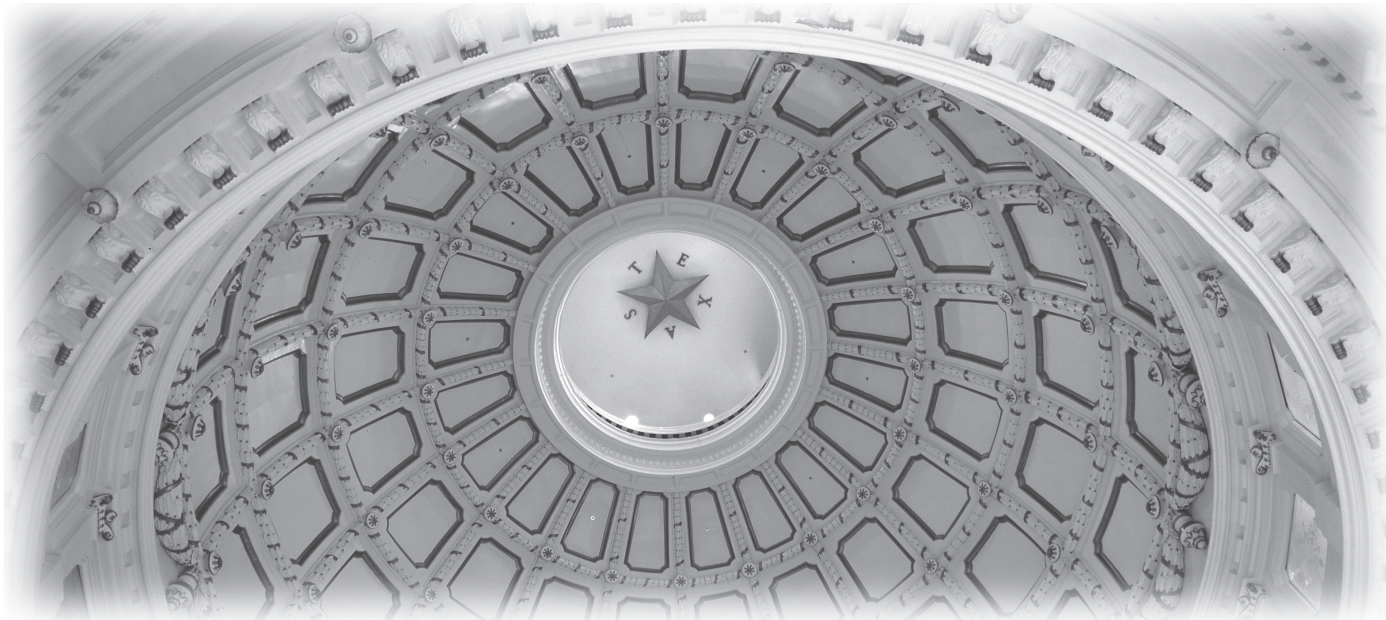

Interim Report

to the 84th Legislature

House Select Committee on Economic Development Incentives

THE STATE OF TEXAS

January 2015

HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT INCENTIVES, SELECT
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2014

A REPORT TO THE
HOUSE OF REPRESENTATIVES
84TH TEXAS LEGISLATURE

ANGIE CHEN BUTTON
CHAIRMAN

COMMITTEE CLERK
LAURIE MCANALLY

ASSISTANT COMMITTEE CLERK
J. CLAYTON RILEY

Select Committee On
ECONOMIC DEVELOPMENT INCENTIVES

January 8, 2015

ANGIE CHEN BUTTON
Chairman

P.O. Box 2910
Austin, Texas 78768-2910

The Honorable Joe Straus
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701

Dear Mr. Speaker and Fellow Members:

The Select Committee on ECONOMIC DEVELOPMENT INCENTIVES of the Eighty-third Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Eighty-fourth Legislature.

Respectfully submitted,

ANGIE CHEN BUTTON

EDDIE RODRIGUEZ

TRENT ASHBY

JOE DESHOTEL

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J.M. LOZANO

BORRIS MILES *

PONCHO NEVÁREZ

RENÉ OLIVEIRA

MARY ANN PEREZ

DREW SPRINGER **

JASON VILLALBA**

*See Rep. Miles' Dissenting Opinion on Appendix A.
**Except as otherwise set forth on Appendix A, attached hereto, I concur with the conclusions, recommendation and proposals set forth in this Interim Report

Eddie Rodriguez
Vice-Chairman

Members: Trent Ashby, Joe Deshotel, John Kuempel, Jodie Laubenberg, J. M. Lozano, Borris Miles, Poncho Nevárez, René Oliveira, Mary Ann Perez, Drew Springer, Jason Villalba

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INTRODUCTION

On June 20, 2014, the Honorable Joe Straus, Speaker of the Texas House of Representatives, appointed thirteen members to the Select Committee on Economic Development Incentives: Angie Chen Button, Chair; Eddie Rodriguez, Vice Chair; Trent Ashby; Joe Deshotel; John Kuempel; Jodie Laubenberg; J.M. Lozano; Borris Miles; Poncho Nevárez; René Oliveira; Mary Ann Perez; Drew Springer; and Jason Villalba.

The committee was asked to review Texas's many state and local incentive programs and evaluate each for both effectiveness and efficiency. This evaluation includes observations of economic cost and benefit – not only in expenditures and tax revenue, but also in terms of competitiveness, job creation and job quality, direct and indirect investment, publicity, and other positive and negative consequences resulting from the programs. Additionally, the committee reviewed best practices for the proper scope of transparency and committed to ensuring that money collected from taxpayers would be allocated appropriately and to the benefit of the citizens of Texas.

Finally, the committee was charged with identifying opportunities for further economic development and recommending ways to efficiently promote these opportunities. Where can the economy still grow, and what can the state do to encourage this growth?

The committee would like to thank everyone who contributed to this undertaking. Special thanks to the committee resource team, Representative Perez, Representative Ashby and Representative Springer. Special thanks to Chairwoman Button's Chief of Staff Amanda Willard. Additionally, special thanks to Chairwoman Button, Vice Chairman Rodriguez, Representative Ashby, Representative Nevarez, Representative Springer, and Representative John Davis for offering the following staff to contribute to this report:

- Victoria Smith
- Deisy Jaimes
- Helen Kemp
- Erin Cusack
- Mark Thorne-Thomsen
- Kate Ferguson
- Leo Aguirre
- Caitlyn Ashley
- Chris Kirby
- Rachel Comeskey

After hosting six hearings in three different cities, the Select Committee on Economic Development Incentives has adopted the following report.

INTERIM STUDY CHARGES

To guide the committee's investigations, the Speaker provided the following charges:

- Determine the types or categories of economic development projects that provide the greatest benefit to the state. Make recommendations where appropriate to focus on or target the types or categories of economic development projects that provide the greatest long-term benefit to the state.

- Catalog and evaluate economic development incentive grants awarded at the state level and assess their relative success, recognizing adjustments or modifications made to the initial criteria outlined in the award contracts.

- Examine the agencies administering economic development incentive programs and make recommendations where consolidating or moving functions improves efficiency.

- Identify any problems in coordination between state and local economic development entities. Make recommendations to improve coordination where beneficial.

- Review best practices of economic development incentive programs and make recommendations on changes to existing programs where appropriate.

AN OVERVIEW OF ECONOMIC INCENTIVES

By almost every metric, the state of Texas is recovering at an unprecedented rate from the most damaging economic downturn since the Great Depression, and the state sets the bar for the rest of the nation in terms of employment and economic growth. Entrepreneurs and business owners identify Texas as an ideal location to either start-up, grow, or relocate; and middle class Americans recognize the state as one of the best places to find a job and settle down. In order to continue this unparalleled progression, the state must stay competitive not only nationally, but internationally in this globalized, 21st century economy.

As the name suggests, economic incentives aim to strategically promote economic growth. Whether incentivizing a company's relocation, or stimulating a specific industry, the purpose of economic incentives is as diverse and complex as the economy itself. This complexity continues in the proper use and implementation of incentive programs – guaranteeing the public that funds are distributed to the benefit of the state. With this in mind, Texas taps the full spectrum of incentive plans as a strategy insuring that the state remains number one in the nation for business growth and innovation. In this section of the interim report, a general overview of incentive plans will be presented.

How do incentives work?

Simply stated, incentives promote an outcome that was otherwise unlikely to occur. State and local governments make offers to businesses in exchange for desired results. This might be a tax reduction in exchange for a certain number of jobs created or a sum of money in exchange for a company relocating to Texas. Either way, it is believed that neither the jobs nor the relocation would have existed without the incentive.

In many instances, incentives are one element in a dynamic interstate competition. This complex competition fosters an atmosphere where municipalities, regions, and states explore all options in order to take full advantage of an economic development opportunity.

What makes an incentive successful?

During the committee's October 15th hearing, Texas Taxpayer and Research Association President Dale Craymer offered the following matrix to help measure the benefit and success of an economic incentive program:[1]

Factors for Evaluation	**Benefits**		**Costs**	
	Direct Project	**Ancillary Activity**	**Direct Project**	**Ancillary Activity**
1. Economic Factors				
Investment				
Output				
Jobs				
Wages/Income				

2. Fiscal Factors				
Tax and Other Revenues Paid				
Public Service Costs				
Grants and Financing				
3. Intangible Factors				
Prestige				
Publicity				
Lifestyle Considerations				
Diversification/Infrastructure/Other Issues				

The success of an incentive is truly defined by whether the desired results occur. In some cases, an economic development incentive is seen as investment. The state offers a sum of money or agrees to lower taxes for a business, and, as a result, the outcomes of this development provide enough increase in fiscal factors, such as tax revenue, to the state to cover and exceed the initial cost. As stated by TTARA, however, "there is almost never a direct connection between the additional revenue that government receives from a business that gets an incentive and the incentive itself."[2] Though the chart above seems simple, assessing the benefit is complicated because of the ripple effects caused by increased economic activity and the expectations driving the incentive. For example, when a large manufacturer opens in an area, this affects ancillary activity in construction markets, retail, service industries, and housing. The increased economic activity in these areas can certainly be counted as a benefit resulting from the incentive, but the intricacies and uncertainty around direct and ancillary benefit make these secondary developments difficult to quantify.[3]

In some instances, an incentive aims to accomplish more than just a return on investment. Some programs are designed by the state to "improve the lives of its citizens and increase their income and earning capacities."[4] An incentive's purpose might be to benefit a locality more than the state. For example, when the Major Events Trust Fund was tapped for the 2013 Formula One Grand Prix in Austin, staff collected over $12 million in gratuities. As Bobby Epstein, chairman and co-founder of Circuit of the Americas, puts it, this money "went into the pockets of hard-working people on the front lines."[5] With this in mind, most of Texas's incentives have a clear purpose, and if the program is implemented properly and this purpose is met, the incentive should be considered successful. The success of an incentive, however, does not make an incentive necessary, and areas to improve the efficiency and transparency of each program should be periodically evaluated.

How do companies assess incentives?

Texas uniquely provides resources practically unmatched by any other region in the world. Abundant in natural resources, transportation options, business friendly regulations and taxes, and skilled labor, the state can almost stand alone as an ideal location for any business. However, when all else is equal, incentives rise to the surface as factors that play a role in tipping the scale in favor of one site over another.

After incentives are offered, the process remains competitive between the regions and states hoping to earn the new business. According to Jonathan Taylor, the Executive Director of Economic Development and Tourism in the Office of the Governor, the turnaround time for requesting and offering an incentive plays a major role in locating a business. During testimony at the August 12, 2014 hearing in Plano, Taylor cited a recent situation where a company chose Louisiana over Baytown, Texas: "[Our] competition is states who have good, basic economies, like ours, who can amass at least five million dollars and can turn it around in two weeks in an offer."[6] Taylor explained that Texas loses more deals than it wins and speed and amount of funds play a prominent role.

During the July 23, 2014 hearing, Kelley Rendziperis of Site Selection Group, LLC stressed the importance of managing projects properly. The more streamlined and simplified the process is for a company, the more likely a company will agree to relocate into the state. For example, states in the southeast have a project leader to guide companies through the entire gauntlet of programs from local and state governments.[7]

Overall, incentives complete an offer to the business receiving it. Coupled with labor, regulation, and infrastructure, the business ultimately decides on which competing offer is best for them. In the case of Toyota, Texas offered a smaller incentive ($40 million) in addition to the existing economic advantages the state possesses and outbid North Carolina's $100 million offer. In the case of the Baytown loss, Louisiana was able to provide a more expedient response and incentive payout and Texas lost a business because of this – despite advantages in infrastructure and education.

Are economic incentives necessary?

As previously mentioned, incentives are not the first thing considered by companies looking to launch or relocate. Among others, labor availability and cost, existing tax burden, regulations, transportation, and education weigh heavily on decision makers scouting locations.[8] Citizens and lawmakers fairly question whether a business would choose Texas with or without the incentive – are the unique resources within the state incentive enough to promote economic development without the existing programs? Even the comptroller's office revealed in a 2010 report that "the Texas economy will continue to grow with or without incentives."[9] However, evidence tends to indicate that despite these advantages, a competitive environment still exists when companies make decisions affecting the economy. In a statement submitted to the committee, Dr. M. Ray Perryman, President of The Perryman Group, wrote that "while there may be valid reasons to improve transparency or make other meaningful reforms in the state's economic development incentive programs, it is crucial that we not underestimate their importance."[10]

According to Kelley Rendziperis, the availability and cost of labor is the number one factor in determining where a business will locate.[11] She listed other factors such as the tax burden, transportation costs, and infrastructure as crucial drivers for site selection. However, Rendziperis stated, "When all else is equal, incentives truly do play a role in competing."

Jonathan Taylor indicated that the state's incentives are not the leading factor in bringing jobs to Texas, but stressed the importance of incentives as a "deal closing fund."[12] When talking about the Texas Enterprise Fund, Taylor continued, “This is one of those ingredients that gets companies to move here.”

In a letter to the chair of this committee, Toyota’s Group Vice President of Government Relations echoed Taylor and wrote of the company’s 2014 decision to locate the North American headquarters in Plano, Texas: “The incentives offered to Toyota . . . were a very important part of the total package we considered when evaluating and ultimately selecting North Dallas/Plano as our new headquarters location.”[13] The Group Vice President also acknowledged that incentives are not the only determining element and spoke for all companies adding, “I don’t believe any company would make a move of this magnitude based on any single criterion.”

Finally, Dr. Bernard Weinstein of Southern Methodist University expressed concern with the economic necessity of incentives and noted that Texas would still lead the country economically if all incentives were banned (several other scholars agreed in their testimony).[14] He recognized, however, that in today’s climate, some incentives “are really critical to keep [Texas] competitive” against other states that offer large tax abatements and incentive packages, but the state must be certain these programs are efficient and provide a substantial benefit to Texas and taxpayers. Echoing the need to remain competitive, Dr. Perryman wrote that “areas without competitive programs are often shut out of the process entirely.”[15]

Efficiency and effectiveness of Texas’s programs are prominent charges issued to the committee, and the members committed early to ensuring the most appropriate use of taxpayer money. With this in mind, the answer to whether tax incentives are necessary is incredibly important. Overwhelmingly, testimony and other sources indicate that Texas sells itself; without incentive plans, the state leads the country in multiple elements necessary to compete for any business. That said, incentives are increasingly prevalent and aggressive from many states. In the fight for Toyota’s North American headquarters, North Carolina offered over $100 million to the company in return for locating within its borders – though already high on Toyota’s short list, Texas needed to answer with a $40 million package to win the bid.[16] In terms of resources, Texas is unrivaled, but North Carolina proved that other states are going to great lengths to overcome their own shortcomings. As a result, incentives are the icing on the cake Texas needs to retain its competitive advantage over the rest of the country.[17]

How are incentives best implemented and evaluated?

According to Josh Goodman of Pew Charitable Trusts, routine reviews of economic incentive programs ensure that states continue to receive maximum effectiveness and return on investment.[18] Within any evaluation process, maintaining standard criteria and performance metrics are key to proper and informed decision making. For the purpose of evaluating economic incentive programs in Texas, the committee considered the following ten items to determine if a program should be continued in its current form:

1. A clear purpose of expected outcomes
2. Metrics for achieving the outcomes
3. A timeframe for achieving the purpose
4. Funding limits (annually or biennially)

5. A competitive and open award selection process.
6. Clawbacks for underperformance
7. Transparency – routine, publicly available reporting
8. Regular independent audits
9. A sunset date
10. Sunset review of purpose and effectiveness

The first four metrics provide structure and definition to an incentive program. According to Robert Wood of the Texas Comptroller's Office, incentives must have a clearly defined purpose.[19] Wood continues to stress the importance of establishing measurable outcomes, a timeframe for reaching these metrics, and funding limits. Defining and maintaining a clear purpose prevents the program from evolving into something at odds with the original intentions. As with most successful goal setting strategies, establishing measurable outcomes and a time frame within which to meet these goals helps determine expectations. These defined goals create a standard to determine if programs have not met expectations or are developing too slowly. With funding limits, as programs grow and offers are distributed, it is possible for the state to experience a loss in revenue if "the cost of new projects going into the program outpaces the positive return of projects exiting the program."[20] Limits prevent unnecessary or unexpected growth within an incentive.

Evaluation metrics 5, 6, 7, and 8 provide further insight into the incentive program, the group awarding the incentive, and the party receiving the incentive. The fifth metric informs the public and competing businesses of how taxpayer money is spent on and on whom. The committee recognizes the importance of protecting most proprietary information, but the incentive programs distribute tax dollars, and any information that can be released, without compromising the sanctity of the deal making process, should be released. Metric number six addresses that if an incentive is awarded in part or full before the recipient has fulfilled all agreed upon requirements, clawback provisions allow the state to repossess portions of the award if these requirements are never met. For example, if a company agrees to create 400 jobs and only creates 150, then the state must have the ability to retrieve part of the incentive amount based on this underperformance. Despite a competitive and open award process and clawbacks to keep recipients accountable, transparent reporting from the state is necessary to hold the incentive program accountable. Again, the state government is distributing taxpayer dollars and it is of the utmost importance that the people not lose confidence in the government's ability to do so. A transparent system of reporting keeps citizens informed of how the state handles their money. Again in the name of transparency, metric eight investigates whether routine, independent audits occur for the incentive programs. A third party provides further review and oversight to the programs to continue a commitment to responsible spending on behalf of the state.

Finally, the last two evaluation metrics give the legislature the opportunity to determine whether the incentive program should continue. According to Robert Wood, some incentives have a specific purpose, such as launching an industry cluster; if a sunset date is reached and the program is successful in achieving the purpose (launching the intended cluster), then continuing the program might not maintain the effectiveness and benefit originally desired.[21] A sunset date and review forces the legislature to evaluate the relevance and necessity of the incentive programs up for renewal.

The following visual guided the committee through the evaluation process. While this matrix is over-simplified and many of the metrics involve more than a “yes or no” answer, the basic structure illustrates a checklist considered when reviewing each incentive program.

	Incentive #1	Incentive #2
A clear purpose of expected outcomes		
Metrics for achieving the outcomes		
A timeframe for achieving the purpose		
Funding limits (annually or biennially)		
A competitive and open award selection process		
Clawbacks		
Transparency – routine, publicly available reporting		
Regular, independent audits		
A Sunset date		
Sunset review of purpose and effectiveness		

COMMITTEE FINDINGS AND OVERALL RECOMMENDATIONS

Texas is not a leader in job creation by pure luck. Along with many pro-business policies, Texas offers varied incentive programs to help bring jobs and economic growth to our state. However, the state will not stay on top without effort. Given the amount of time and resources available, this committee examined the "major" incentive programs in our state. However numerous other incentives exist that the committee did not hear testimony on due to time constraints and a lack of resources. Even the best incentives need review to make sure they are meeting the demands of an ever changing world, operating in a transparent manner, and to see if they have outlived their purpose. Because of this, the committee recommends that all existing incentive programs that have a formal application process, have a sunset date and a required independent audit of the program to be completed two years prior to the sunset date of the incentive. The sunset process adopted should be careful to take into account existing commitments. Additionally, when considering whether to sunset or continue an incentive, performance based measures should be considered. Further, the committee recommends all new incentive programs created to have a sunset date. The committee recommends tighter guidelines be placed on incentives being used for true economic development purposes and not simple relocations within a region.

A common thread heard throughout hearings was that the application process for the varied incentive programs was too cumbersome and difficult to tackle. The committee recommends the creation of one standardized application for the major incentive programs in the state. Additionally, the committee recommends the creation of a website with information about all incentive programs spread throughout all agencies offered in Texas available on one easily accessible site.

The committee recommends examining the permitting process at the Texas Commission on Environmental Quality to see if the process is working as efficiently and effectively as possible.

A skilled workforce is a major factor in a company's decision to locate in a region. A skilled workforce is an economic development tool that the committee believes needs greater focus and attention. The committee recommends realigning programs to foster more partnerships between the state, institutes of education, and private industry to meet the needs of potential employers. Adequate attention must be given to public education to ensure we are providing the tools necessary for our children to join the workforce when the time comes.

The committee finds there is an overall gap in incentives for small to medium size businesses and to rural communities. The programs currently in place for these areas do not have the desired impact. The committee recommends working to fill this void with the restructuring of existing programs. The committee also recommends further study into policies that hinder economic development in certain areas. For example, the defense and aerospace industry.

When considering a restructuring of current economic development incentive programs, the committee recommends the programs are set up in a way that allows them to remain fluid, easily adapting to an ever-changing market place. For example, it is clear that there are certain areas that we should focus our attention on, however, by strictly mandating a certain percentage of funds go toward a specific industry; we are tying our hands and limiting the state's ability to quickly react to the market.

In considering the restructuring of the Emerging Technology Fund and the Enterprise Fund and potential merger of other economic development incentive programs, in discussing the structure of an oversight committee that could provide guidance on fund disbursement, the committee heard testimony from the Cancer Prevention and Research Institute of Texas (CPRIT) and how they successfully restructured their program to address public concerns. The committee feels there should be a strong oversight committee to provide direction of funding to reflect the needs of the state’s economic landscape with the flexibility to allocate funds for small business development, business retention, or to rural areas. The committee should be designed to ensure openness and fairness in the process.

TEXAS ENTERPRISE FUND

- $428,730,696 disbursed*
- 77,057 direct jobs created*
- $24,305,576,968 in committed capital investment from companies*
- $45,808,120 returned to state through clawbacks and repayments*
- If all current contracts honored and no new contracts executed, TEF breaks even in 2023**

  * Numbers as of August 31, 2014[22]

  ** From testimony of Jonathan Taylor[23]

A clear purpose of expected outcomes

The purpose of the Texas Enterprise Fund (TEF) is to "attract new businesses to Texas or secure the expansion of existing businesses."[24] The fund is a "deal closer" and serves as the "icing on the cake" when companies are choosing between sites across the country. A plethora of evidence indicates that Texas has the human and natural resources necessary to warrant consideration from almost any company looking to expand or relocate, and the TEF solidifies those prospects by granting a sum of money – swaying companies to locate in Texas instead of competing states, create thousands of jobs, and bring billions of dollars in capital investments.

Metrics for achieving the outcomes

The Office of the Governor evaluates several quantities when judging success. The office examines direct jobs created by the recipient, average wage for the jobs created, and committed capital investment.

A timeframe for achieving the purpose

Each fund recipient enters into a contract with the Office of the Governor and timelines are established within those agreements. If the agreed upon metrics are not met within the contracted timeframe, then the Office of the Governor will use agreed upon clawback provisions to reclaim funds as necessary.[25]

Funding limits

The TEF is limited to donations given to the fund and the amount of money appropriated to it by the Texas Legislature.[26] In general, grant amounts are equal to 1.5% of the company's expected gross salaries without benefits; however, some amounts are reduced as necessary to save money while remaining competitive enough to close the deal. Evidence shows that the tax revenue generated by the incentivized economic activity is anticipated to offset the cost of the grant after ten years using this calculation.[27]

A competitive and open award selection process

The TEF application and approval process begins earlier than just the application. Often, companies approach the Office of the Governor with a prospective location in mind and they are interested in exploring the offers available to them as part of their final site selection process. In other instances, the Office reaches out to companies across the country in attempts to lure them to Texas. An application is then submitted to the Governor's Office and the review process begins. The office examines the application and works to determine that the company will bring a benefit to the state, while also being stable enough to pay clawbacks if necessary.[28] If companies qualify, an offer is presented. Upon agreement with the company, a ninety day clock begins and the recommendations for the grant are submitted to the Speaker of the House and the Lieutenant Governor for approval. Within the ninety days, the Speaker and Lieutenant Governor can enter into negotiations with the companies, and once the Governor, Lieutenant Governor, and Speaker agree to an offer, the grant is approved and the Office of the Governor and the company enter into contracts. [29]

The TEF has faced its harshest criticisms in regards to transparency and objectivity during the award selection process. The recent audit stated that the Office of the Governor "did not consistently maintain key documentation of its Texas Enterprise Fund awarding processes," the Office's "awarding process does not incorporate the use of an objective scoring tool to evaluate applications," and the Office "did not consistently include certain provisions in Texas Enterprise Fund award agreements, and it could not provide documentation that it complied with statute regarding amendment notification."[30] During testimony to the select committee, Jonathan Taylor repeated several responses found in the Office of the Governor's formal audit response and noted that a standardized awarding process could compromise the flexibility of the fund. He stated, "we want to be able to change those rules to fit the market . . . I want this to be a competitive incentive program, not a government subsidy program."[31]

Clawbacks

The TEF has the ability to clawback funds from award recipients who do not meet job creation requirements, and those means have been employed to recover over $14.5 million from companies failing to comply with contractual agreements.[32] The state auditor's report found insufficient oversight of award recipients, however, and the Office of the Governor potentially missed opportunities to reclaim more money from grantees who were out of compliance but unidentified. Additionally, the audit found that some agreements were amended by the office, "[resulting] in reduced clawback penalties or the elimination of clawback penalties."[33]

Transparency – routine, publicly available reporting

The TEF routinely updates a list of all recipients and the amount of grant money disbursed to date on the governor's website. Numbers are verified with the Texas Comptroller's office and the Texas Workforce Commission. Additionally, the Office of the Governor must submit a report prior to each legislative session stating the following numbers from each grantee: the direct jobs committed to and created in Texas, the median wage for jobs created within the state, capital investment committed to and expended in Texas, the total amount granted in sum and per job created, and the number of positions created in Texas that provide health benefits. This report is also available on the governor's website.

Regular, independent audits

There are no routinely scheduled audits of the TEF. The September 2014 audit occurred after legislation was passed by the 83rd Legislature.

Sunset date

No sunset date exists for the incentive; however, the TEF is housed under the Texas Economic Development and Tourism Office, which is scheduled to sunset on September 1, 2021.

Sunset review

No date for a sunset review exists.

Recommendations

The Texas Enterprise Fund has been utilized to bring jobs to our state. The program has been criticized as a result of perceived politics involved in the process and a lack of statutory requirements in place for the application process. Additionally, the fund is not used for small business development or retention. The committee recommends a restructuring of the program and a possible consolidation with other incentives. It is important to maintain a program that can be used as a "deal-closing fund" and to provide flexibility. The restructured program should be transparent to ensure a competitive and open award selection process. It is also recommended that an independent oversight committee provide direction of funding to reflect the needs of the state's economic landscape with the flexibility to allocate funds for small business development, business retention, or to rural areas. Further, any changes should include a sunset date, a regular review process and audit to be completed two years prior to the sunset date.

TEXAS EMERGING TECHNOLOGIES FUND

- 190 projects*
- $424,700,693 awarded*
- $2,192,817,629 in follow-on funding*
- Over 60 talented researchers recruited to Texas*
- Over 100 innovations on the market*

* Numbers as of August 31, 2013

A clear purpose of expected outcomes

The Texas Government Code lists three goals for the Texas Emerging Technologies Fund (TETF).[34] First, the fund aims to "[expedite] innovation and commercialization of research." Terry Chase Hazell, the director of TETF, refers to this as "funding ideas." It is the state's goal to be the best place in the country to pursue an idea.[35] The second goal establishes the fund's purpose in cluster development and identifying areas where to "promote a substantial increase in high-quality jobs." The final objective revolves around investing in universities – investing in research and bringing innovation from the university to the marketplace.[36] The fund consists of three subchapters: D, E, and F. Each subchapter has a slightly different goal aimed at satisfying the overall purpose of TETF, and many consider only subchapter D to be an actual incentive. Subchapter D is an incentive for commercialization – moving an innovation from concept to the marketplace. Subchapter E focuses on research award matching from research investors outside the state, and Subchapter F is a fund designed to attract the brightest researchers to Texas.[37]

Metrics for achieving the outcomes

The Office of the Governor measures success through follow-on funding, number of talented researchers recruited to Texas, new products placed on the market, and jobs created through projects receiving grants from the fund.

A timeframe for achieving the purpose

Each fund recipient enters into a contract with Texas and timelines are established within those agreements. If the agreed upon metrics are not met within the contracted timeframe, then the company will be required to repay some or all of the awarded grant, plus interest.[38]

Funding limits

The TETF is limited to donations given to the fund and the amount of money appropriated to it by the Texas Legislature.

A competitive and open award selection process

Contracts for funding are received by a Regional Center of Innovation and Commercialization (RCIC). The RCICs evaluate the proposals to ensure that the applicants meet the intended purpose of the fund and then approve applicants to be reviewed by the TETF Advisory

Committee (17 members; 13 appointed by the Governor, 2 appointed by Lieutenant Governor, 2 appointed by House Speaker). This advisory committee makes recommendations to the Governor, Lieutenant Governor, and Speaker of the House and unanimous approval by these three individuals results in a grant being awarded to the applicant.[39] The 2011 audit of the TETF revealed several issues relating to transparency; these included inconsistencies with RCIC meeting records, TETF Advisory Committee confidentiality policies, and a consistent application review process between RCICs and the TETF Advisory Committee.[40] The 82nd Legislative session addressed many of these deficiencies through HB 2457. Minutes and votes are now recorded at RCIC meetings and more information is available through open records pertaining to entities being considered or awarded a TETF grant.[41] When testifying to the select committee, Hazell stated that the auditor would be happy with the changes made to the TETF.[42]

Clawbacks

Contracts with award recipients include measures for addressing breaches of contract. If the agreed on terms are not met, the Office of the Governor enters into negotiations to clawback allocated funds. These clawbacks include the money disbursed plus interest.[43]

Transparency – routine, publicly available reporting

The Office of the Governor employs five full time staff members dedicated to compliance review. The office also releases an annual report with specific information required by statute. The report details award numbers, follow-on funding, recipient information, jobs, intended and actual outcomes for Subchapter D, valuation of investments, award locations and technology sectors, summary of Subchapter E and F awards, and accounting of outstanding debt. The report is required by law to be posted on the Governor's website and is delivered annually to the House and Senate committees with primary jurisdiction over economic development.[44]

Regular, independent audits

Though yearly reports are required from the Office of the Governor, no regular audits are scheduled through statute. In 2011, an audit was released by the Texas State Auditor's Office and prompted a legislative review and several reforms in the next legislative session. Similar audits are neither required nor scheduled in the future.

Sunset date

No sunset date exists for the incentive; however, the TETF is housed under the Texas Economic Development and Tourism Office, which is scheduled to sunset on September 1, 2021.

Sunset review

No date for a sunset review exists.

Recommendations

The Texas Emerging Technology Fund has been utilized to spark innovation and partnerships with our Texas Universities. The committee recommends a restructuring of the program and possible consolidation with other incentives. It is important to maintain a program that places a focus on innovation and technology, however the current level of perceived politics involved in the selection process is worrisome to the committee. Additionally, awards do not appear to be evenly dispersed throughout all regions of the state. It is also recommended that an independent oversight committee provide direction of funding to reflect the needs of the state's economic landscape. The restructured program should include clear guidelines to ensure transparency, as well as a sunset date, sunset review process, and a regularly scheduled independent audit of the program that falls two years prior to the sunset date.

TEXAS ECONOMIC DEVELOPMENT ACT (CHAPTER 313)

- 128 awards*
- $2,387,654,914 in gross tax benefit to companies*
- $62,440,000,000 in capital investment committed*
- 6,676 qualifying jobs created*

  * Numbers as of December 31, 2011[45]

A clear purpose of expected outcomes

The Texas Economic Development Act, also known as Chapter 313, is a tax incentive designed to help localities, specifically school districts, attract businesses to their area. In exchange for physically locating within the school district's taxable zone and creating a minimum number of qualifying jobs (10 jobs in rural districts, 25 jobs in non-rural districts), a business receives a "ten-year limitation on appraised property value for the maintenance and operations (M&O) portion of the school district property tax."[46] The statute lists several purposes including encouragement of "large scale capital investments in this state, . . . [creating] new, high-paying jobs in this state," and "[strengthening] and [improving] the overall performance of the economy of this state."[47] Qualifying jobs must be a new job (not transferred from another area in the state), provide health care benefits, 1600 hours of work, and pay 110% of the average weekly manufacturing wage for the county.[48] The school district may waive the minimum job creation requirement, and this waiver has been issued for more than 60% of Chapter 313 projects.[49]

Metrics for achieving the outcomes

The main metrics for success are the number of qualifying jobs created, the amount of capital investment committed by companies, and the amount of M&O tax revenue benefiting the school district.[50]

A timeframe for achieving the purpose

The appraisal limitation lasts ten years. Each contract establishes a timeline where certain metrics are expected. Within 25 years of the agreement's start, all revenues lost by the school district during the ten-year limitation should be recovered through the incentivized economic activity during the subsequent fifteen years.

Funding limits

The funding for a Chapter 313 agreement is determined by the value of appraised property and the limitation agreed upon in the contract between the school district and company. There is no appropriation from the legislature nor fund with a limited balance.

A competitive and open award selection process

To qualify for the incentive program under Chapter 313, a company files an application with a school district, and the district determines whether the company will be considered for the award.

The company must fall within specific industries such as renewable or clean energy, manufacturing, or any applicant committing to investing over $1 billion. The company must agree to create a minimum number of jobs at a certain salary or higher, but, as mentioned earlier, the district waives this mandate about three out of five times. Within 7 days, the application will be forwarded to the comptroller's office, where, within 91 days, documents will be reviewed again, and, if the comptroller agrees that the applicant qualifies, then the comptroller will conduct an economic impact evaluation for the purposes of recommending an affirmative or denial decision to the school district. All documents from the application process are posted on the comptroller's website (including the main agreement), and the school district provides a link to this information from the district webpage.

The award process faces scrutiny over the verification of created jobs and conflicts of interest. According to an audit conducted by the Texas Auditor's Office, school districts rarely, if ever, verified the information submitted by businesses. This unconfirmed information includes the number of qualified jobs created – a major metric for measuring the success of a Chapter 313 agreement. The audit also revealed weaknesses in the disclosing of personal or financial conflicts of interest between school board members, their staffs, their families, and the businesses awarded Chapter 313 agreements. The audit states that improving the procedure for disclosing potential conflicts of interest and making those open and public "could help to strengthen agreements' transparency and accountability."[51]

Clawbacks

Clawback provisions were added to Chapter 313 in 2009. When companies fail to meet the requirements established in the contractual agreements, the school district and state can recapture "a penalty equal to any tax benefit to the state."[52]

Transparency – routine, publicly available reporting

The Texas Comptroller releases a report every two years revealing the performance metrics and details for all current agreements. The school district collects annual reports from the incentivized companies and monitors these reports for breeches to the limitation agreements.[53] The comptroller and school district link all documentation from the appraisal and oversight process on their websites.[54]

Regular, independent audits

As of 2013 with the passage of HB 3390 by the 83rd Legislature, annual audits are required from the State Auditor's Office. Three agreements are selected by the auditor and the review ensures that the agreement accomplishes the purposes and intent of Chapter 313. The auditor will also "make recommendations relating to increasing the efficiency and effectiveness of the administration of this chapter."[55] The State Auditor's Office released the first audit after the passage of HB 3390 on November 21, 2014.

Sunset date

The program was scheduled to sunset on December 31, 2014 and was extended by the 83rd Legislature until December 31, 2022.

Sunset review

The established sunset ensures periodic sunset reviews.

Recommendations

The committee agrees with the findings and recommendations found in the Audit report released by the State Auditor's office on November 21, 2014. The committee would like to emphasize the need to make the process more transparent. For example, members of the school board and their staff should be required to reveal any conflicts of interest, as they are the ones ultimately deciding to approve projects. Additionally, there is no required verification process in place for the school districts to confirm that the company is living up to their end of the bargain in job creation. The committee recommends a required verification of the jobs created.

Additionally, the committee recommends a further study into the use of Chapter 313 agreements for wind energy and consideration of a more appropriate incentive for the industry.

TEXAS MOVING IMAGE INDUSTRY INCENTIVE PROGRAM

- 839 applicants*
- $146,714,524 awarded from the state*
- 126,132 production jobs, 15,483 full-time equivalent jobs*
- $1,036,387,343 spent by awardees in Texas*

* Numbers as of October 31, 2014[56]

A clear purpose of expected outcomes

The Texas Moving Image Industry Incentive Program "is intended to promote employment opportunities in the moving image industry and to boost economic activity in Texas cities and the overall state economy."[57] The program also promotes Texas tourism and other economic activity. The Moving Image Industry Incentive Program stimulates activity in the moving image industry by requiring $100,000 minimum spent in Texas on smaller scale projects such as commercials or video games; or $250,000 minimum spent in Texas on films or television shows. The statute requires 70% of the crew and cast (including extras) to be residents of Texas and 60% of the project must occur in the state.[58] When Heather Page of the Texas Film Commission testified in front of the committee, she noted that in addition to the benefit of increased Texas investment and employment, "the images that are exported from Texas also serve to promote the state as a creative, innovative, business friendly, culturally thriving, diverse destination which drives tourism to our shores."[59]

Metrics for achieving the outcomes

The Texas Moving Image Industry Incentive Program measures success through numerous factors. Industry spending in the state and jobs created are quantifiable measures used to determine the achievement of the programs. The statute requires 70% of the crew and cast (including extras) to be residents of Texas and 60% of the project must occur in the state.[60] Additionally, the Moving Image Incentive is a prime example of a program with intangible benefits. Many of the projects, such as the television show, Dallas, or the Lincoln commercial featuring Texan, Matthew McConaughey, and the Austin skyline, present a positive view of Texas and promote the state to potential move-ins, tourists, and investors.

A timeframe for achieving the purpose

There is no specific timeframe listed in statute, but benefits from the incentive mostly span the length of the incentivized project. Within 60 days of completing the in-state spending agreed upon in contract, an "expanded budget and all verifying documentation" must be sent to the Texas Film Commission.[61] When it is clear that the goals of the project have been met, the purpose is achieved and funds are disbursed. After the main purpose is accomplished, the state, community, and/or industry might continue to benefit through ancillary and intangible benefits.

Funding limits

Grant amounts are limited to 5-25% of the eligible in-state spending or total wages paid to Texas residents depending on the type of project and amount of spending anticipated. The program has no dedicated source and is supported by appropriations from the legislature and gifts, grants, and donations.[62] According to the comptroller's office, the fund was appropriated $32 million in 2011 and $95 million in 2013.[63] The current balance is around $32 million, but that number changes constantly as grants are distributed.[64]

A competitive and open award selection process

Any qualifying project is eligible to receive funds through the Texas Moving Image Industry Program. There has been no indication that a competitive and open selection process does not exist; however, the incentive has faced controversy when projects are rejected based on obscenity or portraying Texas negatively. Two examples include *Waco* (a movie about the 1993 Branch Davidian Siege) and *Machete* (a "controversial immigration-related feature film"[65]). *Waco*'s application was denied due to a historically inaccurate script, but *Machete*'s script was approved by the film commission and denial did not occur until after public outcry claiming that the movie was "nothing less than an attack on conservative Americans who oppose illegal immigration."[66]

Clawbacks

While a clawback provision does exist to recapture disbursed funds after a breach in contract, those measures are often avoided because this is a rebate program. The grant is not distributed until a thorough audit is conducted and the Texas Film Commission verifies that all conditions are met. If the studio or production company does not meet the original agreement, the grant is adjusted or rescinded accordingly – avoiding use of clawbacks later.[67]

Transparency – routine, publicly available reporting

The Texas Film Commission publishes monthly updates on spending, job creation, production locations, etc. available from the commission upon request.[68] There are no mandates requiring reporting to the public.

Regular, independent audits

When grant amounts exceed $300,000, an independent, certified public accountant must perform an audit to determine the extent to which the incentive agreement was met. For grants less than this amount, no independent audit is necessary, but detailed documentation is still required from the recipient of the incentive.[69]

The Moving Image Industry Incentive has not been audited as a program and no required audits of the incentive are included in statute.

Sunset date

The Moving Image Industry Incentive Program does not have a sunset date.

Sunset review

No date for a sunset review exists.

Recommendations

The committee recommends the implementation of clear guidelines defining projects that qualify for the program. Additionally, the committee recommends the program have a sunset date with a required audit two years prior to the sunset date. Further, the committee recommends including the program when considering a consolidation of existing economic development incentive programs.

EVENTS TRUST FUND

A clear purpose of expected outcomes

The Events Trust Fund is designed to incentivize economic activity by helping cities and counties host events drawing large crowds. Texas statute authorizes the state to assist cities and counties with expenses related to events hosted in the area.[70] The incentive is designed to boost local economic activity in restaurants, hotels, and retailers, and success is measured through increased local business earnings, rather than state tax revenue. The Events Trust Fund – more appropriately referred to as a reimbursement – determines the grant disbursal based on the anticipated state tax revenue generated by the event.

Metrics for achieving the outcomes

The comptroller conducts an analysis to determine the expected increase in revenue based on the event's attendance. Following an event, the municipality must submit documentation showing the number of attendees from out of state and the total actual attendance. If attendance matches or exceeds the projected attendance, then the boost in economic activity in the area is considered a success.

A timeframe for achieving the purpose

Economic impact from events is measured during a 30-day window around the event.

Funding limits

Funding is based off estimated increases in tax revenue from the event receiving the incentive, and funding limits do not exist. These additional tax revenues are seen in sales tax, hotel taxes, rental car taxes, and alcohol taxes.

A competitive and open award selection process

Events are eligible for the Events Trust Fund if tax revenue gains are estimated below $1 million, and if the event was located in Texas after "a competitive process that included consideration of at least one location outside Texas."[71] Any event that meets statutory eligibility is approved automatically. The Texas Comptroller then estimates the additional tax revenue generated during a 30-day window around the event and transfers money from state tax revenue into the "trust fund" before being disbursed to the locality following the event.[72]

Clawbacks

No clawbacks exist because this fund works as a reimbursement grant. The comptroller's office estimates the gains in revenue expected from the 30 days surrounding the event, but does not distribute the money until a review is conducted to see if attendance matches the estimates. Disbursements are equal to the lesser of either 6.25 times the local contribution to the event or the maximum tax impact the stat receives from the event. If the actual totals do not match the predictions, the funding for the city or county is adjusted. These adjustments include a decrease of funding when applicable.[73] In addition to these adjustments, cities are limited to only ten events per year that generate less than $200,000. Of these ten events, only three can be non-sporting events.[74]

Transparency – routine, publicly available reporting

The Comptroller of Public Accounts regularly posts an online, updated list of Events Trust Fund recipients. The list includes the event, the location, the local and state shares of expenses, the expenses paid to date from the fund, and the status of the payments.[75]

Regular, independent audits

There are no regularly scheduled audits for the Events Trust Fund, but a thorough review is due on January 1, 2015 to evaluate the economic impact of the events and whether there is a true competitive process between Texas and out of state locations.[76]

Sunset date

There is no sunset date established for the fund.

Sunset review

There is no sunset review scheduled for the fund.

<u>Recommendations</u>

The committee recommends the program have a sunset date with a required audit two years prior to the sunset date. Additionally the committee recommends renaming the Event Trust Fund to more accurately depict the program as it is, a reimbursement.

MAJOR EVENTS TRUST FUND

A clear purpose of expected outcomes

Much like the Events Trust Fund, the Major Events Trust Fund (METF) incentivizes local economic activity by providing financial assistance to localities hosting major events. Statute lists several specific events such as the Super Bowl, the NCAA Final Four, a World Cup Soccer match, the Olympics, national political party conventions, etc. that qualify for the fund. If one of the listed events occurs in Texas and is estimated to generate over $1 million in incremental tax revenue over the span of 12 months, then it qualifies for funding.[77] Once again, the Comptroller's office agrees to transfer the anticipated increase in general revenue into the METF and reimburse the locality with the lesser between the maximum tax impact to the state or 6.25 times the local contribution to the event.[78] Similar to the Events Trust Fund, success is measured in the local economic impact as a result of an event.

Metrics for achieving the outcomes

The comptroller's office conducts a thorough study of the economic impact from events benefiting from the Major Events Trust Fund. This study assesses increases in tax revenue from sales, hotel, rental, and alcohol taxes. When projected attendance and tax revenues are met or exceeded, the event is considered successful.

A timeframe for achieving the purpose

Economic impact from events is measured during a 12-month window around the event.

Funding limits

Funding is based off estimated increases in tax revenue from the event receiving the incentive, and funding limits do not exist. These additional tax revenues are seen in sales tax, hotel taxes, rental car taxes, and alcohol taxes.

A competitive and open award selection process

Any event that meets statutory eligibility is approved automatically. Among other requirements, the event must generate over $1 million in additional tax revenue over the course of one year, the event must fall within specific categories (Super Bowl, X Games, Olympics, national political party conventions, etc.), and the site selection process must be competitive with at least one other state.

Clawbacks

Because the fund is a reimbursement, no clawbacks are in place. If attendance is less than anticipated, the comptroller can reduce funding accordingly. According to Robert Wood, clawbacks rarely occur because municipalities have recognized the need to adjust their requests based on unmet expectations. As a result, the city and comptroller are able to avoid statutory clawbacks and agree to a lower reimbursement.

Transparency – routine, publicly available reporting

The comptroller's office lists specific requirements and posts a list of funded events on the *Texas Ahead* website.[79] In addition to the list of funded events, Texas statute requires the Comptroller of Public Accounts to release an economic impact study of each event receiving a METF reimbursement within 10 months of when the event occurred; each of these reports are available on the Texas Ahead website.

Regular, independent audits

There are no regularly scheduled audits for the Major Events Trust Fund, but a thorough review is due on January 1, 2015 to evaluate the economic impact of the events and whether there is a true competitive process between Texas and out of state locations.[80]

Sunset date

There is no sunset date established for the fund.

Sunset review

There is no sunset review scheduled for the fund.

Recommendations

The committee recommends the program have a sunset date with a required audit two years prior to the sunset date. Additionally the committee recommends renaming the Event Trust Fund to more accurately depict the program as it is, a reimbursement.

TEXAS ECONOMIC DEVELOPMENT BANK

A clear purpose of expected outcomes

The Economic Development Bank provides globally competitive, cost-effective financial incentives to expanding businesses operating in this state and businesses relocating to this state. The Bank is also charged with ensuring that communities and businesses in Texas have access to capital for economic development purposes. The Bank administers the following financial incentives: Product Development and Small Business Incubation Fund, Leverage Fund Enterprise Zone Program, Small Business Industrial Development Corporation, Defense Economic Readjustment Zone, Industrial Revenue Bonds, Capital Access and Linked Deposit programs.[81]

Metrics for achieving the outcomes

The Bank's effectiveness is measured on the basis of the number of jobs created and retained and the total amount of nonstate funds leveraged.

A timeframe for achieving the purpose

The timeframe varies according to the individual program guidelines. For instance the Leverage Fund allows the economic development corporation up to 15 years.

Funding limits

The bank's fund consists of any appropriations as well as investment earnings, interest earned as well as fees from the various programs.

A competitive and open award selection process

Application processes vary according to the individual program.

Clawbacks

Vary according to the individual program.

Transparency – routine, publicly available reporting

On or before January 1 of each year, the Economic Development and Tourism office shall submit a status report of the Bank's activities to the legislature.

Regular, independent audits

The financial transactions of the Bank's fund are subject to audit by the state auditor.

Sunset date

No sunset date exists for the Economic Development Bank however, the Bank is housed under the Texas Economic Development and Tourism Office, which is scheduled to sunset on September 1, 2021.

Sunset review

There is no sunset review scheduled for the Bank or the programs within the bank.[82]

Recommendations

The committee recommends each program within the Economic Development Bank to have sunset date with a required independent audit two years prior to the sunset date. The committee recommends the elimination of the following programs to further improve efficiency and effectiveness:

1. Product Development and Small Business Incubator Fund: This fund provides financing to help develop, produce or improve certain types of products created by small businesses. The fund offers low interest loans as opposed to buying equity in the company. The committee recommends eliminating the funding for future projects and eliminating the program once the term of current outstanding loans expires.

2. Capital Access Program: The Cap Access program was designed to provide micro loans to small/mid-sized businesses most lenders will not lend to. However, the program has not made a loan since 2007, and there are many nonprofits and small community banks that have met this need in the private sector. The program currently does not have funds associated with it since it has been inactive since 2007. The committee recommends the elimination of this program.

3. Texas Small Business Industrial Development Corporation: TSBIDC was formed to oversee the use of funds from the Texas Public Facilities Capital Access program, which was created in 1986. The program was funded with tax exempt bonds and the money was used to make loans to communities and certain 501(c)(3)s for infrastructure projects. The program only has $750,000 left of $100 million, and the board is scheduled to meet in January to make a loan or loans with the remaining dollars. The Committee agrees with the Economic Development Bank staff's recommendation to close out the program and eliminate it.

4. Linked Deposit Program: This program was created in 1995 to encourage lending to HUBs and other small businesses that struggle to receive capital. The program has made only 19 loans over its 20 year history, and currently does not have funds associated with it due to it being inactive for the past 9 years. The committee recommends the elimination of this program.

SPACEPORT TRUST FUND

A clear purpose of expected outcomes

Money in the Spaceport Trust Fund may be used only to pay expenditures for the development of infrastructure necessary or useful for establishing a spaceport in the state of Texas.

Metrics for achieving the outcomes

Texas now has two FAA approved proposed spaceports. In addition to the jobs created by the spaceports, Keith Graf of the Office of Aerospace and Aviation cited a “multiplier effect” of jobs. He described space-related companies that have either relocated or expanded to the cities in which these two spaceports are located creating even more jobs. Also noted were the potential educational opportunities for the local schools and universities, particularly in the field of Science, Technology, Engineering and Mathematics (STEM).

A timeframe for achieving the purpose

Corporations are given two years to spend their award.

Funding limits

Funding is limited to gifts, grants or donations given for spaceport infrastructure and any appropriation from the Texas Legislature.

A competitive and open award selection process

Applicants are limited to spaceport development corporations who provide necessary documentation of compliance of eligibility requirements. Proposals are reviewed by the Office of Aerospace and Aviation staff members or a review group selected by the director. The office will make all final funding decisions based on eligibility, reasonableness, availability of funding, and cost-effectiveness.

Clawbacks

Because the fund is a reimbursement, no clawbacks are in place. Once an amount has been awarded to a corporation, they must submit invoices or reimbursement requests to receive the funds. These invoices or requests are reviewed by the Office of Aerospace and Aviation and then by the Governor’s Office of Compliance and Oversight, where they are subject to site visits or requests for additional information.

Transparency – routine, publicly available reporting

Reporting requirements exist in the individual contacts between the office and the development corporation.

Regular, independent audits

There are no regularly scheduled independent audits for the Spaceport Trust Fund.

Sunset date

No sunset date exists for the Trust Fund, however, the Office of Aerospace and Aviation is housed under the Texas Economic Development and Tourism Office, which is scheduled to sunset on September 1, 2021.

Sunset review

No date for a sunset review exists.[83]

<u>Recommendations</u>

The committee recommends the program have sunset date with a required audit two years prior to the sunset date.

FREEPORT EXEMPTIONS

A clear purpose of expected outcomes

Tony Bennett of the Texas Association of Manufacturers testified that Texas is the number one exporting state in the nation and that business inventory property tax is a key impediment to growth of manufacturing.[84]

So, to promote economic development in our state, goods, wares, merchandise, ores (other than oil, gas and petroleum), aircraft and aircraft parts as well as other tangible personal property are exempt from ad valorem tax if temporarily held in Texas for the purposes of storing, manufacturing assembling, or fabricating for less than 175 days or 730 for aircraft parts before moving to another state.

Metrics for achieving the outcomes

Intended to promote economic development and exports but no state-reviewed metrics.

A timeframe for achieving the purpose

The exemption is good for one year and must be applied for every year.

Funding limits

No funding limits are in place however the exemption is limited to one year.

A competitive and open award selection process

Applications are submitted to the appraisal district in the county in which the property is located. The chief appraiser may require additional information.

Clawbacks

This is a tax exemption program so no clawbacks exist.

Transparency – routine, publicly available reporting

Annual property tax reports are made available by the Comptroller.

Regular, independent audits

As a local program, the county appraisal districts may conduct audits or reviews but no state requirements exist.

Sunset date

No sunset date.

Sunset review

No sunset review.[85]

Recommendations

The committee recommends the continuation of the program.

SKILLS DEVELOPMENT FUND

- 3,790 employers*
- 86,890 jobs created*
- 266,374 total workers trained *
  Since 1996[86]

A clear purpose of expected outcomes

Customized training is critical to maintain the strength of Texas businesses as they as they strive to remain competitive in a global economy. The Skills Development Fund is a job-training program providing local customized training opportunities for Texas businesses and workers to increase skill levels and wages of the Texas workforce. The Texas Workforce Commission administers funding for the program with collaboration among businesses, public community and technical colleges, Workforce Development Boards and economic development partners.

Metrics for achieving the outcomes

The Skills Development Fund grants provide for training for both incumbent workers as well as for job creation. The rule states 60% of the funds go toward incumbent training and 40% for job creation. According to their reporting requirements, the commission measures job creation, number of employees trained and average and median wages for trainees and new hires. They also consider awards by regions of the state as well as size of businesses.

A timeframe for achieving the purpose

The standard length of time for a contract is 12 months. Training projects are developed and planned so that deliverables can be accomplished during this time period. The Workforce Commission will only issue contract amendments and extensions under extenuating circumstances. Longer term projects are considered on a case-by-case basis. [87]

Funding limits

The fund is composed of any amount appropriated by the legislature or any amount transferred from the Employment and Training Investment Holding Fund by the Commission. Grants awarded from the fund for a single business may be limited to $500,000.

A competitive and open award selection process

Businesses, business consortiums or trade unions must partner with a public community, s technical school, the Texas Engineering Extension Service, or a private, non-profit community based organization in partnership with one of those institutions in order to be eligible for the grant. In reviewing the applicants, the Commission considers the economic impact, the financial stability of the business, the cost of the training program, as well as equitable distribution of grants both geographically as well to small and medium sized businesses.

Clawbacks

20% of the grant amount is held back pending review that all measures in the contract have been met. There are also measures in place to recapture funds if necessary.

Transparency – routine, publicly available reporting

The Texas Workforce Commission is required to provide an annual report to both the Governor and the state legislature. These reports are made available to the public on the Workforce Commission's website.

Regular, independent audits

The Texas Higher Education Coordinating Board reviews all training programs biennially to verify that state funds are being used appropriately. This review is then submitted to the Workforce Commission. Businesses also agree to regular reporting requirements related to trainee participation and are submitted to the Commission.

Sunset date

There is no sunset date for the Skills Development Fund. However, the Texas Workforce Commission is scheduled to sunset on September 1, 2015.

Sunset review

No sunset review.

<u>Recommendations</u>

The committee recommends the program have sunset date with a required audit two years prior to the sunset date. Additionally the committee recommends exploring innovative ways to encourage more partnerships between institutes of education, private business, and the state.

APPENDIX A

TEXAS HOUSE OF REPRESENTATIVES
Borris L. Miles
STATE REPRESENTATIVE, DISTRICT 146
"*Your voice in Austin*"

January 6, 2015

The Honorable Angie Chen Button
Chair, House Select Committee on Economic Development Incentives
P.O. Box 2910
Austin, TX 78768

Dear Chairwoman Button:

To begin, I thank you for your hard work and leadership throughout the life of the Texas House of Representatives' Select Committee on Economic Development Incentives. I also express my appreciation to my fellow committee members for their respective efforts when executing the meaningful work of this committee. As such, I am attaching my name to the committee's Interim Report 2014. However, my signature *does not* represent an endorsement of the report's language since our government must take great lengths to be more accountable with Texans' tax dollars. Therefore, I respectfully present my dissent to the committee report.

In recent months, two audit reports presented troubling details of how the state mishandled or questionably awarded taxpayer money through the Texas Enterprise Fund and Chapter 313 tax benefits. An equally disconcerting audit regrettably revealed similar problems with the Texas Emerging Technology Fund back in 2011. Furthermore, another audit is due to the Legislature on the Special Events Trust Funds where there may be more reporting of similar transgressions with tax dollars. Accordingly, the 84th Texas Legislature should honor its existing incentive contracts. Yet, I contend that any new incentive contracts or agreements must be discontinued given these repeated missteps. Nonetheless, I am open to consider major reforms in the areas of transparency, procedural changes in the application and review processes, award allocation, recipient oversight, and necessary clawback provisions as it pertains to these incentive programs. So such programs may be able to move forward and eventually be reinstated. But *no action* should occur without careful consideration and a determination of a justifiable need. The state's ability to handle these funds is mediocre at best. Therefore, we must work hard to regain the public's trust before we can truly ensure Texas' economic vitality.

Speaker Straus' first interim charge asked the committee to "determine the types or categories of economic development projects that provide the greatest benefit to the state." Granted the committee identified several best practices in the development of incentive programs, and these incentive programs produced a benefit to the state. However, I maintain incentive programs are not the only method for providing a benefit to the state.

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Therefore, I propose that we consider investments into other sectors in lieu of continuing incentive programs. By investing into other sectors, we may ensure better stability and growth for our economy. Thereby, we will likely produce prosperity for both Texas and Texans.

Texas is unique and unlike many other states in its advantages. The committee repeatedly heard testimony on our state's strength in its resources and how "Texas sells itself." Indeed, multiple witnesses stated that incentive programs are a factor in their decision making process, but they are not the sole factor. Rather incentive programs are amongst a lengthy myriad of factors that companies or business consider when planning expansion or relocation. Other factors of consideration include labor costs, skilled workforce, education, transportation options, and tax or regulatory burdens. By being almost unmatched in these factors, Texas is routinely viewed as an appealing location for small business and major corporations.

Despite Texas' greatness in such significant factors, we must be diligent to sustain our strong and influential resources. Diligence in the maintenance and preservation of a high quality public education system is fundamental to keep Texas strong. However, a legal battle looms over the equitableness of Texas' financing of our public schools. Plus, a majority of legislators continued to oppose me and several others when we fought for a full restoration of the $5.4 *billion* devastatingly cut from education in 2011. Further, Texas businesses rely on efficient means of transportation. However, our transportation infrastructure is subpar. Bridges are structurally deficient; road maintenance is lacking or essentially nonexistent. Additionally, a healthy labor pool is the cornerstone of a prosperous economy. Yet, Texas is a leader amongst the nation in its rate of uninsured residents. For Texas to continue *selling itself*, we must identify and evaluate the best opportunities for investments that will produce the greatest benefit to Texas. I strongly assert that investments in our people and our infrastructure will produce greater, more expedient, and longer lasting results than continuing incentive programs that are tantamount to corporate welfare.

Again, I thank you for your tireless efforts and for providing me with an opportunity to present my dissenting opinion to the committee's interim report. As always, I welcome and encourage you or any others to contact me for a discussion of my views or with any questions or concerns.

Sincerely,

State Representative Borris L. Miles
District 146

STATE *of* TEXAS
HOUSE *of* REPRESENTATIVES

DREW SPRINGER
DISTRICT 68

January 6, 2015

The Honorable Angie Chen Button
Capitol of Texas
1100 Congress Avenue, E2.910
Austin, TX 78701

Chairwoman Button,

Thank you for your diligence and expertise throughout the Select Committee on Economic Development. I am very pleased with the current report and thankful for your hard work and that of your staff. Listed below are recommendations, not intended as disagreements, but as constructive additions to those already made for specific programs under the committee's scope. The following recommendations relate to the Texas Emerging Technology Fund, the Cancer Prevention & Research Institute of Texas, the Events Trust Fund, Moving Image Industry Incentive Program, as well as The Texas Economic Development Act.

The Texas Emerging Technology Fund Incentives for Commercialization TETF (Tex. Govt. Code § 490) provides seed funding for new or enhanced technology from the lab to the marketplace. To be eligible for an incentive award, the entity must establish a strong collaboration with a higher education or research institution. The state guarantees no real, positive return for taxpayers, acting as a venture capitalist of last resort. The program should be discontinued responsibly by managing the current portfolio and selling any holdings left when economically advantageous. Money earmarked for Incentives for Commercialization should be moved to the **Research and Award Matching** (Tex. Govt. Code § 490, Subchapter E) and **Acquisition of Research Superiority** programs (Tex. Govt. Code § 490, Subchapter F), money from which should be awarded to higher education institutions through the Legislature after being reviewed by the following House and Senate Committees: House Appropriations, Senate Finance, House Higher Education, and Senate Higher Education.

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Cancer Prevention & Research Institute of Texas CPRIT (Tex. Health & Safety Code § 102) receives it's funding through general obligation bonds in the amount of $3 billion. As of August, 2014, 785 total projects have been funded at approximately $1.08 billion. One specific program, approximately 20% of CPRIT, is the product development grant, which functions similarly to the Emerging Technology Fund. However, CPRIT utilizes a capped revenue sharing model to provide a potential return on Texas' investment without impeding the company's future investment options. The role of government should not be to fund private enterprise. The product development grant program should cease as soon as possible, with the any remaining money being appropriated proportionally to cancer prevention and research.

The Events Trust Fund (Tex. Vernon's Code § 5190.14) targets in-state events with a majority of the events having a specific or specialized audience. Unlike the Major Events Trust Fund, the Events Trust Fund usually does not have a nationwide audience, nor prominently promotes Texas to outsiders, and is often awarded to events that would have taken place even without the support of the fund. The state should rename the fund to more accurately reflect the purpose of the fund. The state should also limit the number of times a region of the state can participate to avoid the fund being overly used by one area of the state.

The Moving Image Industry Incentive Program MIIP (Tex. Govt. Code, Subchapter B § 485.021) incentivizes film production, digital interactive media productions, and video games to promote the state. Current biennium numbers show that 69.3 percent of the money spent was in the Austin area, 28.2 percent in Dallas, and 2.4 percent in other parts of the state. Review of previous biennium shows a similar trend - approximately two-thirds of the money is spent in Austin with most of the remaining money spent in Dallas. This is not an economic development fund for the state but rather a local economic development fund supported by the state. The state should eliminate the subsidies of film, TV, and commercials, or at the very least require the projects promote Texas promptly and positively with a dollar for dollar matching by local economic development entities who benefit from the industry.

The video game industry in Texas has grown to be the 2nd largest in the nation. Unlike it's fund counterparts, the video game industry provides a large majority of its employees full-time employment in brick and mortar establishments. This means that economic generation remains high as the influx of full-time video game producers continue to move to Texas. The state should continue funding the video game industry through incentives but at a percentage of the current rate. Further funding of the video game industry should then be revisited in future legislative sessions based on whether permanent jobs in the industry grow or decline.

The Texas Economic Development Act (Tex. Tax § 313) Chapter 313 originally imposed a minimum job requirement for both rural and non-rural districts. The original implementation required a minimum of 1600 total hours worked; pay at least 110 percent of the respective counties weekly manufacturing average wage; and create 25 new jobs for non-rural or 10 jobs in rural districts. However, HB 1470 (80R) in 2007 allowed school districts to waive the job creation requirement for applying businesses. This has allowed industries to benefit from the tax reduction while not actualizing job growth in communities. Based on current school funding formulas, the state, not local school districts, carry most of the burden of job waivers and therefore the state should be the arbitrator of waving any job requirements.

Thank you once again for your diligence throughout the interim and for including this letter in the final report.

Regards,

State Representative
Drew Springer

State Representative
Trent Ashby

DAS/jgm

JASON VILLALBA
STATE REPRESENTATIVE • DISTRICT 114

January 6, 2015

The Honorable Angie Chen Button
P.O. Box 2910
Austin, TX 78768

Dear Representative Button,

While I stand materially in agreement with the conclusions, recommendations and proposals set forth in the Interim Report, after (i) reviewing the information presented to me during the Select Committee hearings, (ii) hearing testimony from experts, academics, business owners, witnesses, citizens and various other interested parties, and (iii) carefully reviewing and analyzing the existing legislation at issue and before the Select Committee, I can neither concur nor agree with and I hereby object to the Interim Report as follows:

1. The Select Committee has urged and recommended a consolidation of the various incentive based programs (the Texas Enterprise Fund, the Emerging Technology Fund, the Texas Economic Development Act, etc.) into a single universal incentive program. I disagree with this approach and would instead propose that each of these programs should be individual standalone programs subject to their own legislative initiatives, management and oversight. For example, the Texas Enterprise Fund has very little in common with the Emerging Technology Fund. The former is a deal closing fund intended to provide incentives so that Texas can compete with other states when seeking to attract new businesses to the state, while the latter is intended to incentivize the commercialization of intellectual property from the state's university system and assist small businesses to grow into larger businesses. The Texas Enterprise Fund has performed in accordance with its mission and has been a largely successful program. The Emerging Technology Fund has been much less successful and has essentially outlived its efficacy in the face of an evolving economy. Each program has a completely separate mission and under no circumstances should these programs be consolidated for the sake of a purported (though un-evidenced) efficiency.

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2. The economic climate in Texas has evolved significantly in the last ten years. While the Emerging Technology Fund certainly made sound business sense when it was established (based on the economic conditions then in place), the current economic climate demands a different approach to the state's investment strategy and commercialization activities. Additionally, the Emerging Technology Fund has not performed well, has not accomplished its original mission of creating a thriving ecosystem of new and emerging businesses in Texas, and has been subject to concerns that it may have been implemented inappropriately. For these reasons, I propose the complete phasing out and de-funding of the Emerging Technology Fund and replacing it with a best practices, viable and credible alternative that addresses the concerns expressed herein. This alternative model would be based on the "fund of funds" incentive model that has worked successfully all around the country.

With respect to all other conclusions, recommendations and proposals set forth in the Interim Report not otherwise in conflict with this Minority Report, I concur with the Select Committee.

Sincerest regards,

Jason Villalba
Texas House of Representatives
District 114

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