by prison spending and expansions in children's health coverage through the Medicaid program. After 1995, increases in real state aid per K-12 student have been the major budget driver, as legislators have tried to increase the state share of public elementary/secondary school spending and reduce local property taxes. In Business and Economic Development, the creation of the Texas Mobility Fund has also increased nonfederal spending faster than overall growth in the budget.

**Nonfederal Spending by Major Function of Texas State Government,
Adjusted for Population and Inflation (2009 \$)**



All other = General Government, Natural Resources, Regulatory, Judiciary, and the Legislature.

Inflation = Bureau of Economic Analysis, Implicit Price Deflator for State & Local Government

Average annual change in adjusted nonfederal spending

	1983 to 1995	1995 to 2009
General Government	3.7%	-0.2%
Health and Human Services	5.5	-0.4
Education	0.9	1.1
Judiciary	2.1	1.4
Public Safety and Criminal Justice	8.6	-2.0
Natural Resources	6.0	-0.4
Business and Economic Development	1.3	1.7
Regulatory	3.6	-0.3
Legislature	1.8	-1.6
All State Government	2.6%	0.5%

Adjusting for inflation: The table and chart above use the U.S. Bureau of Economic Analysis' Implicit Price Deflator for Gross Domestic Product, which has a specific index for State and Local Government Consumption Expenditures and Gross Investment. State spending limits that would use the Consumer Price Index to adjust for inflation ignore the fact that health care is a much larger part of government spending than of consumer spending. This in turn means that government spending will be much more affected by increases in health insurance premiums, hospital costs, and pharmaceutical drugs than are consumers.* In 2010-11, health care appropriations total almost \$61 billion in All Funds—one-third of the state budget. This is mainly because more than 3.5 million Texans have health insurance through Medicaid or as a state employee, retiree, or dependent (not counting TRS, A&M, or UT group health plans). If one-third of the budget continues to grow at an annual rate that is two to three times the rate of consumer inflation, a cap that uses the CPI would eventually require significant cuts in state health care spending or in education and prisons.

* To cite just one example: the ERS health care shortfall of \$140 million is the result of 9.1 percent annual cost increases in 2010-11, considerably higher than the 7.5 percent annual cost increases allowed by appropriated levels and contingency fund balances.

AMERICANS FOR PROSPERITY FOUNDATION™

The Senate Finance Committee Meeting May 12, 2010, 10:00 am, Rm E1.036, Capitol Extension

Testimony Presented by Peggy Venable, Director Americans for Prosperity-Texas

Regarding the following interim charge of the Committee:

Study the impact of changing the constitutional and statutory spending limit based on the sum of the rate of population growth and the rate of inflation. Examine what past biennial spending limits would have been, and what the next biennium's limit might be, under a new definition. Consider the impact of exempting growth from federally mandated programs.

It is appropriate that Texas legislators consider this interim charge as public policies – particularly the growth of government spending and taxation -- impact Texas citizens' prosperity.

Last month, Americans for Prosperity Foundation-Texas (AFPF) issued a policy paper written by an economist who evaluated the policies in various states and compared the states' relative economies to the policies passed. Texas, it was determined, had the strongest economy in the country thanks in large part to the policies enacted at the State Legislature. Legislative actions impact the economy and Texans' pocketbooks.

http://americansforprosperity.org/files/Policy_Paper_TX_AR_OK_LA.pdf

Texas has the most vibrant economy in the country today. And we at Americans For Prosperity realize that good public policies result in prosperity. While we Texans may from time to time take for granted the relative good economy we are enjoying here in the Lone Star State. Few citizens realize the progress Texas has made to be the best economy in the nation.

Part of the reason our economy is strong is that the public sector has been kept in check. As government grows, freedom, economic opportunity and prosperity diminish. Our state spending limit has not kept state government growth from skyrocketing – you and our other legislative leaders have. Absent your vigilance and diligence, state government could and likely would have grown more. We at AFPF advocate a more stringent spending limit directly linked to the increase in population and inflation.

We also advocate a spending trigger at the local level. Local government has grown four times faster than Texans' paychecks and local government debt has grown five times faster. We are now seeing local governments issuing certificates of obligation to circumvent voters – rather than putting a bond initiative on the ballot, many local governments are using CO's to issue debt.

We must provide more taxpayer protections and safeguards. Instead, we are leaving our children and future generations with a legacy of debt – and that is not the legacy most of us want to leave.

AFPF has launched an issue campaign – Lone Star Strong (www.LoneStarStrong.com) to educate the public on how public policies matter – and that good policies have resulted in a relatively good economy and have put Texas in the Number One category in important areas.

As you know, Texas is No. 1 in a number of important categories:

- Job creation
- Business relocation
- Government transparency
- Tort reform
- Electricity markets (and in wind generation)
- Exporting state
- Energy producing
- Most Fortune 500 companies
- One of the 10 states with the lowest tax burdens
- No state income tax
- Most vibrant economy in the country
- And we have continued to have cleaner air, without using draconian regulatory mandates but using incentives.

The Lone Star state's strong economy didn't happen by accident. It is thanks to the good policies passed in the Legislature, the state's use of incentives rather than burdensome regulations and striving to allow Texas taxpayers the ability to keep more of the money they work so hard to earn.

While we have a Constitutional state spending limit (Article VII, Section 22 of the Texas Constitution), the 1978 measure referred to as the Texas Tax Relief Act is ineffective. Texas works, I think, because of a succession of decent politicians and a limit which (while open to manipulation) is still subject to statistics which are able to be independently verified.

Tax and Expenditure Limitations (TEs) are an effective and time-tested means to controlling state government spending. Since 1992, Colorado has operated under a TEL (called TABOR, Taxpayer Bill of Rights) which controlled spending and subjected tax increases to the vote of taxpayers, as it should be. Even with the temporary suspension of TABOR in Colorado from 2006-2011, Colorado changed from spending far more than California on a per capita basis to far less. And Colorado, along with Texas, is one of the fastest growing states in the nation.

Colorado's TEL works because it is subject to the voters, part of the state's constitution, and linked to population growth and inflation. Neither of these metrics are able to be politically manipulated or the subject of political debate. While other states have TELs of one kind or another, none are true limits. They encourage rather than temper spending during boom or bubble years by linking to GDP or state income. Finally, TELs must be comprehensive and cover all spending categories and all taxes. California's tax limits only covered certain categories, thus pushing the state legislature to find money in other corners of the economy. It was never a real limit on government growth, and California is now suffering because of it.

A Mercatus study provides a good look at the state of TELs (Oct 2009) and actually does a brief Colorado and California comparison. It also rightly points out that the voters of Colorado voted to suspend their TABOR for a few years in 2005 (just as it was beginning to kick in) and that they also removed certain spending from the TABOR limit. So there is no "good" example of TABOR. Even the best in Colorado is seriously compromised (see the box in this study called "TABOR's Democratic Danger).

http://mercatus.org/sites/default/files/publication/Tax_and_Expenditure_Limits.pdf

There is a good article on why the California limit never really worked. The key: limits must be comprehensive across spending and taxing categories. Carving out one section means that that sector will balloon out of control: http://www.cato.org/pub_display.php?pub_id=2871

This chart from NCSL provides a good overview of TELs (tax and expenditure limits) in the states. None of the states except Colorado really "bite" on spending growth, either because there is no appeal to the voter or because the limit is politically manipulated.

<http://www.ncsl.org/default.aspx?tabid=12633>

Also note that a number of the states link to "personal income" which just means that a bubble situation (like we recently had) just means that government expenditures get in a bubble. This is a good reason why population growth + inflation is a better restriction.

<http://www.taxpolicycenter.org/briefing-book/state-local/fiscal/limits.cfm>

Though much has been written and studied about spending limits, we have no real solid state experience to use. However, the study AFP Foundation –Texas (released last month reference earlier in this testimony) compares states with larger government spending with Texas and our outcome is better than any other state.

The Texas experience is the best example of how limiting the growth in government spending and taxation along with common-sense restraints on overregulation result in greater prosperity and a better economic outcome than high-government growth states.

We encourage a more precise spending limit which is tied to population increase and inflation, and advocate local governments be given the same trigger which allows voters to approve spending increases above population and inflation.

Americans for Prosperity (AFP) is a nationwide organization of citizen leaders committed to advancing every individual's right to economic freedom and opportunity. AFP believes reducing the size and scope of government is the best safeguard to ensuring individual productivity and prosperity for all Americans. AFP educates and engages citizens in support of restraining state and federal government growth, and returning government to its constitutional limits. For more information, visit www.americansforprosperity.org

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AMERICANS FOR PROSPERITY
FOUNDATION™

Policy Matters:
A Comparative Analysis of Arkansas, Louisiana, Oklahoma, and Texas

by

Dr. Noel D. Campbell

Executive summary

We want to live in places with growing economies and rising incomes, where employment is stable, the number of jobs is growing, and where the jobs and the population are not exiting.

Can government policy help promote stable and prosperous societies?

This research focuses on a cluster of four states: Arkansas, Louisiana, Oklahoma, and Texas. Although these states are similar, related, and interconnected, they have pursued rather different policies regarding taxes, expenditures, income transfers, and governmental employment.

Economists and other social scientists have researched exactly these questions for decades and continue their research today. We know what type of policies will lead to stable and prosperous societies. The answer is limited government.

In practical terms this translates into: small governmental expenditures, with limited transfers and subsidies; low tax burdens and low tax rates; small government employment, and the absence of rules that undemocratically force workers to unionize.

This research relates government policies and results to growing populations, growing production and incomes (“output”), as well as growth in the number of businesses and jobs.

The evidence from these four states is very clear.

- States with the smallest “growth in government” experienced the best growth in desirable attributes.
- States with the largest “growth in government” experienced the worst growth in desirable attributes.
- States with middling “growth in government” experience middling growth in the desirable characteristics of societies.

Governments intend to do well; to provide services and protections for their citizens, often responding to local demands for government activity. These activities expand the size of government and expand government’s reach into the economy. However, expanding government in this way leads to less prosperous societies.

http://americansforprosperity.org/files/Policy_Paper_TX_AR_OK_LA.pdf