



87th Legislative Session Hot Topics

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87th Legislative Session

- **The House and Senate have adjourned until Tue, Feb 9, 2021**
- **Governor Abbott will deliver the State of the State on February 1 from 7:00 to 8:00 PM. The speech will be live-streamed on multiple tv stations/websites. The Governor will provide an update on the state's COVID-19 response, lay out his priorities for the 87th Legislature and he will announce emergency items that may be considered in the first 60 days of the legislative session. Rules prohibit lawmakers from voting on legislation during the first 60 days of the 140-day session. However, lawmakers can vote on emergency items, as declared by the Governor, at any time.**
- **The budgets proposed by the House and Senate are presently recommending to spend \$7.3 billion more than what the Comptroller estimates will be available to spend. The Senate Finance Committee and the House Appropriations Committee will revise their proposals in the coming months and approximately \$7 billion in cuts will have to be made. While public education seems to be a priority, we must remain vigilant to ensure the full funding of HB 3.**

Governor Abbott's Emergency Items

Governor Greg Abbott designated five emergency items in his State of the State Address. These are the only topics the legislature can vote on bills relating to in the first 60 days of the session.

- Expanding Broadband Access
- Discourage cities from defunding the police
- Bail Reform
- Election Integrity
- COVID-related Civil Liability Protections

State of the State Address

In Governor Greg Abbott's Texas State of the State Address, he mentioned education briefly. While he did not make funding for public education an emergency priority for this legislative session, he praised the efforts of legislators from last session and spoke about the raises that some teachers got as a result of the passing of HB 3. While the raises were appreciated by those that got them, many districts will face budget cuts without increased allotments from the state this session due to many factors including the pandemic. The Governor did not mention hold harmless, vaccines for teachers or the fact that our school districts, teachers, and staff have gone above and beyond to continue to educate and care for the 5.4 million students that depend on public schools in an unprecedented way throughout the global health crisis. The Governor did make internet connectivity one of his emergency priorities. Below are the highlights on education: "The Texas legislature...has built a framework that helps small businesses thrive, but as Senator Taylor and Representative Huberty know, to stay on top, to sustain this growth, we must continue to invest in our future and that is exactly what we did last session when we passed sweeping reforms to our school finance system and made major investments in our students and our teachers and we are already seeing the results of that work, with teachers across Texas earning meaningful pay raises." I'm proud to say that last year, teachers who had worked up to five years received an average raise of \$3,800.00. Teachers with more than five years' experience saw their pay increase by an average of \$5,200.00 and we are also closing the digital divide for Texas students. The state partnered with school districts to provide internet connectivity and e-learning devices for schools and for students. Investments like these are a victory, a victory for teachers, for students and for parents as we provide our children with a quality education, regardless of their zip code." "This session, we must continue to fund education as we promised. Also, if we expect the next generation of Texans to keep Texas the best state in the nation, we must teach them why we are so exceptional. We must educate them what it means to be an American and what it means to be a Texan. So we must bolster civics education in our classrooms and ensure that every child learns the values of freedom, good governance, and patriotism."

For a full transcription of the State of the State, please visit: <https://plg-law.com/our-practice/government-relations>

Senate

- **The Senate approved a change to its rules regarding the number of votes required to bring a bill up for debate. The change approved lowers the requirement to 18 votes.**
- **The Senate Committee on Finance will begin its hearings on the budget on February 8. The committee meetings on February 22, 23, and 24 will address Article III – Education.**
- **Senator Larry Taylor, Chairman of the Senate Education Committee, told the Tribune that the revenue is there to fulfill the financial promises made by HB 3.**

House Rules

Representatives Todd Hunter (R-Corpus Christi), Ana Hernandez (D- Houston), Brooks Landgraf (R-Odessa) and Joe Moody (D-El Paso) proposed HR- 4, which outlined the rules and procedures of the 87th legislative session. It passed 141-0.

Face masks will be required on both the House floor and in committee meetings. However, speakers may take off their masks to talk at the front and back microphone podiums on the House floor.

The House ruled that constituents or speakers can continue to visit the Capitol to provide public comment, as long as masks are worn and social distancing is practiced.

Virtual testimony may also take place in committee meetings this session if a sworn statement is submitted, the witness files a copy of the statement beforehand and a two-way video-audio communication can be facilitated.

The House Rules are 221 pages. You can find them here:

<https://capitol.texas.gov/tlodocs/87R/billtext/pdf/HR00004F.pdf#navpanes=0>

House Committees

House Public Education Committee:

Harold Dutton (D-Houston), Chair

J.M. Lozano (D-Kingsville), Vice Chair*

Alma Allen (D-Houston)

Steve Allison (R-San Antonio)

Keith Bell (R-Forney)

Diego Bernal (D-San Antonio)

Brad Buckley (R-Salado)*

Mary Gonzalez (D-Clint)

Dan Huberty (R-Houston)

Ken King (R-Canadian)

Terry Meza (D-Irving)*

James Talarico (D-Round Rock)

Gary VanDeaver (R-New Boston)

* - new members

House Appropriations Committee:

Greg Bonnen (R-Friendswood), Chair

Mary Gonzalez (D-Clint), Vice Chair

Trent Ashby (R-Lufkin)

Cecil Bell (R-Magnolia)

Giovanni Capriglione (R-Southlake)

Jay Dean (R-Longview)

Alex Domiguez (D-Brownsville)

Gary Gates (R-Richmond)

Donna Howard (D-Austin)

Justin Holland (R-Rockwall)

Ann Johnson (D-Houston)

Jarvis Johnson (D-Houston)

Julie Johnson (D-Carrolton)

Geanie Morrison (R-Victoria)

Ina Minjarez (D-San Antonio)

John Raney (R-Bryan)

Toni Rose (D-Dallas)

Matt Schaefer (R-Tyler)

Carl Sherman (D-DeSoto)

Lynn Stucky (R-Denton)

Ed Thompson (R-Pearland)

Gary VanDeaver (R-New Boston)

Steve Toth (R-The Woodlands)

Gary VanDeaver (R-New Boston)

Armando Walle (D-Houston)

Terry Wilson (R-Marble Falls)

Gene Wu (D-Houston)

Erin Zwiener (D-Driftwood)

For a full list of House Committee members, visit: <https://plg-law.com/our-practice/government-relations>

Broadband

Texas is one of only six states without a statewide broadband plan and office. Our state will be at a major disadvantage when competing for funding from the \$635 million for USDA's ReConnect program to help fund rural broadband infrastructure that was included in a Congressional omnibus package for fiscal year 2021 appropriations if we don't have a plan. The rural population in Texas is larger than the population of 18 states combined. It has been estimated that \$110 million would allow 60% of households in 12-counties of rural Texas to have internet access. Just that one region of rural Texas alone would need one-third of the dollars allocated for all of rural America. It is imperative that Texas create a state broadband plan so that we are able to accept any federal funding that becomes available to us. Texas is 12 years behind Arkansas when it comes to providing dependable and affordable internet access to our rural communities. Join the Texas Rural Broadband Coalition.

Chairman Larry Taylor said in a conversation with Evan Smith for the Tribune that he thinks we will come out of this session with a broadband plan in law, signed by the Governor. Several broadband bills have been filed including: HB 425 by Ken King, HB 1446 by Ashby & SB 506 by Nichols (companion), HB 1511 by Button, SB 154 by Perry.

SBOE, TEA Commissioner, and Testing

The State Board of Education met in Austin the week of January 25th. The Board had an opportunity to ask the Commissioner a few questions when they met on Wednesday, January 26th. In a response to a question, Morath told the Board, and everyone listening, that he would not waive the administration of the STAAR test this year, even if the US Department of Education allows it.

Previously, Morath waived the A-F accountability ratings for the 2020-2021 school year. All high stakes have been removed from 5th and 8th graders, teachers, schools and districts however, high school students are still required to take and pass their End of Course exams. Students who are English Learners may not be classified as English proficient if they do not take the assessments.

Only students present at a monitored testing session, supervised by a trained test administrator, will be allowed to take the tests. The testing windows have been extended to give districts more flexibility in scheduling assessments and to have more opportunity to test all eligible students. Districts may ask for a waiver for some students to learn remotely (max 5 days) to allow social distancing on testing days.

Comptroller

As required by the Constitution, the Comptroller submitted a statement to the legislature showing the state's financial condition and estimating the revenue the legislature has available for the next two-year budget period. Comptroller Glenn Hegar projected that for the current budget period, which ends in August 2021 revenues will fall short by approximately \$1 billion. For the next budget period, which begins in August 2021 and runs through August 2023, he estimates the state will have \$6.3 billion less than the previous cycle. In 2003, the budget gap was \$9.9 billion and in 2011, the shortfall was \$27 billion. He will provide an updated estimate in April. The Economic Stabilization Fund (ESF, or "Rainy Day Fund") balance is expected to be \$8.9 billion at the end of FY2021, and absent any expenditures from the Texas Legislature, the Comptroller estimates that fund could total \$11.6 billion by the end of the 22-23 biennium. That certainly leaves room for some of the one-time only expenditures.

Hold Harmless

There has been much discussion about extending hold harmless for the remaining 2020-2021 school year. Hold harmless guarantees each school district receives no fewer state education dollars than it received the previous year—regardless of changes in district enrollment. This school year, due to the COVID-19 pandemic, Texas public schools have seen steep enrollment declines that impact their budgets. The Texas Education Agency opted to fund schools based on historical attendance data (hold harmless) rather than funding based on their average daily attendance numbers. Unfortunately, the hold harmless funding model expired on December 31.

Dozens of education-related organizations, as well as individual school districts, have urged the Governor and Commissioner of Education to extend the hold harmless funding for the remaining 18 weeks of the 2020-21 school year for both virtual and in-person learning.

Additionally, in December 2020, 83 Texas legislators asked Commissioner Morath to extend the hold harmless agreement for the remainder of the 2020-2021 school year. Action by the Commissioner is critical and the only avenue for continued hold harmless funding. Any realistic timeline of legislative action on this matter would be too late and past the time when districts would be forced to make budget cuts.

Speaker Phelan and Chairman Taylor have both questioned if school districts are doing their best to find the missing students. Neither seems eager to extend hold harmless.

Federal Relief

In the Spring, the US Congress adopted the CARES Act, which delivered \$1-2 billion for schools in Texas (which was offset by a nearly equal reduction in state funding that helped postpone state funding cuts). The latest package adopted by the US Congress through the 2021 Coronavirus Response and Relief Supplemental Appropriations Act will send \$55 billion of the supplemental coronavirus relief funding to the State of Texas. From that total, Texas school districts are expected to receive \$4.9 billion and the Texas Education Agency will receive another \$553,000. While we fully expect state leaders to deliver those funds in much the same fashion, it is still a very meaningful investment because it once again forestalls/mitigates state any funding cuts. In addition to the funding mentioned above that will flow directly to school districts, there are also pots of money that will flow to state governors for use at their discretion and \$3.2 billion put towards an emergency broadband connectivity fund. President-Elect Joe Biden has also indicated that he plans to pursue additional such relief aid dollars following his inauguration, so it remains to be seen whether there may be even more in federal aid dollars to come.

Speaker Phelan

Speaker Phelan spoke with Evan Smith of the Texas Tribune on January 11th. When asked about whether he will continue to support bans against taxpayer funded lobbying like he did last session, Phelan stated that he thought the issue had merit last session, but that it is up to the members of the House to determine what bills have the support necessary to make it through the legislative process. Phelan also responded to questions regarding whether the state can find the money to continue to support the school finance reforms adopted in 2019, saying “we will do everything we can to be certain we fulfill our responsibilities.” He continued by explaining that “It was a monumental bill that solved a lot of problems; but it is not an easy task to dig yourself out of a hole.” Phelan also explained the newfound respect he now has for teachers after helping his four sons through remote learning in the spring.

House & Senate Budget

The House and Senate budget bills were released on January 21st. This is a starting point for the appropriations process. The two proposals are not identical but public education remains a priority and the Foundation School Program (FSP) is fully funded under current law, which honors the commitments made in HB 3. That includes an additional \$3.1 billion to fund enrollment growth for public schools, based on an estimated 36,000 additional students per year of the biennium, and an additional \$1 billion for property tax rate compression. Both the House and the Senate's budget proposals include \$70 million to transition to statewide online STAAR testing (HB 3906, 86th Texas Legislature). The House and Senate are proposing to spend \$7.3 billion more than what the Comptroller estimated to be available to spend. The budgets do not account for any state savings that may occur if the state receives any federal stimulus dollars. They may use that money, if available to supplant and not supplement school funding. Recapture continues to grow to \$432.4 million in the next biennium, even with property tax compression. By 2023, it is expected to exceed \$3 billion. That will be the highest amount of recapture dollars ever collected by the state.

The budget proposals do not dip into the Economic Stabilization Fund (Rainy Day Fund). The Legislative Budget Board projected that the balance will be \$11.6 billion by the end of the 2022-2023 biennium if nothing is spent out of the current \$8.9 billion fund.

SB 1 & HB 1

SB 1 presented by Senate Finance Chair Senator Jane Nelson also includes:

- **\$5 billion, an increase of \$452.8 million, for payroll growth and continued reforms to the Teacher Retirement System (TRS) passed last session through SB 12;**
- **\$897.6 million, an increase of \$39.5 million, for statutorily required contributions to TRS-Care to maintain current health insurance premiums and benefits for our retired teachers.**

HB 1 presented by Speaker Dade Phelan also includes:

- **\$5.9 billion in general revenue at the Teachers Retirement System with an increase of \$838 million to fund the increased state contribution rate adopted last legislative session.**



THANK YOU! QUESTIONS?

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