

**STATUS REPORT**  
**ON FEDERAL RECOVERY ACT FUNDING**

**Version 03.09.09**

March 9, 2009

**TO:** Members, Texas House of Representatives

**FROM:** Jim Dunnam, Chairman  
Select Committee on Federal Economic Stabilization Funding

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I want to begin this week's status report with some important information regarding unemployment in Texas.

On Friday, March 6, the US Bureau of Labor and Statistics released the most recent employment and workforce numbers. The new data shows that the number of unemployed Americans increased by 851,000, for a total of 12.5 million. In Texas the Texas Workforce Commission (TWC) said that Texas lost a staggering 75,800 payroll jobs in January, bringing the total number Texans who are seeking jobs up to 797,000. The nationwide unemployment rate is 8.1 percent, while Texas is fairing slightly better at 6.8 percent.

There are several areas of the state that have a statistically higher unemployment rate the national average. The Beaumont-Port Arthur area average is 8.7; Brownsville-Harlingen is higher at 9.5; and, McAllen-Edinberg-Mission had the highest rate at 10.1. TWC Commissioner Tom Pauken was quoted as saying "The national economic crisis is beginning to have a serious, negative impact on our Texas economy."

Last week, the Government Accountability Office (GAO) named Texas as one of 16 states that it will follow over the next few years "to provide an ongoing longitudinal analysis of the use of funds under the Recovery Act. These states contain about 65 percent of the U.S. population and are estimated to receive about two-thirds of the intergovernmental grants funds available through the Recovery Act. In addition, GAO will sample localities within these states to provide a perspective on the use of funds at the local level."

This week, I will file legislation relating to transparency and oversight in the use of Federal stimulus dollars that come to Texas. The principle objective of this bill will be to ensure accountability in the distribution and spending of the State's share of stimulus dollars, thus preventing waste and fraud. Among other

provisions, the bill will call for the Legislature to create the Recovery Act Accountability Board to coordinate Recovery Act activities among legislative agencies.

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Below you will find an updated status report on the Select Committee's activities to date. I will continue to provide you with periodic updated status reports. We have held nine (9) hearings since the formation of the Select Committee and have taken testimony from all major state agencies that will receive, or are eligible to receive, Federal economic stimulus funding; a summary of their testimonies is provided below.

All committee documents to date have been scanned and are available electronically to you and your staff upon request. These documents, and new documents as they become available, are available on the Select Committee's website – [www.txstimulusfund.com](http://www.txstimulusfund.com). The documents are organized by both hearing date and also subject matter. Note that older agency documents online may be updated by later versions, so make sure you are reading the latest version. Links to all video/audio of hearings are also available online. The website will continue to be enhanced, and you should start seeing changes this week. Both the Select Committee and I want to provide complete transparency of our work; we will endeavor to keep the website up-to-date as we move through the process.

The website has the Select Committee's current schedule. In short, starting the week of March 8 we will begin hearing from advocacy and interest groups and the general public. Each day will be devoted to specific subject areas. Members are encouraged to contact the Select Committee staff if they wanted any particular group specifically invited to testify. Members are also encouraged to have their interested constituents advised of the opportunity for public testimony. **Additionally, the Select Committee will hold a public hearing in Arlington, at 10:30am, this Saturday, March 14, at the University of Texas, Arlington.** Further details will be distributed to as they become available.

As always, we welcome your participation at these hearings. Many of our colleagues who are not members of the Select Committee have been attending and participating. Their expertise on specific issues and their questions for the witnesses have been very beneficial to the committee. We hope you will join us as your time permits.

**NOTE OF CAUTION:**

*The numbers contained in this status report are sometimes best estimates and are subject to change almost daily. We will continue to provide you with the best information we have as time progresses, but want to caution you that the numbers are still fluctuating and also may differ from other figures you may have seen depending on the source providing the information.*

*Questions continue to be brought forward and clarification occurs daily. Therefore, you are cautioned that information in this update will likely change even while it is being written. Feel free to contact the Select Committee office at 463-0240 for clarification or additional detail. The documents in the possession of the Select Committee provide far more detail and you are encouraged to review those in the areas of your interest. Again, those are documents available online at <http://txstimulusfund.com>.*

*This update is meant as a general overview of what the Select Committee has heard and received. This general overview is not meant to substitute for reading the bill and the documents provided by each agency, or contacting an agency directly for additional information.*

## WHAT ARE THE CORE GOALS OF THE SELECT COMMITTEE?

- Monitor Federal legislation and regulations implementing or affecting stimulus funding under the Recovery Act.
- Determine appropriate state legislation needed to maximize receipt of funds.
- Investigate efforts undertaken by other states to obtain funds.
- Communicate with Federal officials where necessary.
- Make recommendations to standing House committees.
- Provide an extra layer of transparency and accountability.

The challenge before the Texas Legislature is to make the Recovery Act work for Texas. The Act has been passed and the debate over whether it should have passed and in what form is best left to Washington, D.C. Had the Texas Legislature debated the Act and voted on it, the Act would likely be very different. However, now that it has passed, the Texas Legislature must assure that the opportunities created by the Act are not wasted and that transparency and accountability measures be prioritized. The Fall 2008 bank bailout must be remembered as a prime example of how private gain can get ahead of the public benefit, and Texas state government must not repeat those mistakes.

The Recovery Act's core goals are "job preservation and creation, infrastructure investment, energy efficiency and science, assistance to the unemployed, and State and local fiscal stabilization."

Those goals should be kept in mind at all times, as well as being mindful of stewardship of tax dollars.

## HOW MUCH MONEY WILL TEXAS POTENTIALLY RECEIVE?

**There is a total of \$787 Billion in the Recovery Act for spending, aid and tax cuts.**

***"Spending" and "Aid" is money that will go directly to or through Texas state government or made available to local governments and others directly from the Federal government.***

- **62 percent** of all Recovery Act money is direct spending to/thru the state governments, or goes directly to local governments, the private sector or to individuals directly from the Federal government.
- **Aid** is basically funds being used to assist states and local governments in their individual budget shortfalls, and constitutes **38 percent** of the Recovery Act.
- **Spending** is generally for infrastructure projects that are designed to promote job growth, and makes up **24 percent** of the Recovery Act.

- Our share of Aid and Spending funds going directly through Texas state government is estimated to be as high as **\$16 Billion** (assuming Texas takes advantage of all pools of funds; otherwise some of the unspent funds by Texas will go to other states).
- The Select Committee has been charged by the Speaker to advise the House how to “maximize” the receipt of Federal funds. Because some funds are not necessarily automatically received, and may come directly from the Federal government (bypassing Texas state government), one of the Select Committee’s goals is to identify all Recovery Act opportunities so that all potential recipients can be better aware of what funds are available and how they may be obtained.

***“Tax Cuts” are monetary benefits that will go to directly individuals, families and businesses thru the Federal income tax process***

- **38 percent** of all Recovery Act money will be pay for tax cuts to individuals, families and businesses.
- Individuals making less than \$75,000 per year will receive \$400.
- Couples making less than \$150,000 per year will receive \$800.
- There will be a two-year “forbearance” for the Alternative Minimum Tax, which should reduce the middle class tax burden by about \$70 billion nationally over those two years.
- Accelerated depreciation for businesses should reduce business tax burden by just over \$5 billion nationally.

**HOW IS THE MONEY GOING TO BE ALLOCATED?**

**The money will be allocated thru five different mechanisms: formula, competition, demand, one-time automatic disbursement, and agency plan.**

- **FORMULA:** Funding to States and local governments thru statutory/regulatory formulas.
  - *Examples:* Medicaid, highway funds, etc.
- **COMPETITION:** Bids or solicitations for Federal grant programs.
  - *Examples:* National Institute of Health, National Science Foundation, broadband program, etc.
- **DEMAND:** Direct payments to eligible individuals who apply for those benefits.
  - *Examples:* Pell Grants, Food Stamps, SBA Loans, etc.
- **ONE-TIME AUTOMATIC DISBURSEMENT :** One-time payments to entitlement program beneficiaries without application.

- *Examples:* \$250 to Social Security, Veterans' and disabled (SSI) beneficiaries.
- **AGENCY PLAN:** "Public operating and spending plans"
  - *Examples:* National Parks construction, defense infrastructure programs, nuclear waste site cleanup, etc.

## WHAT STATE ACTION IS REQUIRED TO RECEIVE THE FUNDS?

There is current debate concerning what "actions" are required to obtain the funds. For example, the Act requires either the Governor or Legislature make a "certification" in order to receive any funds. This is a general provision in the Act. It is still unclear whether or to what extent other action is required to obtain specific funds.

Some funding pools clearly require changes in existing law. For example, Texas must modify its unemployment benefit laws to receive the maximum Federal dollars for this program. One change would be to allow persons seeking part-time work to receive temporary benefits. If the unemployment benefit laws are not changed, Texas workers could potentially lose over \$555 million in unemployment assistance.

The Select Committee has been charged by the Speaker to "maximize" the receipt of Federal funds. To comply with this charge, one of the Select Committee's goals is to quickly establish a list of all "actions" required, and all options for triggering funds, as well as all deadlines that apply for those actions.

## WHAT HEARINGS WILL THE SELECT COMMITTEE CONDUCT?

The Select Committee first heard from Texas state agencies that will receive funds or be responsible for overseeing the administration of funds. In addition, the Select Committee has heard from the LBB Federal Funds team, the Office of State-Federal Relations, the State Auditor and the Comptroller's Office.

The Select Committee will next hear from advocacy and interest groups and the general public on each of the main subject areas of the Recovery Act.

The Select Committee will also attempt to schedule hearings with other governmental bodies, such as cities and counties, private entities and interest and advocacy groups who may be eligible for funds or have input in expenditure options in order to determine the best manner to distribute information and also assure transparency and accountability regarding all funds and expenditures.

Finally, the Committee will hold public hearings outside of Austin and around the State of Texas to better afford Texans an opportunity to have input in this

process. A hearing in the Dallas / Ft Worth area is scheduled for March 14th at the University of Texas Arlington. A hearing in San Antonio is currently scheduled for March 21st. Additional hearings will be placed on the schedule in the near future.

## SUMMARIES OF TESTIMONY BEFORE THE SELECT COMMITTEE

### **Texas Department of Housing and Community Affairs**

The Texas Department of Housing and Community Affairs (TDHCA) will receive between \$330 million and \$440 million in stimulus money under the Recovery Act for existing programs within the agency, such as homelessness prevention (\$47M), weatherization (\$240-350M), community services grants (\$48M). In addition, the HOME Investment Partnerships Program is expected to receive \$150 million and Housing Tax Credits ranging between \$0 and \$314 million also are anticipated.

The homelessness prevention program is designed to assist people who are homeless, or at risk of becoming homeless (whether due to foreclosure or other reasons), and assists those people in locating housing. The service also provides rent assistance, credit repair counseling, security and/or utility deposits and help with moving costs. Funding for this program will increase approximately 10-fold (from \$4.85M to \$47M annually) under the Recovery Act.

Another large portion of TDHCA funding will be dedicated to weatherization funding. This program could see a remarkable 20-fold increase in funding (from \$13M to \$240-350M annually). Texans who are living under 200 percent of poverty level will be eligible to receive up to \$6,500 (up from \$5,000) for weatherization improvements on their homes. (For 2009, the Federal poverty level for a family of four is \$22,050.) TDHCA officials said that 20 percent of the funds could be used for "training and technical assistance." However, after clarification, the agency will likely not have the flexibility to use these funds for such things as grants or scholarships for people who wish to attend technical training in order to obtain certification in fields related to environmental construction and maintenance.

TDHCA reported that they have received hundreds of calls from companies wanting to participate in the program, and slowdowns in new construction mean that local contractors should be able to meet the demand for qualified people to conduct weatherization work.

The Select Committee is providing each House member will information on the appropriate local contacts for local contractors. Contracts will be let local through existing regional non-profits by competitive bid.

The Community Services Section awards Federal funds to assist local agencies that provide services to needy Texas residents. During FY 2008, Community Services programs assisted 539,436 poor and/or homeless individuals. New funding for the program will be \$48.7M above the current \$31M.

The community grants portion of Recovery Act funding will be available to Texans at or below 200 percent of poverty level.

The HOME Investment Partnerships Program (HOME) provides grants and loans to help local governments, nonprofit agencies, for-profit entities, and public housing agencies provide safe, decent, affordable housing to extremely low-, very low- and low-income families. HOME allocates funds through four basic activities: Homebuyer Assistance, Rental Housing Development, Owner-Occupied Housing Assistance, and Tenant-Based Rental Assistance. Under the Recovery Act, new funding for HOME will be \$150M from the current \$42M. Seventy-five percent of that \$150M must be committed to recipients within 1 year of enactment of the Recovery Act, and recipients must expend 75 percent of those funds within two years and 100 percent in three years.

TDHCA officials made clear there exists more than enough need and demand, and the increases the agency is receiving in all areas will not actually satisfy all need and demand in the state for services.

The agency also assured that they have sufficient personnel and systems in place to assure rapid distribution of funds while not sacrificing transparency and accountability.

### **Texas Department of Transportation**

The Texas Department of Transportation (TxDOT) is estimated to receive \$2.25 billion in stimulus funding. Of that \$2.25 billion, \$1.68 billion was scheduled to go to TxDOT, \$500 million will go to metropolitan planning organizations (MPOs), \$175 million to rural areas and \$67.5 million to transportation enhancement projects.

Initially TxDOT stated an intention to obligate all funds from the Act by February 26th. As a result of the Select Committee's concerns, TxDOT officials delayed its non-maintenance decisions for one week.

TxDOT began anticipating funds prior to December 2008 and assembled a list of approximately \$6 billion in projects. This list was later updated in late January 2009 to over \$13 billion in projects, using input from local MPOs.

TxDOT is required to "obligate" 50 percent of the funds within 120 days or by June 17, 2009. The remaining 50 percent must be obligated by February 17, 2010.

In general, "obligating" funds means having the engineering and environmental aspects complete, plus the right of way acquisition at least started, then approval from the Federal DOT. Federal approval generally takes 7 days.

There is no Federal requirement regarding when actual construction must begin following the "obligation" date, although TxDOT's general policy is to place out the project for bids within the following 30 days.

TxDOT narrowed the \$13 billion list to a \$2.25 billion list on February 23, 2009.

TxDOT further narrowed the list to \$1.2 billion in new construction and \$500 million in maintenance projects. TxDOT approved the \$500 million in maintenance projects on February 26, 2009, and approved 100% of all remaining highway funds on March 5, 2009.

70 percent (\$841 million) of the final \$1.2 billion in new construction are for tollway-related projects. 26.9% of new construction funds are in "economically distressed" areas. In a letter from U.S. House Transportation Chairman Oberstar, TxDOT and the Select Committee were advised that the Federal Highway Administration will ensure that TxDOTs has complied with the Recovery Act requirement that "economically distressed" areas being given priority for projects prior to approving projects.

Concern was expressed to TxDOT during the hearing that decisions were being made to obligate TxDOT's entire portion without input from elected officials. Questions regarding the factors being used to prioritize projects within the intent of the Act, such as maximizing the use of the one-time financial boost to the state, which projects will produce the most jobs and overall infrastructure improvements to result in long term economic benefits were left open for TxDOT to consider.

TxDOT indicated that most decisions were the responsibility of local MPOs and then finally a "Matrix" prepared by TxDOT.

### **Texas Health and Human Services Commission**

The Texas Health and Human Services Commission (HHSC) reported that health and human services agencies will receive \$4.7 billion in stimulus funding. Unemployment numbers released on March 5th resulted in HHSC's funds estimate being lowered.

The largest portion of that increase will be a result of a temporary change in the Federal contribution rate known as the Federal Medical Assistance Percentage (FMAP) for the Medicaid program. In short, for every dollar Texas puts into Medicaid, they will temporarily receive more Federal dollars in a match.

Prior to passage of the Recovery Act, for every dollar spent on Medicaid, the Federal government paid almost 60 cents (a 59.44 percent FMAP for FY09). Under the Recovery Act, HHSC estimates Texas will receive an additional \$4.2 billion over the next three fiscal years.

In order to receive the FMAP increase, the Act specifies that states may not enact more stringent eligibility standards, methodologies or procedures than those in effect as of July 1, 2008. As long as Texas makes no negative changes in its current program, the additional funding will be received. The Commission reported on March 5th as having made the appropriate certifications and expects to receive \$952 million in stimulus funds as retroactive payments for the 1st and 2nd Quarters of FY2009. These funds will begin flowing to Texas soon.

The Recovery Act contains a specific provision that the increased FMAP cannot be received "if any amounts attributed (directly or indirectly) to such increase are deposited or credited into any reserve or rainy day fund of the State." In short, the \$4.2 billion in general revenue expected to be freed up from the FMAP increase cannot be used to increase the Texas Rainy Day Fund or be reserved. Clarification is still need on this issue in light of hold over funds in the budget.

Disproportionate Share Hospitals (DSH) serve significant populations of indigent patients. HHSC officials also testified that the Act increases the state's allotment to DSHs by 102.5 percent of the state's 2009 level.

The Supplemental Nutrition Assistance Program (SNAP) is a monthly benefit to qualified applicants to assist with food purchases, e.g., food stamps. SNAP is 100 percent Federally-funded. In January 09, there were 1,130,535 SNAP cases in Texas, totaling \$311.5 million. The Recovery Act provides Texas with an increase of 13.6 percent to that dollar amount.

Finally, HHSC officials testified regarding the \$52.7 million increase in the Temporary Assistance for Needy Families (TANF). TANF provides cash benefits to very low income families with children and Texas also uses this block grant to provide a wide range of other services, including Communities in Schools, early childhood programs and child care. These grants were set to expire at the end of FY09; the Act will extend them through FY2010.

HHSC officials made clear that there exists more than enough need and demand, and the increases the agency is receiving in all areas will not actually satisfy all need and demand in the state for services.

The agency also assured they will immediately advise the Select Committee of any enhancements needed in personnel and systems to assure rapid distribution of funds while not sacrificing transparency and accountability.

HHSC will report to the Select Committee the additional Federal funds that might be obtained by altering eligibility requirements, the cost to the state, and also the potential economic impact for those changes, both positive and negative, if any.

### **Texas Workforce Commission**

The Texas Workforce Commission has identified over \$1 billion in potential economic stimulus funding that Texas is eligible to receive for child care services and various employment-related programs.

Approximately \$418 million will be received “automatically” in increases to funding for existing employment and child care programs. Another \$39 million will be received “automatically” to help cover the increases in handling unemployment claims. No changes in state law are required to receive these funds and no increase in state match is required.

An additional \$555 million is available to Texas but receipt of those funds will require changes in state unemployment laws. This is discussed below.

Child care services received the largest increase--\$215 million, which is almost 50 percent more than the current Federal allocation of \$470 million. Agency administrators testified that the additional funds are needed to help meet the existing demand for child care services but there will still be unmet need even with this significant increase.

Youth employment services will receive \$83 million, a 100 percent increase; employment services for adults will receive \$35 million, nearly a 50 percent increase; services for dislocated workers whose plants have shut down, for example, will receive an additional \$57 million, a 100 percent increase; and the Wagner-Peyser Employment Grant that provides various services to help match employers and job seekers with the current demands of the labor market will receive \$28 million, around a 40 percent increase. The smallest increase, but not an insignificant one, is a \$1 million or 20 percent increase for the Community Service for Older Americans program which provides employment opportunities for seniors in community settings such as public libraries.

Texas also is eligible to receive approximately \$555 million in funds to pay for unemployment benefits, but only if the 81st Legislature makes certain changes to current unemployment laws.

In order to receive these funds Texas must take two steps:

1. Change the existing base period for calculating benefits; and

2. Meet two of four other unemployment insurance modernization "incentives"

If Texas changes its existing base period for calculating benefits to consider the most recent quarter of wages before becoming unemployed, termed an Alternative Base Period (ABP), the state will receive \$185 million in additional Federal unemployment funds. TWC said their estimate for this change is approximately \$83 million for FY2010-2011 (\$212m over 5 years) *Note: The National Employment Law Project (NELP) estimated that Texas' cost for this change would be \$53 million per year, a higher estimate.*

Unless the above change is made, the state is not eligible to receive a remaining \$370 million. If the Alternative Base Period *is* adopted, Texas must meet another two of the following four criteria to receive the additional \$370 million:

1. Allow people seeking part-time work to receive unemployment benefits. TWC does not have a cost estimate for this change at the present time (*NELP projects that Texas' cost for this change is \$19.7 million per year.*)
2. Allow benefits for people who leave work for compelling family reasons (Texas already does most of this requirement, and the remaining provisions are not considered significant in terms of increasing demand on the state). TWC does not have a cost estimate for this change at the present time (*NELP projects that Texas' cost for item is \$8.2 million per year, however, since Texas already complied with most of this item it is unclear whether NELP was aware, which would lower the net cost to Texas.*)
3. Allow up to 26 additional weeks of benefits for people in job training (basically, any employee who has received the maximum of 26 weeks would be eligible to receive up to 26 more weeks as long as they were attending an approved job training course, and only for that length of time). TWC does not have a cost estimate for this change at the present time. (*NELP has no cost estimate for this item.*)
4. Provide additional benefits of least \$15/dependent/week for eligible workers. TWC does not have a cost estimate for this change at the present time. (*NELP has no cost estimate for this item.*)

At the present, it appears that if Texas enacted the necessary changes, its Unemployment Trust Fund could receive \$555 million at a cost of approximately \$141 million over FY2010-2011 (a net gain of over \$400 million to the Trust Fund).

TWC also reported it estimates the Unemployment Trust Fund will have a negative balance of \$750 million on September 2009, which will trigger a "Deficit Tax" on employers. This could be temporarily dealt with by bonding or borrowing from the federal government.

TWC also reported that the Texas Enterprise Fund received \$52.3 million from the unemployment tax funds in September 2008 (\$120 million total in FY2008-2009). The Skills Development Fund received \$40 million total over the current biennium.

The agency indicated that proposed changes would not create an administrative problem.

The agency also assured that they have proper personnel and systems in place to assure rapid distribution of funds while not sacrificing transparency and accountability.

### **State Energy Conservation Office**

Officials from the Comptroller's State Energy Conservation Office (SECO) testified before the Select Committee on the specific funding they expect to receive from the stimulus bill.

A major component of SECO's function is facilitating the State Energy Plan (SEP). SEP funds may be used for energy efficiency and renewable energy projects, including technical assistance, energy training and education and retrofitting buildings with more efficient lighting, air conditioning and heating systems. Texas usually receives between \$1.8 million to \$2.5 million per year for the program. Texas would receive a total of approximately \$233.8 million in Recovery Act funding for the SEP.

Another program area of SECO is Local Government Energy Efficiency Block Grants (EEBG). These funds help small, non-HUD entitlement local governments reduce energy use and fossil fuel emissions, and improve energy efficiency. Small is defined as cities with populations less than 35,000 and counties with less than 200,000; in Texas, there are about 233 counties and 1130 cities that will be eligible. Texas is expected to receive approximately \$30 million for these grants.

The agency also assured that they have proper personnel and systems in place to assure rapid distribution of funds while not sacrificing transparency and accountability.

### **Comptroller of Public Accounts**

Officials from the Texas Comptroller of Public Accounts presented a detailed spreadsheet which attempts to identify all of the funds in the economic stimulus bill that will potentially benefit Texas, not just the portion of funding that the state

is expected to receive. This document is a work in progress and the agency continues to expand and refine the information as more information becomes available. The Comptroller's Office has even provided a reference for the page number in the bill for nearly every line item of appropriation in the Act and how much of that money is expected to come into Texas under each particular provision. A link to this document is available at <http://txstimulusfunds.com>.

### **Public Utility Commission**

The Public Utility Commission testified before the committee in regard to broadband and energy provisions in the Recovery Act. The agency representative indicated that they would not receive any funds directly. The U.S. Assistant Secretary of Commerce for Communications & Information will administer competitive grants intended for various aspects of broadband build-out. One grant will help expand public computer center capacity, including technology at community colleges and public libraries. Another grant will reward innovative programs to encourage sustainable adoption of broadband services. Both of these grants will be available to broadband service providers. A third grant will help develop and maintain a broadband inventory map, which will represent broadband build out across the nation. All of these grants are available to states and political subdivisions.

Under energy programs, Texas will be eligible to receive a portion of the grants designed to improve energy efficiency in buildings and transportation; weatherization assistance; development and implementation of the state energy conservation plan; manufacturing of advanced batteries and components; and, research on advanced and innovative energy technologies that reduce fossil fuel emissions.

The agency also assured they have proper personnel and systems in place to assure rapid distribution of funds while not sacrificing transparency and accountability.

### **Office of Rural and Community Affairs**

The economic stimulus bill included an increase of \$19.5 million in Community Development Block Grant (CDBG) funds that will be allocated to the Office of Rural and Community Affairs under an existing formula. These funds will be distributed to small cities or "non-entitlement" communities in Texas. A non-entitlement area is a city under 50,000 or a county under 200,000. This \$19.5 million is on top of the current allocation of approximately \$70 million.

The agency informed the committee that the timing of these new Federal funds coincided with their annual application process for CDBG funds and the

agency is prepared to distribute the funds to local communities very quickly. The agency received between \$120-\$140 million in applications, so even with the supplemental Federal funding, it will not meet the actual need. The funds are very flexible but generally are to be used for affordable housing, job creation and retention, and to address a serious and immediate threat to the health and safety of a community for which there are no other funds available. All other cities and counties in Texas will receive their CDBG funding directly from the Federal government.

The agency also assured that they have proper personnel and systems in place to assure rapid distribution of funds while not sacrificing transparency and accountability.

### **Texas Water Development Board**

The Texas Water Development Board provided the committee with a complete list of \$4.9 billion in potential economic recovery “Clean Water” projects and another \$4.9 billion in “Drinking Water” projects. Most of these projects are ready to go, illustrating that the need far exceeds the available funding levels.

The state’s allocation from the \$4 billion appropriated for the Clean Water State Revolving Fund is \$181.9 million. This fund provides grants to states to capitalize their revolving loan funds for wastewater infrastructure improvements. Our allocation from the \$2 billion appropriated for the Safe Drinking Water Revolving fund is approximately \$165 million. This fund provides grants to states to capitalize their revolving loan funds for drinking water infrastructure. The agency suggested that the demand in Texas for funding from these two programs has been heightened by the difficulty in getting good rates right now in a troubled bond market.

The agency also assured they have proper personnel and systems in place to assure rapid distribution of funds while not sacrificing transparency and accountability.

### **Texas Commission on Environmental Quality**

The Texas Commission on Environmental Quality has identified six different potential sources of funding in the economic stimulus package that may help benefit environmental programs TCEQ administers.

TCEQ expects to receive \$1.7 million in a non-competitive, formula allocation for state grants under the Diesel Emissions Reduction program. The agency mentioned that these funds could be used for the clean school bus program for public schools. Another \$300 million is available nationally for diesel emissions

reduction with \$90 million specifically designated for additional non-competitive state grants and the remaining \$210 million to be distributed among the states on a competitive basis.

There is \$200 million available nationally for the Leaking Underground Storage Tank program (LUST). There is no state match required. Around 200 sites in Texas would meet the criteria for the program.

TCEQ will receive approximately \$1.8 million in additional funds for allocation to local planning groups under the Water Quality Management Program. There is no match required for these funds. Under the Drinking Water State Revolving Fund (which will be managed by the Texas Water Development Board), TCEQ will receive a percentage allocation to provide technical assistance. The agency did not specify what amount they expect to receive.

There is \$100 million available nationally that will be distributed on a competitive basis under the “Brownfields” program. This program is intended to assess, cleanup and reclaim previously unusable property.

And finally, the stimulus bill increased funding for the Hazardous Substance Superfund by \$600 million. According to TCEQ, the funding can only be used for sites that are on the “National Priority List” or (NPL). Texas has 47 sites that are “shovel ready,” but unfortunately, they are not on the national list and will not qualify for the funding.

The agency also assured that they have proper personnel and systems in place to assure rapid distribution of funds while not sacrificing transparency and accountability.

### **Texas Education Agency and Texas Higher Education Coordinating Board**

Both public and higher education stand to receive benefits from the Recovery Act.

#### **Public Education – Direct to local schools (over \$2.6 billion)**

Local school districts in Texas should receive \$944 million in Title I funds (formula funding for the economically disadvantaged). They will also receive \$285 million in Title I funds for School Improvement Grants (early childhood, middle thru high school focus).

Texas schools will directly receive \$59 million in Title II, D (Education Technology Grants), \$3.4 million in Title VII (Homeless Assistance funds), and \$970 million in IDEA (special ed, pre-school grants).

## Higher Education

Additional Pell Grants – \$523 million (this represents an over 50% increase from FY2008)

Additional College Work Study - \$10.7 million (this represents a 20% increase)

### Competitive Grants

Teacher Quality Enhancement - \$100 million nationally

Statewide Data Systems - \$250 million nationally

## Combined Public and Higher Education

\$3.973 billion in the "State Fiscal Stabilization Fund" will be available for Texas.

\$700 million of the total amount is available for "public safety and other governmental services", including education.

\$3.273 billion is available for education only. The Recovery Act requires that any shortfalls in current fund levels for public education be addressed first. Next, shortfalls in higher education must be addressed. Remaining funds should flow through Title I formulas for public education. Clarification on flexibility in these decisions is still being sought by TEA and the Select Committee.

The Higher Education Coordinating Board is suggesting that 1/3 of the total funds (\$1.325 billion be set aside for higher education, the remaining for public education).

None of the fiscal stabilization funds appear to be available for new construction, only maintenance and repairs, with emphasis on "green" technology.

## Hurricane Ike

The Select Committee was advised by LBB and Speaker Pro Tem Eiland that \$750-900 million may be needed to address supplemental appropriation needs related to Hurricane Ike. Initial plans have been to use the Rainy Day Fund as the source for this need.

## Governor's Criminal Justice Division

The Criminal Justice Division of the Governor's Office (CJD) is designated as the administering agency in Texas for several federal criminal justice grant

programs. The Recovery Act will increase funding for at least three of these federal funding streams: 1) Byrne Justice Assistance Grants (JAG); 2) Victims of Crime Act Grants (VOCA); and 3) S.T.O.P. Violence Against Women Act Grants (VAWA).

Texas will receive an additional \$147.5 million in Byrne Justice Assistance Grants—40% or \$57.3 million will go directly to local entities and 60% or \$90.3 million will be received by the state and will be distributed through the Governor's Criminal Justice Division. The Governor's office must distribute 60% of the \$90.3 million in grants to local law enforcement and the remaining 40% can be used for other local or state level law enforcement purposes. According to the Director of the CJD, the 40% may be awarded through grants at the Governor's discretion. These funds must be obligated by September 30, 2010, and no matching funds are required.

The Byrne grants can be used for a broad range of criminal justice activities: law enforcement programs, prosecution and court programs, prevention and education; community corrections; drug treatment and enforcement; planning, evaluation and technology; and crime victim and witness programs (other than compensations). The CJD Director stated that additional, temporary personnel may be needed to handle the increase in awarding and accounting for the new grant money. He also stated that he believed the CJD has an extremely strong auditing and contracting section. While these funds are administered by the Governor's Office, the legislature could choose to designate specific uses for some of the additional revenue.

There is \$4.2 million in the Recovery Act for Texas for non-monetary services to crime victims. The Governor's office will provide grants to local law enforcement programs, and these funds will require a 20% match. The State also will receive an additional \$16.1 million in Violence Against Women Act (VAWA) funds; \$9 million will be allocated by formula to the Governor's office to provide grants to local law enforcement and, according to the Comptroller's spreadsheet, \$7 million will be allocated to the Attorney General's office for crime victims compensation. The CJD must distribute the \$9 million according to specific percentages set aside for specific crime victims services.

Only 15% of the funds may be used at the Governor's discretion. CJD is in the process of determining if a change in law is needed to bring Texas in compliance so the State will be eligible to receive these additional funds.

### **Office of the Attorney General**

The Attorney General's Office estimates it will receive federal stimulus funds through the Recovery Act for the Child Support Enforcement Program, the Crime Victims Compensation Program, and the Internet Crimes Against Children Task Force.

With respect to funding for child support enforcement, the Recovery Act reversed a previous change in federal law that required the 80<sup>th</sup> Texas Legislature to appropriate an additional \$25 million and \$28.6 million in general revenue in FY 2008 and FY 2009 respectively to draw down federal funds. This reversal would enable Texas to use federal incentive funds as a match to draw down federal child support funds and free up approximately \$54.6 million in general revenue. Texas' share of stimulus funding for Child Support could be as much as \$161 million.

The Attorney General's Office and the Governor's Office will each receive a portion of the \$100 million in Victims of Crime Act funding available nationally. Guidelines have not been issued on the use and allocation of these funds, but the Attorney General's Office estimated that the AG's office could receive approximately \$7.9 million for compensation payments to victims based on previous federal grant data.

An additional \$2.9 million in Internet Crimes Against Children funds will be allocated to Texas. There are two task forces eligible for these funds: the Dallas Police Department and the Office of the Attorney General. It is not known at this time how this money will be split between the two Texas task forces.

### **ERCOT**

Although it is not technically a state agency, the Select Committee asked ERCOT to testify about potential opportunities for Texas to receive stimulus funds intended for energy projects. ERCOT stated it had been unable to get any guidance from the administration and would welcome any guidance the Select Committee is able to obtain.

There is \$4.5 billion available nationally in the Recovery Act for modernization of the electric grid. According to the Comptroller's Office, the Department of Energy has not determined the amount of funding for each grid operator, which is ERCOT in Texas. ERCOT noted that since it is regulated by the Texas Public Utility Commission and not by the Federal Energy Reliability Commission (FERC), this could be an issue with eligibility for the federal funds.

There also is \$6 billion available nationally for an "Innovative Technology Loan Guarantee Program" which is a loan program for electric grid operators. The Comptroller's Office identified ERCOT as the entity that would receive loans in Texas and ratepayers would pay back the loans with monthly charges on their electric bills.

### **Texas Department of Agriculture**

Commissioner Todd Staples gave the Select Committee an overview of the federal stimulus funds the Texas Department of Agriculture is expected to receive. Approximately \$8.6 million is expected to be available for grants to public schools for the equipment under the National School Lunch Program.

Commissioner Staples indicated that his agency would receive \$8.5 from the Commodity Assistance Program for emergency food assistance to food pantries, soup kitchens, senior centers, etc. He said there is enormous need right now and the food banks are fabulous partners. The Comptroller's Office estimates approximately \$12.4 million which includes around \$2 million in 2009 and \$2 million in 2010 for administrative costs.

Also, there is \$50 million available nationally for assistance to aquaculture producers who experienced high feed costs in 2008. It is not known at this time how much Texas might receive from the \$50 million allocation.

Commissioner Staples also mentioned that we need to make sure Texas businesses and agencies are maximizing the use of the federal dollars that are available for rural broadband. There is \$2.5 billion available nationally on a competitive basis for grants, loans and loan guarantees for distance learning, telemedicine and rural broadband. There is \$4.7 billion available nationally through the Commerce Department for extending broadband services.

Commissioner Staples said Texas can benefit tremendously from this opportunity. He also mentioned the excellent stimulus for the Texas economy that could result from our participation in the \$1.4 billion in rural water loans and grants and the \$515 million for wildfire management.

Commissioner Staples said he has created a grants division and has property accountability protections in place; however, there may be a need in his agency for additional help with internal audit responsibilities.

### **Texas Railroad Commission**

Officials from the Railroad Commission (RRC) stated to the Select Committee that there may be funds available to the RRC through the US Environmental Protection Agency (EPA), or the US Department of Energy (DOE).

The ARRA makes provides for \$100 million worth of competitive grants to the EPA Brownfields Program for clean up, revitalization, and sustainable reuse of contaminated properties.

On November 14, 2008, the RRC applied for grants under the Brownfields program, focusing on areas that were affected by Hurricane Ike, which may be "a competitive advantage" in winning those grants. The EPA is expected to award grants by June 2009.

### **Department of Public Safety**

Texas Department of Public Safety (DPS) officials identified several areas where they expect to receive ARRA fund.

They said that Texas will receive \$143 million in funds under the Edward Byrne Memorial Justice Assistance Grant (JAG) Program . While this is a grant program, this portion is not necessarily competitive, as 60 percent of these awards are given to states based on a formula where population and overall crime rate are taken into consideration. The remaining 40 percent is given directly to local governmental entities. JAGs can be used for law enforcement, prosecution, crime prevention, corrections and drug treatment programs, among others. The ARRA also provides for \$225 million in competitive Byrne Grants; criteria and additional guidance for applying for these grants is forthcoming.

Other areas DPS expects to see funding for include law enforcement in rural areas; law enforcement along the Southern border; Internet Crimes Against Children (ICAC) and Community Oriented Policing Services (COPS).

### **Texas General Land Office**

Commissioner Jerry Patterson appeared before the Select Committee, focusing primarily on coastal restoration projects that the General Land Office (GLO) has identified as being of immediate importance. Commissioner Patterson indicated that the need for several of the projects originated with the damage caused by Hurricane Ike. Outlines for those projects indicate that they are all "shovel ready" and work could begin almost immediately once they are funded.

While the ARRA does make certain provisions regarding Hurricanes Katrina and Rita, there is no specific language that refers to Hurricanes Ike or Dolly, which both impacted the Texas coastal region last year. If there are stimulus funds available for GLO coastal restoration projects, where they would come from is not clear.

### **The Structural Deficit**

The Legislative Budget Board reported to the full House and the Select Committee that a "structural deficit" exists, and is relevant when evaluating the Recovery Act and the current Texas budget gap.

A "structural deficit" differs from a "cyclical deficit" in that it exists even when the economy is operating at its full potential. So no matter how good the economy gets, the deficit cannot be cured.

A true structural deficit can only be addressed by explicit and direct changes in government policies: reducing spending (including entitlements), increasing the tax base, and/or increasing tax rates. It can be described as more "chronic" or long-term in nature hence needing government action to remove it. For example, the U.S. Social Security system is sometimes declared to be creating a structural deficit in the federal budget, as many argue that changes in the structure of the social security system are needed to avoid bankruptcy of that system in 2042.

Currently, the LBB recommended budget for FY2010-2011 (the introduced version of H.B.1 and S.B.1) anticipates **\$82 billion in recurring spending** from general revenue. The LBB budget anticipates **\$74 billion in recurring revenue**. Thus, there is an approximate **\$8 billion deficit facing the State of Texas** for FY2010-2011 if you look only at ongoing expenditures and revenues.

However, the 80th Legislature reserved \$3 billion in general revenue for property tax relief. In addition, there was another \$2.1 billion not appropriated in 2007.

If the components of the overall numbers are reviewed, it is revealed that a portion of the problem is that tax revenues anticipated from the 2006 Property Tax Relief Initiative (**\$5.5 billion for the current biennium**) are lower than projected at the time. For FY2010-2011, the Comptroller estimated that \$9.1 billion in revenue would be collected, and that estimate has now been lowered to the \$5.5 billion mentioned above. However, the original cost estimates of the 2006 Property Tax Relief Initiative by LBB have been shown to be prophetic - **\$14.2 billion** for FY2010-2011.

This difference	-	\$14.2 billion in cost
		- <u>\$5.5 billion in revenue</u>
		<\$8.7 billion deficit>

In summary, had the 2006 Property Tax Relief Initiative been revenue neutral or not enacted, assuming no other changes in spending, Texas would today have a \$700 million surplus in its recurring budget, rather than an \$8 billion shortfall.

## **OTHER MISCELLANEOUS MATTERS**

- All timelines and deadlines continue to be investigated and identified so that priorities of effort can be made. Federal regulations and rules will be written and wording will affect the receipt of funds.
- There are only 30-60 days available in some instances to have input in this important regulation writing process.
- All decisions being made by state agencies and other entities continue to be identified prior to passing a “point of no return.”
- Continuing efforts are ongoing to identify additional means of assuring transparency and accountability.
- Many agencies, universities, local governments have asked for funds to be put into the Act and believe they are receiving funds. There is no comprehensive listing of these “asks” other than the Comptrollers summary spreadsheet and additional ones need to be assembled.
- Means of educating local governments and private entities of their options under the Act need to be identified fully.