



INTERIM REPORT

TO THE 88TH TEXAS LEGISLATURE

HOUSE COMMITTEE ON
AGRICULTURE & LIVESTOCK
NOVEMBER 2022

**HOUSE COMMITTEE ON AGRICULTURE & LIVESTOCK
TEXAS HOUSE OF REPRESENTATIVES
INTERIM REPORT 2022**

**A REPORT TO THE
HOUSE OF REPRESENTATIVES
88TH TEXAS LEGISLATURE**

**DEWAYNE BURNS
CHAIRMAN**

**COMMITTEE CLERK
DALTON MOORE**



Committee On
Agriculture & Livestock Committee

November 22, 2022

DeWayne Burns
Chairman

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

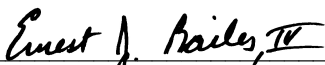
The Honorable Dade Phelan
Speaker, Texas House of Representatives
Members of the Texas House of Representatives
Texas State Capitol, Rm. 2W.13
Austin, Texas 78701


Dear Mr. Speaker and Fellow Members:

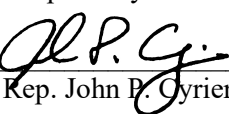
The Committee on Agriculture & Livestock of the Eighty-seventh Legislature hereby submits its interim report including recommendations and drafted legislation for consideration by the Eighty-eighth Legislature.

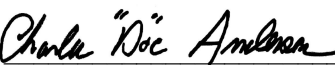

Respectfully submitted,


DeWayne Burns
Chairman


Rep. Ernest Bailes



Rep. Sheryl Cole


Rep. John P. Cyrier


Rep. Charles "Doc" Anderson
Vice-Chairman

Rep. Ryan Guillen


Rep. Abel Herrero


Rep. Jon Rosenthal


Rep. Steve Toth

Rep. Charles "Doc" Anderson
Vice-Chairman

Members: Rep. Ernest Bailes, Rep. Sheryl Cole, Rep. John P. Cyrier, Rep. Ryan Guillen, Rep. Abel Herrero, Rep. Jon Rosenthal, Rep. Steve Toth

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INTRODUCTION

At the beginning of the 87th Legislative Session, the Honorable Dade Phelan, Speaker of the Texas House of Representatives, appointed the following nine members to the House Committee on Agriculture & Livestock (the Committee): Chair DeWayne Burns, Vice-Chair Charles "Doc" Anderson, Ernest Bailes, Sheryl Cole, John P. Cyrier, Ryan Guillen, Abel Herrero, Jon Rosenthal, and Steve Toth.

The Rules of the Texas House grant the Committee jurisdiction over the following matters:

Jurisdiction of the Agriculture & Livestock Committee:

- 1) agriculture, horticulture, and farm husbandry;
- 2) livestock and stock raising, and the livestock industry;
- 3) the development and preservation of forests, and the regulation, control, and promotion of the lumber industry;
- 4) problems and issues particularly affecting rural areas of the state, including issues related to rural economic development and the provision of and access to infrastructure, education, and health services; and
- 5) the following state agencies: the Department of Agriculture, the Texas Animal Health Commission, the State Soil and Water Conservation Board, the Texas A&M Forest Service, the Texas administrator for the South Central Interstate Forest Fire Protection Compact, the Texas Apiary Inspection Service, Texas A&M AgriLife Research, the Texas A&M AgriLife Extension Service, the Food and Fibers Research Council, the State Seed and Plant Board, the State Board of Veterinary Medical Examiners, the Texas A&M Veterinary Medical Diagnostic Laboratory, the Produce Recovery Fund Board, the board of directors of the Texas Boll Weevil Eradication Foundation, Inc., and the Texas Wildlife Services.

INTERIM STUDY CHARGES

CHARGE I:
Monitor & Oversight

Monitor the agencies and programs under the Committee's jurisdiction and oversee the implementation of relevant legislation passed by the 87th Legislature. Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure the intended legislative outcome of all legislation, including the following:

- HB 2089, relating to the detection and mitigation of plant pests and diseases.
- SB 1, Rider 27 (Department of Agriculture), which relates to determining methods to increase the number of grocery stores in food deserts; and
- SB 1, Rider 28 (Department of Agriculture), which relates to the Experimental Use Program for feral hog abatement.

CHARGE II:
Texas AG Finance
Authority

Study the access of the state's agricultural industry to available capital through loans, grants, or other sources. Make recommendations to ensure the agricultural industry has sufficient access to available capital, as well as how the Texas Department of Agriculture can educate farmers, agricultural producers, and others about available sources of capital.

CHARGE III:
Texas Right To Farm

Study the impact on agricultural operations, including the operations of dairy facilities, of governmental and regulatory requirements and practices including those that prevent or prohibit an activity that is a normally accepted agricultural practice, and make recommendations to facilitate and encourage agricultural and dairy production in the state.

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- SB 1, Rider 28 (Department of Agriculture), which relates to the Experimental Use Program for feral hog abatement.

SUMMARY OF COMMITTEE ACTION

The Committee held a public hearing on June 1st, 2022, with both invited and public testimony. The individuals listed below provided testimony to the Committee on this charge.

Public Hearing: June 1st, 2022

Witness List: June 1, 2022 - Austin, Texas, Capitol Extension E2.010, at 10:15 a.m.

1. Dan Hunter (Texas Department of Agriculture)
2. Dr. Katherine Byers (Houston Food Bank)
3. Ryan Skrobarczyk (Texas Nursery & Landscape Association)
4. John Tomecek (Texas A&M AgriLife)
5. Jaelene Luper (Self; American Heart Association; The Partnership For A Healthy Texas; The Sustainable Food Center)
6. Addie Stone (Texas Department of Agriculture)
7. Andy Schwartz (Texas Animal Health Commission)

The information below is largely based on the oral and written testimony of the individuals and organizations listed above. The Committee also received written comments on this charge from Kody Bessent (Plains Cotton Growers, Inc.).

Texas Department of Agriculture

The Texas Department of Agriculture (TDA) provided the Committee a brief overview on the status of agency operations and key updates on the implementation of bills and budget riders passed by the 87th Legislature.

TDA reported that operations continue to function at a high and efficient level. COVID relief funding from the federal government allowed Trade and Business Development to offer additional grant opportunities, increase outreach activities, and boost international trade. Food and Nutrition successfully operated all 12 federal feeding programs simultaneously and now is preparing to transition back to pre-pandemic operations. Agriculture and Consumer Protection has continued to carry out regulatory duties without interruption. Similar to other state agencies, TDA has struggled with staffing shortages over the past biennium, but staff have done a notable job of keeping up with program demand.

In advance of the upcoming 88th Texas Legislative Session, TDA informed the Committee of a few challenges facing the Department:

- Road Stations – Road stations are vital to protect our state’s agriculture industry from pests and diseases. The agency has a robust agriculture inspection system along our border with Mexico and at seaports, but many of the threats to the state come from other states. Other major agricultural states tend to be vigilant about plants coming into their state, yet lax

about plants leaving their state. Previously, the federal government provided \$1.3 million per year for plant and pest Critical Entry Point inspections. Going forward, they will provide \$429,000 each year for annual year (AY) 23 and AY24 and will cease all fiscal support after that time. To operate the road stations as is, Texas will need to cover the shortfall of \$1.3 million per year. Should the State decide to develop a thorough plant pest and disease Critical Entry Point program (which TDA claims is an industry priority), they estimate that the State will need at least four permanent road stations which will cost approximately \$37 million over the biennium to construct and operate. TDA also must contract with the Texas Department of Public Safety (DPS) to operate the road stations. DPS provides the necessary security and vehicle interdiction at inspection stations, but TDA is concerned that border issues will continue to interfere with DPS's ability to provide troopers at inspection sites. TDA has cooperated with the Texas Animal Health Commission, Comptroller of Public Accounts, Texas Parks and Wildlife, and DPS at inspection sites in the past, and welcomes. TDA wishes to continue their collaboration with other state agencies should future legislatures consider further developing multi-use state agency inspection facilities.

- Farmer Mental Health and Suicide Prevention Program – This program, established by an amendment to TDA's Sunset bill, has been successfully implemented and incredibly well-received by the agricultural community. TDA's State Office of Rural Health (SORH) partnered with AgriSafe and the Southwest Ag Center to create both a helpline for farmers and ranchers and a media campaign focused on mental health in the agricultural community. USDA awarded TDA a \$500,000 grant to develop this program, but this was a one-time funding opportunity. To maintain program operations, SORH will request that the State step in to provide the \$500,000 per year needed to operate this program.
- Information Technology (IT) Upgrades – Last session, TDA was given \$1,026,628 to evaluate options for replacing its outdated legacy software system. With all the recent cybersecurity threats, especially in the agriculture sector, the need for modern, secure software has never been more pressing. The IT department has investigated many types of software offered by various companies and believes that a "Software as a Service" with cloud data storage will be the most effective replacement. TDA will need approximately \$7 million to procure this new technology and \$850,000 for related equipment upgrades.

HB 2089: Relating to the detection and mitigation of plant pests and diseases

House Bill 2089 created a new funding mechanism to provide critical support for early plant pest and disease detection and surveillance to prevent widespread dissemination of harmful plant pests and diseases.

The agriculture industry has been aggressively combating invasive organisms and pest species that hinder the productivity of agriculture. This comes at a significant cost to our agriculture producers, who are already burdened by soaring input costs.

The 87th Legislature passed HB 2089 without opposition and appropriated \$500,000 over the biennium to fund the program, which represents one of the first new investments in plant health Texas has made in years.

Under the legislation, Texas universities can apply for research grants through the Texas Department of Agriculture (TDA) by entering into cooperative agreements with TDA to conduct plant pest and disease mitigation, provided certain conditions are met.

To receive funding money, an applicant university must be located in a region of Texas that has a high risk of being affected by one or more plant pests or diseases, the plant pest and disease detection and surveillance conducted will likely prevent the introduction, establishment, or widespread dissemination of plant pests and diseases.

TDA is required to consult with the State Seed and Plant Board and an advisory council of specific industry groups to ensure funding goes towards addressing the threats of greatest concern. This advisory council, defined in the legislation as "interested parties" include the following organizations:

- Plains Cotton Growers
- South Texas Cotton and Grain Association
- Texas Citrus Mutual
- Texas Corn Producers
- Texas Farm Bureau
- Texas Grain Sorghum Association
- Texas Nursery and Landscape Association.

In addition to the funding component, the bill establishes a Threat Identification and Mitigation Program at TDA, with the collaboration of State Seed and Plant Board and the advisory council, to describe management strategies for established pests and diseases, develop risk assessments for potential threats from foreign sources, and implement action plans to assist in preventing widespread dissemination of new or highly consequential plant pests and diseases.

Universities that receive funding are required provide a report to TDA describing the purposes and results of the activity within 90 days of the activity being completed. By September 1st of each year, TDA is required to submit a report to the appropriate House and Senate committees on the action plans described above and an accounting of money spent.

Texas Department of Agriculture

To initiate the grant process, TDA issued a “general invitation for proposal” on July 22, 2021, to the advisory council who then engaged in outreach to state universities. TDA's grants staff worked with stakeholders above to identify scoring criteria for all proposals submitted. Then, each advisory group organization evaluated all submitted proposals independently. TDA staff received the scores and ranked proposals based on the scoring system. A meeting with all stakeholders was

held on September 2, 2021, to finalize award decisions, which were then were routed internally according to TDA approval procedures, and grant agreements were issued to the selected projects.

The projects selected and issued funding for FY 2022 are studying:

- Fusarium Wilt Race 4 (FOV4) in cotton at Texas A&M AgriLife Extension Service (AgriLife); and
- Citrus Canker at The Citrus Center at Texas A&M University - Kingsville (Citrus Center).

The grant projects funded in fiscal year (FY) 2022 have a two-year grant term. Funding spent to date is \$23,459.94 for university expenses between October 1, 2021 and February 28, 2022. Grantees are providing performance reports as required, an example of which is provided for Citrus Canker. A “general invitation for proposal” for the FY 2023 program was issued on August 5th, 2022, and the due date for applications was September 29th, 2022.

TDA reported the development of risk assessments for potential threats of invasive pests and diseases to the state, for which there are many, from both other states and other countries. Threats from overseas have been detected in many states and TDA has prioritized monitoring these industry threats. Domestically, California, Florida, and Pennsylvania are currently main sources of concern for many invasive pests and diseases. While all crops are monitored for pests - cotton, citrus, and landscape vegetation (trees, shrubs, and ornamental plants) currently receive the most vigilance.

TDA highlighted to the Committee an important example of the state's critical role in prioritizing pest surveillance and mitigation through the Texas Boll Weevil Eradication Foundation, established by the Texas Legislature in 1993. Due to the widespread infestation of the ruinous boll weevil in Southern states from Mexico, cotton-dependent regions suffered such crippling economic devastation that unprecedented partnerships were forged between farmers, Legislatures, and the scientific community. Though still a species of concern to the Texas cotton industry, the successes born of public-private partnerships, like the Texas' Boll Weevil Eradication Program as well as those in other states, have eradicated the pest throughout the entire country down to the "last frontier" of the southern tip of Texas. This partnership shows how much can be accomplished when producers, scientists, and government work together.

Citrus diseases such Citrus Canker, Citrus Greening, Citrus leprosis virus, Citrus yellow vein clearing virus and Mexican Fruit Fly are some pests that affect the state’s citrus industry. TDA, along with the United States Department of Agriculture (USDA), Customs & Border Protection Service (CBP), and Texas Plant Diagnostics Lab, provide monitoring, detection sampling, and inspection for the protection of the industry. Other pests, such as Japanese Beetle, Imported Fire Ant, Pecan Weevil, Sweet Potato Weevil, European corn borer, Diaprepes root weevil, Emerald Ash Borer and Date palm lethal decline, are also monitored, sampled, and inspected in affected counties. TDA limits movement of certain plants and destroys infected plants to prevent infestations in other parts of the state.

TDA works with the State Seed Board on seed certification and pest mitigation projects and provides quarterly performance measures of seed samples inspected. TDA works with United

States Department of Agriculture Animal and Plant Health Inspection Service – Plant Protection and Quarantine through cooperative agreements for Cooperative Agricultural Pest Surveys (CAPS), Citrus Health Response Program (CHRP), Imported Fire Ant (IFA), and Gypsy Moth (GM) survey. TDA collaborates on the “Don’t Pack a Pest” campaign with USDA and Customs and Border Protection to educate visitors to the state about the dangers of invasive species using billboards, social media, magazine advertisements, and radio messaging.

Routine inspections at plant growers and retailers, as well as complaint investigations, help to determine if any pests have been brought into the state from out of state growers, helping to insure healthy plants and vegetation for consumers. TDA implements road station inspections on major highways into and around Texas to reduce the number of plant pests entering the state. A more robust road station program would benefit the state long term. TDA also takes emergency action on state and federal notifications for detection, containment and eradication of invasive pests introduced into the state. Surveys of pests detected in the state are conducted annually, helping to control the spread of pests in Texas. Community outreach is also implemented to notify the public of pest and disease outbreaks, this allows for the public to reach back to TDA for assistance and increases awareness. TDA has also issued stop sales and implemented destruction of plant materials to reduce the negative impact of transported plants in the state.

Texas Nursery & Landscape Association

The Texas Nursery & Landscape Association (TNLA) represents over 1,400 member companies in the Texas green industry including growers and landscape contractors, as well as wholesale and garden center retailers. The Texas green industry conducted over \$21 billion in sales in 2020 by growing, moving, and maintaining plant material.

The effort to combat plant pests and disease is warranted in Texas for its impact on the industry and, according to this stakeholder, is needed now more than ever after the enormous amount of imported plant material following Winter Storm Uri. A survey conducted by Texas A&M following Storm Uri collected data from 180 businesses in the industry with a total loss of \$124.4 million. Following Winter Storm Uri, TNLA's membership had to import huge amounts of plant material from other states, first, to replace lost inventory and, secondarily, to meet the enormous demand for products replacing lost landscapes, which continues to this day. All that movement of plant material into Texas from out-of-state brings with it a corresponding concern about increasing pests and disease.

The State of Texas working to mitigate these concerns is a priority for the industry, in part, due to the sheer number of plant species produced by the industry compared to other agriculture sectors. TNLA tracks 650 plant varieties for industry, but this only scratches the surface of all the ornamental species produced in Texas. In the event of an infestation or symptomatic plant material, the grower or retailer is subject to a regulatory stop-sale of the plant material infested and, in some cases, any co-mingled plants. TDA then must determine if treatment can occur, a compliance agreement managing that material must be put into place, or the products must be destroyed. All of these steps have a cost to businesses in Texas.

TNLA continues to urge the State to do more to mitigate disease spread. The process under HB 2089 incorporated industry directly into the evaluation process for the research proposals submitted. In the first allotment of funding, two critical projects were funded on diseases of major regulatory concern. The first, FOV4 for cotton, and a disease closer to the green industry, the surveillance of the Citrus Canker Wellington Strain, which has been quarantined in the Valley. The spread of Canker into the Texas citrus zone would significantly damage commercial citrus production in Texas and inhibit nursery growers from selling citrus plants across the state (*see Figure 1*).

TNLA thanked TDA for implementing the bill and distributing the funding in a timely manner so the research can get underway. At the time of the hearing, the researchers at the Citrus Center in Kingsville had conducted the canker study; they had already collected multiple canker samples from local trees, with the assistance of the USDA, and are studying the behavior and longevity of the inoculum so the industry can modify both grower and landscape maintenance practices to mitigate it's spread.

TNLA testified to the hope the advisory committee can revisit several proposals with a second round of funding since there are more than a few plant quality issues on the horizon for Texas. The nursery growers have spent millions of dollars creating certified citrus structures to mitigate the disease, but it persists in local environments. TNLA's hope is future research will identify better

ways to combat citrus canker in a cost-effective manner for the industry without eliminating commerce.

Several disease-specific proposals were not able to be funded in the first year, including diseases impacting peanut production and viticulture. In 2022, the advisory committee again received more requests than funding available for projects on diseases impacting peanuts, cotton, wheat, and horticulture.

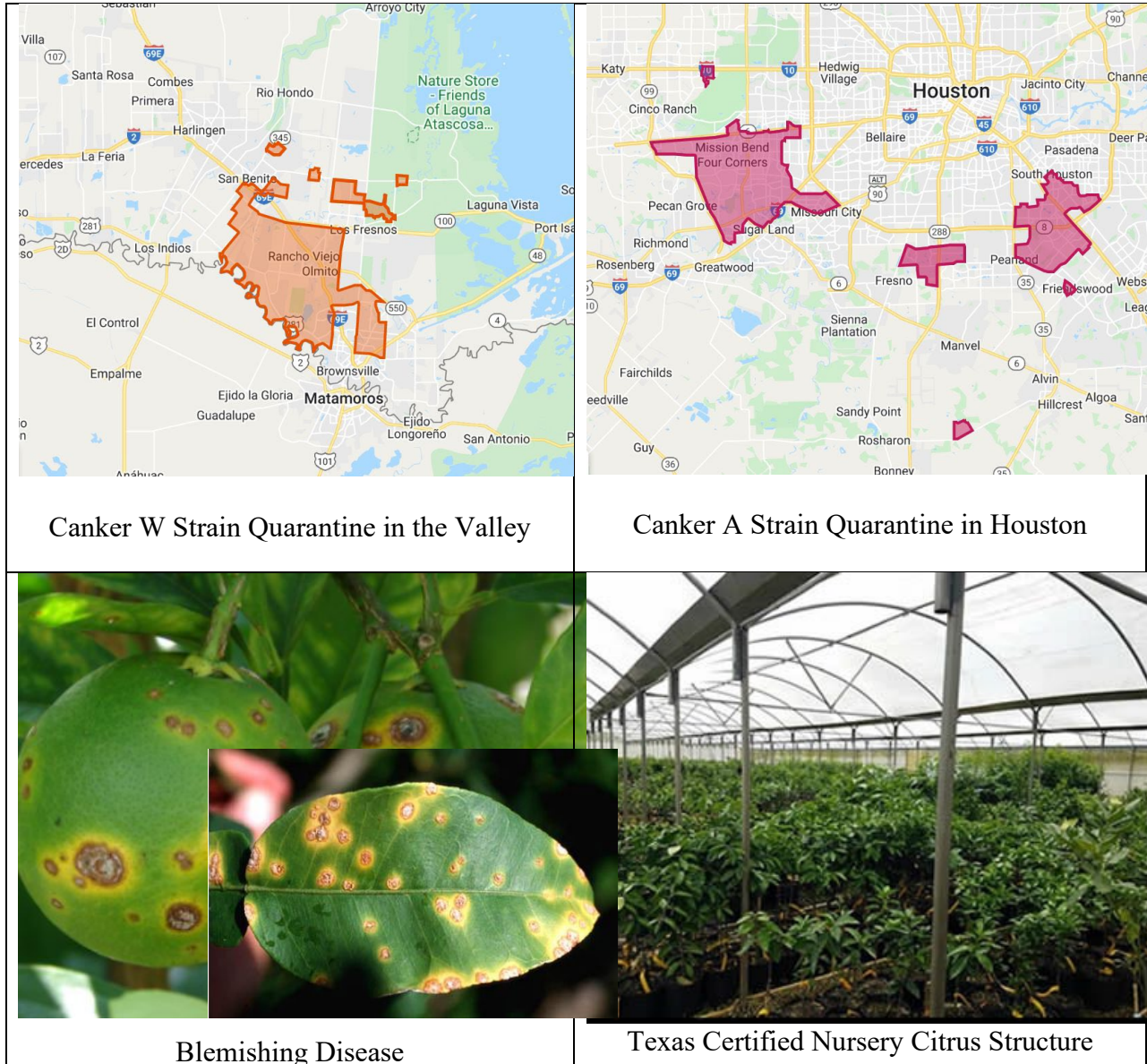
Oversubscription demonstrates the need for the state government to continue funding initiatives to monitor and protect plant production in Texas. Stakeholders, such as TNLA, believe the state should continue funding for the HB 2089 grant program and consider increasing the funding available through this program to ensure we have the most robust response to threats to production agriculture in Texas.

An example of another problematic pest that could benefit from this research funding is the Emerald Ash Borer (EAB) (*see Figure 2*). EAB is a pest that is devastating parts of the Northeastern United States. The pest kills ash trees of all varieties and to this date, the only way to slow the pest or preserve trees is a costly injection on certain trees worth saving. EAB in Texas could cost our cities a significant portion of our urban canopy thus worsening urban heat islands as well as the cost of tree removal on a massive scale. Enhanced surveillance of EAB in order to prepare for tree inventory and identify ash trees of value would help slow the spread, lessening the restrictions on industry while this takes place and allowing cities to preserve more of the trees in their jurisdiction.

At the time of the interim report, TDA is actively monitoring and enforcing quarantines against the pests and diseases identified in the Texas Administrative Code Title 4, Part 1, Chapter 19(*see Figure 3*). Many of these diseases are not widespread in Texas, but are identified on this list as plant health diseases of economic concern. The list demonstrates the need for continuing research and monitoring under the program created by HB 2089.

Figure 1. Citrus Canker

Citrus canker is mostly a leaf-spotting and fruit rind blemishing disease. However, when conditions are highly favorable for infection, it can cause defoliation, shoot dieback and fruit drop. Citrus canker symptoms include brown spots on leaves, which often have an oily or water-soaked appearance. These spots are technically called lesions, and you'll find they are usually surrounded by a yellow halo. Lesions can be found on both the upper and lower sides of the leaf. Similar symptoms can appear on fruit and stems.¹



¹ Citrus Canker Outreach, Texas Dept. of Agriculture, www.texasagriculture.gov
<https://www.texasagriculture.gov/Regulatory-Programs/Plant-Quality/Pest-and-Disease-Alerts/Citrus-Canker>

Progress Report on Citrus Canker from the Citrus Center at Texas A&M University - Kingsville

This investigation into the active inoculum sources and other factors contributing to the canker infections of new growth in citrus trees. Citrus canker is a serious infectious disease, which has caused devastating economic losses to several citrus industries. The unsightly canker lesions on fruit make it unmarketable which is particularly detrimental to the Texas citrus industry as the fruit is predominantly produced here for the fresh fruit market. The occurrence of citrus canker caused by *Xanthomonas citri* subsp. *citri* (XCC) strain A^w with a limited host specificity was reported in citrus trees located in the residential areas of the Lower Rio Grande Valley (da Graca et al., 2017). A^w strain is highly infectious and has a limited host range mainly affecting Mexican limes. Infected trees are removed; however, citrus canker has been spreading with several new detections in Hidalgo and Cameron Counties. Recent freeze in February 2021 resulted in death of several trees and deadwood is prevalent in these trees. Canker was recently confirmed in the new growth of an apparently dead lime tree affected by freeze.

The primary purpose of this project is to understand the inoculum sources after freeze and the role of other contributing factors such as lawn and tree maintenance to the spread of the disease. This is accomplished by sample collection, XCC isolations, and PCR diagnostic tests. The project is anticipated to provide information on the potential active inoculum in the old lesions on various aerial parts of the tree, debris on the ground, leaves damaged by leaf miners, grass, and tools used in ground and tree maintenance. The outcome of the project leads to a better understanding of the impact of recent freeze on citrus canker A^w in the Lower Rio Grande Valley (LRGV). A better understanding of the canker biology, especially information on the role of the potential active inoculum in the spread of the disease will result in design of better strategies and in implementing better quarantine measures. The occurrence of the more serious A strain was reported in citrus trees located in the residential areas of the Upper Gulf Coast area of Texas (Perez et al., 2021). Grapefruit, the predominant cultivar commercially produced in the LRGV is highly susceptible to canker A. The results from this study can be applicable and be used as baseline information for the better understanding of A strain if it ever occurs in the LRGV citrus.

USDA CHRP personnel collected and delivered to TAMUK Citrus Center a total of 132 samples from positive, inconclusive and of interest locations consisting of 6 different samples types – leaves with lesions or leaf minor damage, dead leaves, grass, grass roots, soil and fruit. Quantitative PCR (qPCR) assay determined the presence of XCC in 13 samples including 3 dead leaves, 2 grass, 5 leaves with lesions, 2 soil and 1 fruit. Bacterial isolations were completed for all tissue samples and a total of 808 colonies with *Xanthomonas*-like characteristics were selected and DNA was extracted. Currently, qPCR and conventional PCR (cPCR) assays are being performed on the DNA isolated from the bacterial colonies to determine if those colonies are XCC.

Figure 2. The Emerald Ash Borer (EAB)

The Emerald Ash Borer (*Agilus planipennis*) is a destructive wood-boring pest of ash trees (*Fraxinus* spp.). Native to China, Mongolia, North Korea, South Korea, Japan, Taiwan, and the Russian Far East, the Emerald Ash Borer beetle (EAB) was unknown in North America until its discovery in southeast Michigan in 2002. Today, EAB infestations have been detected in 35 states and the District of Columbia.²

CHRONOLOGY

08/12/2022. The Titus County Quarantined Area established. Detection of EAB adult specimens from a trap in Titus County, expanded the quarantined areas to include Titus County with Bowie, Cass, Dallas Denton, Harrison, Marion, Morris, Parker, Rusk, Tarrant and Wise Counties.

07/13/2022. The Rusk County Quarantined Area established. Detection of EAB adult specimens from a trap in Rusk County, expanded the quarantined areas to include Rusk County with Bowie, Cass, Dallas Denton, Harrison, Marion, Morris, Parker, Tarrant and Wise Counties.

06/15/2022. The Morris County Quarantined Area established. Detection of EAB adult specimens from a trap in Morris County, expanded the quarantined areas to include Morris County with Bowie, Cass, Dallas Denton, Harrison, Marion, Parker, Tarrant and Wise Counties.

06/14/2022. The Wise County Quarantined Area established. Detection of EAB adult specimens from a trap in Wise County,, expanded the quarantined areas to include Wise County with Bowie, Cass, Dallas Denton, Harrison, Marion, Parker and Tarrant Counties.

06/01/2022. The Dallas County Quarantined Area established. Detection of EAB adult specimens at a residential location in Hudson Oaks, Parker County, on 04/27/2022 expanded the quarantined areas to include Dallas County with Bowie, Cass, Denton, Harrison, Marion, Parker and Tarrant Counties.

- Ash trees make up 5.5% of the Metroplex urban forest (derived from rapid assessments and city inventories)—an estimated 8.8 million trees that provide \$158 million annually in ecosystem services.
- Estimated removal costs for community ash trees in the region could exceed \$2.2 billion (\$250/tree) if communities and residents only practice reactive management.
- Debris processing costs of all community ash trees alone could total \$52 million.
- The cost to replace all existing community ash trees is estimated at \$2.6 billion (\$300/tree).
- Treatment in lieu of removal and replacement is a viable option. If all community ash trees are treated, the cost to treat ash trees will be an estimated \$440 million annually. Treatment

² Emerald Ash Borer, USDA-APHIS, www.aphis.usda.gov <https://www.texasagriculture.gov/Regulatory-Programs/Plant-Quality/Pest-and-Disease-Alerts/Emerald-Ash-Borer>

costs per tree average \$100 every 2 years and must be continued in perpetuity. this would exceed \$8.8 billion in 20 years.

Figure 3³: Quarantines in Texas

Texas Administrative Code Title 4, Part 1, Chapter 19

<u>TITLE 4</u>	AGRICULTURE
<u>PART 1</u>	TEXAS DEPARTMENT OF AGRICULTURE
<u>CHAPTER 19</u>	QUARANTINES AND NOXIOUS AND INVASIVE PLANTS

Subchapters

<u>SUBCHAPTER A</u>	<u>GENERAL QUARANTINE PROVISIONS</u>
<u>SUBCHAPTER B</u>	<u>BURROWING NEMATODE QUARANTINE</u>
<u>SUBCHAPTER C</u>	<u>CAMELLIA FLOWER BLIGHT QUARANTINE</u>
<u>SUBCHAPTER D</u>	<u>CARIBBEAN FRUIT FLY QUARANTINE</u>
<u>SUBCHAPTER E</u>	<u>DATE PALM LETHAL DECLINE QUARANTINE</u>
<u>SUBCHAPTER F</u>	<u>LETHAL YELLOWING QUARANTINE</u>
<u>SUBCHAPTER G</u>	<u>EUROPEAN BROWN GARDEN SNAIL QUARANTINE</u>
<u>SUBCHAPTER H</u>	<u>GYPSY MOTH QUARANTINE</u>
<u>SUBCHAPTER I</u>	<u>PINE SHOOT BEETLE QUARANTINE</u>
<u>SUBCHAPTER J</u>	<u>RED IMPORTED FIRE ANT QUARANTINE</u>
<u>SUBCHAPTER K</u>	<u>EUROPEAN CORN BORER QUARANTINE</u>
<u>SUBCHAPTER L</u>	<u>PECAN WEEVIL QUARANTINE</u>
<u>SUBCHAPTER M</u>	<u>SWEET POTATO WEEVIL QUARANTINE</u>
<u>SUBCHAPTER N</u>	<u>KARNAL BUNT QUARANTINE</u>
<u>SUBCHAPTER O</u>	<u>WEST INDIAN FRUIT FLY QUARANTINE</u>
<u>SUBCHAPTER P</u>	<u>DIAPREPES ROOT WEEVIL QUARANTINE</u>
<u>SUBCHAPTER Q</u>	<u>SAPOTE FRUIT FLY QUARANTINE</u>
<u>SUBCHAPTER R</u>	<u>FORMOSAN TERMITE QUARANTINE</u>
<u>SUBCHAPTER S</u>	<u>ASIAN CYCAD SCALE QUARANTINE</u>
<u>SUBCHAPTER T</u>	<u>NOXIOUS AND INVASIVE PLANTS</u>
<u>SUBCHAPTER U</u>	<u>CITRUS CANKER QUARANTINE</u>
<u>SUBCHAPTER V</u>	<u>MEXICAN FRUIT FLY QUARANTINE</u>
<u>SUBCHAPTER W</u>	<u>RED PALM MITE QUARANTINE</u>
<u>SUBCHAPTER X</u>	<u>CITRUS GREENING QUARANTINE</u>
<u>SUBCHAPTER Z</u>	<u>EMERALD ASH BORER QUARANTINE</u>

[HOME](#)

[TEXAS REGISTER](#)

[TEXAS ADMINISTRATIVE CODE](#)

[OPEN MEETINGS](#)

³ Subchapter T is not a quarantine, but the official list of noxious and invasive plants prohibited in Texas

Plains Cotton Growers, Inc.

If not detected early, invasive organisms and species can negatively impact a crop very quickly. Without immediate solutions and financial resources to mitigate the impact once an organism or species has been identified the agriculture industry is burdened, creating a negative economic impact on the State.

HB 2089 relating to the detection and mitigation of plant pests and diseases, as enacted by the Texas Legislature during the 87th Regular Session, has been a welcomed tool for the cotton industry. Providing a framework and financial resources, the bill addresses some of the immediate needs of early detection of plant pest and disease on a timelier basis. The legislation also helps develop strategy, resources and research initiatives to serve as the first line of defense for Texas and the U.S. — combating invasive organisms or species before they become an uncontrollable issue.

While the enacted legislation by design is not prescriptive in addressing pests and disease by a specific commodity so as not to limit other commodities that are experiencing vast issues with plant pest and disease cotton has certainly been a focal point in order to address a new race of fusarium wilt (FOV4), which is an invasive organism currently having a negative impact on extra-long staple cotton also known as Pima cotton.

Fusarium wilt race 4 (FOV4) is a devastating disease in cotton. Since its official first report in El Paso County, Texas, in 2017, it was recognized as a serious threat to the cotton industry in Texas. FOV4 can cause up to 100% yield loss when a susceptible variety is grown in a highly infested field.

FOV4 is seed transmittable, creating a new challenge for the cotton planting seed production market. Through the enactment of H.B. 2089, a project was submitted to TDA and financial support was approved by stakeholders outlined in the legislation to develop a robust detection tool for plant, soil, and seed samples; mitigation strategies for Texas cotton; and support for breeding resistant varieties.

Financial support was used to develop a multiplex DNA-based assay to detect the presence of FOV4, other races of FOV, and other species of Fusarium in one sample. The multiplex assay expedites diagnosis of the disease. Efforts to develop and validate a new technique to detect FOV4 in cotton seeds for screening at the cotton gin level during the initial project proved to be more challenging. A new strategy for early detection in the field, especially in planting seed production, is being looked at in the future. Screening cotton germplasm response to FOV4 to evaluate variety selection as a disease management tactic and assist variety development efforts shows positive preliminary results and will help mitigate future risks of invasive plant pests and disease in the state and potentially the U.S.

SB 1, Rider 27: Study on Increasing Food Stores in Food Deserts

Texas Department of Agriculture

The TDA food desert study was required by Rider 27 in the budget. The goal of this study is to provide data-supported suggestions for improving access to stores that sell produce and other healthy foods in food desert areas. Mitigating food deserts through improved food access increases the resiliency of Texas communities and strengthens local economies. According to the definition by the United States Department of Agriculture, a food desert is a low-income census tract that is more than 1 mile from a grocery store in an urban area and more than 10 miles from a grocery store in a rural area. Based on this definition, Texas had 1022 census tracts considered food deserts as of 2019. Of these, approximately 10% were rural and 90% were urban.

TDA initially considered conducting the study in-house but determined that partnering with a university would result in a more robust report. The agency released a call for proposals for grant funding and selected University of Texas Rio Grande Valley (UTRGV) graduate student Jessie Barber to conduct the study. The format of the study consists of approximately five months of background research, five months of survey design and data analysis, and two months of report development. Policy Specialist Addie Stone from Texas Department of Agriculture has been the point of contact for this study and participated in the background research process. The study is proceeding on schedule.

Research was conducted from 17 interviews with organizations like Feed Oak Cliff, Rio Grande Valley Food Bank, Rural Grocery Initiative, USDA Rural Development, Food Policy Council of San Antonio, and major and minor grocery store chains. Through these interviews, research found the underlying causes of low food access and innovative, community-based strategies that had been successful in different parts of the State. Research reviewed previous legislation related to food deserts that had failed to pass (for example: SB403 and SB1208 in 83R, HB1485 in 84R, and HB164 in 85R) and strategies that have been successful in other states.

When you assuage the effects of a food desert, you improve the livelihoods of Texans in the community, which increases the ability of the community to be self-sustaining. One fact that stood out from the beginning of the study process is that a traditional full-size grocery store is not the right fit for every community. Not all communities could financially sustain a store, and financial incentives are typically insufficient to get a for-profit store to enter an area that they deem impractical for business. Therefore, “grocery-store only” solutions would likely lack substantial support and be limited in their potential benefits. Additionally, the common thread among all the interviews was the fact that income was more of a determinant of food security than grocery store proximity.

To avoid presenting the legislature with an unworkable “one-size-fits-all” recommendation, Jessie and his advisors designed a survey that accounts for the individuality of food deserts across the state. The finalized survey asks open-ended, yet quantifiable, questions about food security, current shopping habits, and proposed actions for local and state government based on the information gathered during the background research stage. The survey is expected to conclude by the end of

2022. The data from this survey will be analyzed to provide state-level and more localized insight that legislators and community leaders can use to inform future food access policy.

Although the data from the survey will highlight a subset of potential solutions, the report will also contain creative suggestions from the background research phase that could be explored further. Some of these ideas include community feasibility studies, a Texas Food Systems Summit, incentives for planting edible landscaping, and support for cooperative businesses.

Dr. Katherine Byers (Houston Food Bank)

Surplus Agricultural Products Grant: Food for Farmers and Texas Families

Dr. Katherine Byers is the Government Relations Officer at the Houston Food Bank (HFB). The Houston Food Bank provides access to more than 150 million nutritious meals in 18 counties through their 1,600 community partners including schools and pantries and smaller regional partner food banks such as those in Montgomery, Trinity, Brazos Valley, and Galveston. The mission of HFB and the philosophy of all of those they partner with is, “Food for Better Lives.” The food bank would like to strengthen a funding opportunity for farmers that also nourishes the communities they serve.

The Surplus Agricultural Products Grant offsets farmers’ costs of harvesting, storing, packaging, and transporting second grade produce that is unsellable due to imperfections or market conditions. This produce is then available to food banks to distribute to families in need.

Since 2001, the Surplus Agricultural Products Grant has assisted food banks in acquiring fresh produce. In FY 21 HFB distributed 91 million pounds of produce, which is 35.4% of their total distribution. The food bank is hoping to do more in order to increase the positive economic impact nutritional food has on areas such as medical costs, hospital emergency room use, and school attendance rates.

Unfortunately, transportation costs have increased and for most food banks so has the cost of produce so \$10.2 million of grant funding doesn’t purchase what it previously did. For HFB prices went up from an average of approximately \$0.13 per pound to \$0.18 per pound, which is a substantial increase. Input costs for produce such as fertilizer, labor, packaging, pallets etc. have almost doubled for many farmers who have already taken an economic hit of hundreds of millions of dollars over the last few years.

One of the benefits of the Surplus Agricultural Products Grant is that 100% of program funds go to farmers. This offsets costs to farmers of harvesting, storing, packaging, and transporting food, which reduces food waste.

“There’s not a lot of food left over at the end of the month, and not enough money to purchase new groceries sometimes. Me and my mother need to watch our diets and focus on eating fresh, nutritious foods that tend to be more expensive. The produce they’re giving us ... would cost \$5 or \$6 in the store. Man, that was just a great help.” -Larry Brown, 62-year-old military veteran and HFB client

HFB, along with Feeding Texas, the state association to which they belong, will be asking the legislature for an increase of \$10 million bringing the grant funding to a total of \$20 million. While inflation is causing everyone to stretch their dollars a little farther, food banks have historically translated \$1 of Surplus Agricultural Grant funding into eight pounds of fresh produce for families in need. So, this grant is a wise investment of the State's resources and is one direct allocation that can impact multiple sectors.

SB 1, Rider 28: Warfarin Pilot Program

Texas A&M AgriLife Extension Service

SB 1, Rider 28 was added to the budget to study the feral hog infestation problem in Texas. The rider was added with input from multiple stakeholders. The Texas Department of Agriculture (TDA) has collaborated with AgriLife Extension Service (AgriLife) to implement the warfarin pilot program as described in Rider 28 of the TDA budget. TDA's role in this pilot program has been to register warfarin products for use in the study and to license applicators participating in the study. The information that follows was reported to TDA by AgriLife.

The program trialed six sites across the state with various ecological conditions.

- Chambers County
- Caldwell County
- Anderson County
- Burnett County (2 sites)
- Sutton County

The targeted hogs were pre-conditioned to eat from a self-feeder with corn bait. They were then transitioned to a placebo with corn then through active pesticide with corn at increasing ratios until they were fed with 100% active bait. One concern was that with warm weather, green weeds, grasses, and other vegetation might have been more appealing to the hogs than the bait. Additionally, Vitamin K is the antidote for this bait. With new green vegetation growth, Vitamin K becomes more readily available and could have hindered the effect of the bait.

These concerns did not come to fruition, and the bait was successful at almost all sites.

- Chambers County – Successful take
- Caldwell County – Successful take
- Anderson County – Successful take after adjustments
- Burnet County – Successful take in one location, hogs were introduced to 100% active bait too quickly in second location and failed to eat it
- Sutton – Landowner shot the hogs, efficacy of bait could not be assessed

The Warfarin Pilot Program research is set to be concluded in the Summer 2023. The research team wants another season of hogs being able to eat more greenery and shrubs due to this past summer having such a significant drought. The researchers want a more diverse intake of foods with the Warfarin product to understand how effective it will be.

CHARGE II: TEXAS AG FINANCE AUTHORITY

Study the access of the State’s agricultural industry to available capital through loans, grants, or other sources. Make recommendations to ensure the agricultural industry has sufficient access to available capital, as well as how the Texas Department of Agriculture can educate farmers, agricultural producers, and others about available sources of capital.

BACKGROUND

The Texas Agricultural Finance Authority, or TAFA, was established by the legislature as a unit within the Texas Department of Agriculture in 1987 and is collectively authorized by chapters 44 and 58 of the Texas Agriculture Code. The purpose of TAFA is to provide financial assistance to eligible agricultural businesses and other economic development endeavors within the rural communities that support them. Chapter 58 establishes the Texas Agricultural Fund, which consists of the proceeds of constitutionally and legislatively authorized General Obligation bonds and other funds as appropriated by the legislature.

SUMMARY OF COMMITTEE ACTION

The Committee met and had a hearing on June 1st, 2022 with both invited and public testimony.

Public Hearing: June 1st, 2022

Witness List: June 1, 2022- Austin, Texas, Capitol Extension E2.010, at 10:15 a.m.

1. Bon Wier (Texas Department of Agriculture)

Texas Department of Agriculture - Texas Agricultural Finance Authority

Article 3, Section 49i of the Texas Constitution authorizes the issuance of bonds to fund financial assistance programs that support agricultural businesses and micro-enterprises. Section 49f authorizes the issuance of up to \$200 million in general obligation bond debt for the purposes set forth in 49i and for other rural economic development programs, consistent with TAFA’s statutory mission.

Rural economies are supported by three institutional pillars:

- Private enterprises that provide jobs and commerce;
- Public institutions that support the economy through governance, infrastructure, and economic development initiatives; and,
- Financial institutions that deliver the capital necessary for economic stability and growth.

It is generally understood that private enterprise will thrive as long as it operates in a supportive environment. The environment of rural communities often poses opportunity for success.

TAFA has historically seen the greatest value return on its economic development investments in

rural communities, primarily through local government institutions and community support.

Capitalizing on these observations, the TAFAs board has authorized the Rural Economic Development Finance Program, which includes two new bond-funded loan structures:

- Rural Community Loan
- Agriculture and Community Economic Development (or ACED) loan.

Rural communities, municipal corporations, and special districts bear direct responsibility for their local economies and are financially empowered to do so primarily through sales tax collection and other revenue creation (utilities, e.g.). In principle, this is no different than Texas's largest political subdivisions. However, when seeking to leverage these revenue sources, rural communities find themselves at a unique disadvantage compared to their urban counterparts.

While no less critical to residents and businesses, rural projects are often smaller in size and infrequent. As a result, the public finance industry has evolved to compete more aggressively in urban areas and larger towns where deal sizes are larger and greater economies of scale can be achieved.

Additionally, costs of issuance can be enormous, regardless of transaction size. Larger transactions can more easily amortize these high costs, but for smaller deals they are less efficient at best and prohibitive at worst.

The Rural Community Loan Program addresses these gaps. By leveraging the state's credit rating and the scale of a single debt facility, TAFAs can act as a conduit for communities with limited or no access to bond markets. Instead of issuing revenue bonds, smaller communities can pledge tax and other revenues to secure debt issued directly to TAFAs. This structure will ensure the low yields reflective of much larger issues and significantly reduce closing costs that would otherwise prohibit access to more traditional capital markets.

The Financial Sector, especially community banks, provides essential support for the rural economy. Smaller banks can experience challenges similar local governments. Community banks are the ideal source for capitalizing the needs of a local economy. They are woven into the fabric of their communities and best understand the needs and capabilities of their depositors and borrowers.

As capital demands increase at the single borrower level, or within an already heavily leveraged industry, local lending institutions can become stressed. Whether due to the unintended consequences of regulatory burden or simply prudent portfolio diversification policies, smaller banks often find themselves unable to independently achieve the scale necessary for larger projects and community needs.

These limitations are offset to a degree through federal guarantee programs like the Small Business Administration (SBA) and through syndicated relationships with other lending institutions, but these strategies don't come without cost. Complexity, long lead times, and the potential dilution or loss of client relationships are some of the downside risks.

For over a decade now, TAFAs has administered the Agricultural Loan Guarantee program in an effort to address these challenges. Backed by the corpus of the Texas Agricultural Fund, TAFAs offers guarantees of up to 90% of loan balances held by community banks to qualifying agricultural businesses.

TDA staff thoroughly evaluates both borrower and counterparty risk, but the guarantees can still be secured much more quickly and with significantly less restrictions than similar federal guarantee programs. The program has never experienced a draw on TAFAs funds for losses, which is a testament to the underwriting policies of the industry and program staff.

TAFAs also administers an Interest Rate Reduction Program, intended to reduce downstream borrowing costs through linked deposits held in participating financial institutions.

While these programs have historically delivered tremendous value to the banks and borrowers that they support, they do have some limitations. The duration of the agricultural loan guarantee is limited to 10 years, and the maximum guarantee is limited to \$500,000, primarily due to the size of the Agricultural Fund and in an effort to maintain diversity in the overall program. Additionally, the low interest rate environment that has existed for more than a decade has diminished the net impact of linked deposit structures.

Our proposed ACED loan program might be considered a companion to the Ag Loan Guarantee and Interest Rate Reduction programs. It is designed with similar goals, but instead of guarantees and subsidy deposits, TAFAs will offer participations on bank loans to qualifying borrowers. This is similar to a syndicated or leveraged loan, but the participating bank retains 100% of the loan servicing rights and experiences no visible change to the original lender-borrower relationship.

Through the program, banks can leverage an existing capital base up to 3.3:1 (based upon a 70% participation by TAFAs) for eligible borrowers and industries with no impact to the bank's balance sheet and with no threat of interference with client relationships. In addition to expanded lending capacity, loan interest rates can be lowered, if desirable, to reflect the weighted average of the bank's cost of capital and the very low cost of TAFAs's general obligation bond proceeds.

The proposed loan programs neither replace nor circumvent traditional avenues of capital distribution; they are supportive in nature. Capital invested by a community and in the community, whether that be by local government institutions or by lenders, remains in the community. Our Rural Economic Development Finance program is a structural support option for rural institutions to better perform their respective roles within the regions and industries they serve.

This program will deliver tremendous value to rural communities, but TAFAs remains first a steward of the Texas Agricultural Fund. In recognition of the self-supporting nature of its authorized debt, TAFAs has adopted an additional mission in both policy and rule: Risk Management and Capital Preservation.

Every loan extended from the Texas Agricultural Fund, whether from bond proceeds or the fund's corpus, is subject to strict and professional underwriting standards. The TAFAs board has adopted

a comprehensive credit policy, including a proprietary risk rating system derived from similar Standard and Poor (S&P) models associated with the industries covered.

Every borrower and counterparty will be adjudicated within this model to assess both enterprise and financial risk, ultimately resulting in a composite score that will inform:

- Credit decisions, and
- Loan loss reserve calculations.

Each loan in the portfolio will be monitored at least annually to assess reserve adequacy and report any material changes in risk profile to the board and other constituents.

The TAFA credit policy is designed to:

- Minimize and manage portfolio risk;
- Maintain adequate reserves against unexpected losses; and,
- Ensure ongoing availability of funds to service the debt that we are asking Texas Public Finance Authority to issue on our behalf.

CHARGE III: TEXAS RIGHT TO FARM

Study the impact on agricultural operations, including the operations of dairy facilities, of governmental and regulatory requirements and practices including those that prevent or prohibit an activity that is a normally accepted agricultural practice, and make recommendations to facilitate and encourage agricultural and dairy production in the state.

INTRODUCTION

The input the Committee received on Charge III came in the form of two different, yet important topics. One having to do with municipal overreach into reasonable agricultural production due to urbanization, which was presented to the committee on June 1st, 2022 at a public hearing.

The other, from the dairy industry in Central Texas facing seemingly unending environmental regulation well after the implementation of corrective measures, for which comments were received in written form and the Committee investigated as part of the interim charge.

SUMMARY OF COMMITTEE ACTION

The Committee met and had a hearing on June 1st, 2022 with both invited and public testimony.

Public Hearing: June 1st, 2022

Witness List: June 1, 2022- Austin, Texas, Capitol Extension E2.010, at 10:15 a.m.

1. John Paul Dineen III (Texas Farm Bureau)
2. Jim Bradbury (Self)
3. James Lockridge (Self)
4. Marcus Hutka (Self)

The Committee also received written comments on this charge from Texas Association of Dairymen Executive Director Darren Turley, along with a letter from Mr. Damon Miller, fleet manager, Dairy Farmers of America.

RIGHT TO FARM WITHIN THE JURISDICTION OF LOCAL MUNICIPALITIES

BACKGROUND

The Committee was made aware of instances where farmers' and ranchers' land within city boundaries has become overregulated by municipal ordinances that prohibit many, if not all, normal agricultural operations, such as raising and keeping livestock, hay production, and cultivating certain row crops.

Local municipalities across Texas are using their authority to enact ordinances to regulate

nuisances deemed a threat to health and safety. Cities are using public nuisance ordinances to restrict agricultural activities. These ordinances have been used to prohibit certain types of generally accepted farming practices from being used on the property within the jurisdiction of the municipalities.

Agriculture Code Chapter 251 was enacted over thirty years ago to address this issue, but today's cities and municipalities may be unfamiliar with statutes designed for the protection and preservation of agricultural operations within city limits of municipalities.

Some examples of restrictive ordinances throughout the State include:

These are instances of issues the Committee has found due to our research.

LIVESTOCK

It shall be unlawful for any person to keep any swine within the city.

A person commits an offense if he owns, possesses, exhibits, or harbors livestock within the city without a valid livestock permit.

BUFFER ZONE

It shall be unlawful for any person to keep any horse, cow, cattle, sheep or goat or any other livestock within one hundred fifty (150) feet of any residence or occupied building.

It is unlawful for a person having under his control any male large livestock capable of breeding to allow to associate or stand with female large livestock, except when done so in a structure or building sufficiently enclosed on all sides or in all parts so as to completely close off and prevent all outside view, and provided that such structure shall not be less than one hundred fifty 150 feet from the nearest inhabited residence of any individual other than the livestock's owner or keeper other than the owner.

Any enclosure, pen, corral, or other restrictive area for livestock may not be located within ten (10) feet of any residentially zoned property or any property used for residential purposes.

It is an offense to allow weeds to grow to a height greater than twelve (12) inches on premises used by an agricultural operation as defined by Agriculture Code § 251.002, : Within one hundred fifty (150) feet from adjacent property under different ownership or a public street, highway or right-of-way; or on cultivated premises where there is less than one hundred fifty (150) feet between cultivated crop and adjacent property under different ownership or a public street, highway or right-of-way, between such cultivated crop and adjacent property under different ownership or public street, highway or right-of-way.

GRASS HEIGHT

All vegetation (including hay unless the hay is cultivated on property which has been granted an agricultural property tax exemption on the most recent tax roll as certified by the county appraisal

district), except regularly cultivated row crops, which exceeds eight inches (8") in height, shall be presumed to be objectionable and unsightly matter; provided further that regularly cultivated row crops shall not be allowed to grow within the right-of-way of any public street or easement nor shall they be allowed to obstruct the necessary view to and from adjacent rights-of-way, but shall be kept mowed as provided herein.

GRANDFATHERED AG VALUATION ONLY

Property is considered to be agricultural property, whether cultivated or uncultivated, only if it has been granted a property tax exemption by the county central appraisal district, or equivalent authority, pursuant to the Texas Property Tax Code or State Constitution, for agricultural land. Otherwise, it is not considered agricultural property and cannot be used for agriculture, therefore it is subject to all restrictions by the city. In most counties, to be granted ag valuation you have to prove a history of production on your land for at least five years prior to being granted the exemption, and if a landowner ever loses the exemption they would never be able to practice agriculture in the same location again.

ZONING

Using open space land for agriculture is not allowed in most or all residential and non-residential zones, effectively prohibiting agriculture within city limits. Restrictions on using barbed wire in certain land use zones.

TESTIMONY & DISCUSSION ON MUNICIPAL REGULATION

Individuals and industry groups informed the Committee of numerous accounts of cities using their public nuisance ordinances to prohibit agricultural activities throughout Texas, but especially concentrated in the Dallas-Fort Worth metroplex area where. In one city, grass grown for hay is not allowed to grow taller than twelve inches without the city coming in and mowing the property and sending the bill to the farmer. In other instances, hay bales must be removed from properties within a short period of time, usually 24-48 hours, to avoid penalties in order to comply with city health ordinances.

Additionally, farmers provided reports of certain cities requiring seemingly arbitrarily buffer zones of up to 250 feet around the property forcing cultivated crops to be mowed short, taking significant acreage out of production.

The current statute only protects agricultural operations annexed after August 31, 1981. Those within the agricultural industry express that this creates confusion as to which operations are, or are not, protected.

The current law does not require a city to prove an agricultural practice is truly a threat to public health. It was suggested by Texas Farm Bureau that cities in Texas should be required to consult expert agricultural information on generally accepted agricultural practices that are not a threat to public health. This would be similar to Central Appraisal Districts being required to consult the Comptroller's agricultural use manual in assessing whether or not property should qualify for

agricultural valuation.

RECOMMENDATIONS ON MUNICIPAL REGULATION

In Texas farming and ranching is the backbone of our state and economy. Changes to the Agriculture Code are needed to preserve our right to farm and ranch in Texas. Protections need to be made to make sure we empower the farmers and ranchers of this state to continue the safe production of food and fiber. Current statute only protects agricultural operations annexed after August 31, 1981. This creates confusion as to which operations are, or are not, protected. We need to ensure all agricultural operations are protected in this State.

With more and more of Texas' agricultural lands being developed, it is imperative that the Committee make sure that today's farmers and ranchers are given every opportunity to keep agricultural lands that are now inside the boundaries of cities due to urban sprawl in the production of commodities we use to feed and clothe the world. The standard in current law needs to be strengthened.

The Committee believes simple, common-sense changes to the Texas Agriculture Code are needed to preserve our current "right to farm" statutory protections. We need to ensure all agricultural operations are protected.

Statue currently does not require a city to prove an agricultural practice is truly a threat to public health. This is an issue that must be addressed to stop cities from overstepping with their authority by regulating AG production out of existence in the name of public health and safety.

Cities should be required to consult expert agricultural information on generally accepted agricultural practices that are not a threat to public health before being able to fine or shut down an operation.

RIGHT TO FARM WITHIN THE TEXAS DAIRY INDUSTRY

BACKGROUND

In the past two years, Texas has become the fourth largest milk producing state in the nation. By 2025, Texas is projected to follow Wisconsin and California as the third largest. While the number of dairy farms in Texas is declining, milk production continues to grow. In 2021, the 335 Texas dairy farms and their approximately 625,000 dairy cows produced 1.8 billion gallons of milk. As of August 2022, Texas has 314 dairy farms.⁴

Texas dairies deliver for local and state economies. In Texas alone, the industry has a \$50.3 billion economic impact and generates 253,000 direct and indirect jobs that pay \$12.7 billion in wages. In addition, the Texas dairy industry is responsible for \$1.6 billion in state and local taxes and \$2.5 billion in federal taxes.⁵

From the 1950s until the early 2000s, traditional milking sheds, as a region included the East Texas/Sulphur Springs area, Central Texas in the Stephenville/Comanche/Bosque area and the North Texas area including Windthorst near Wichita Falls. In the past 25 years, the state of Texas has lost over 1,450 dairy farms, mostly in East, North and Central Texas. Meanwhile, tremendous growth has been seen in the North Panhandle and South Plains area from Dalhart down to Muleshoe, where the number of cows has increased by a whopping 3,500% from 1995 to 2015. Eastern New Mexico, near Clovis, has also seen significant growth.

Dairy processing has expanded in the regions in the last 15 years, with a growth of cheese plants. In June 2021, Cacique LLC, the leading maker of Mexican-style cheeses in the U.S., broke ground on an \$88 million dairy processing facility in Amarillo. Also under construction is Leprino Foods Company's planned \$1 billion, 850,000-square-foot dairy foods manufacturing plant to be built in Lubbock. Announced in June 2022, this project is the largest single private capital investment in Lubbock's history and the recipient of a Texas Enterprise Fund grant.

While the Texas dairy industry is thriving, it does face challenges. Like all industries, dairy farms are facing increased costs for feed, fuel and labor. The Texas dairy industry also faces regulatory barriers

⁴ Dallas Milk Market Administrator monthly statistical report, https://www.dallasma.com/order_stats/admin_reports.jsp

⁵ International Dairy Foods Association, <https://idfa.guerrillaeconomics.net/reports/3f73be0f-250e-4bcf-9c27-04acc72443ce?>

DISCUSSION - DAIRIES

North Bosque Watershed - Total Maximum Daily Loads (TMDL)

Regulatory burdens led the Texas dairy industry's geographical shift from Central Texas to the Northern Panhandle and South Plains.

The North Bosque River watershed (the "Bosque Watershed") was created in 2001 by the Texas Commission on Environmental Quality ("TCEQ"), as part of a TMDL Implementation Plan, imposed regulations on municipalities, from Stephenville to Waco, and dairy confined animal feeding operations located in the Bosque Watershed. These dairy farms are located in Erath, Comanche and Hamilton Counties. The municipalities allocated tax dollars to enhance their municipal wastewater treatment facilities to meet the new phosphorus standards that were imposed in the TCEQ plan and have since been found in compliance. There were 200 dairies in Erath County in 1995. As of August 2022, 44 dairies remain. The declining numbers are directly related to the higher cost of regulation in the area, as Texas has continued to see growth in dairy operations in other parts of the state. These farms chose other areas to avoid this expensive and stringent permit process.

The dairy industry has been singled out in the rules changes imposed by TCEQ, with all dairy farms located in the Bosque Watershed being required to obtain an individual permit instead of the general permit that dairy producers in the rest of the state utilize. This individual permit requires more intensive management, including enlarged waste storage lagoons and increased record keeping and is more expensive.

These efforts have successfully reduced phosphorus levels in the Bosque Watershed; however, it has also drastically reduced the number of dairy farms in the Bosque Watershed. The management practices adopted by dairy farmers in the Bosque Watershed have been applied by all farms to reduce nutrients and possible runoff. The dairy industry continues to adopt advanced technology for handling its waste, such as the use of methane digestors currently being built by dairy farmers in the Bosque Watershed.

However, dairy producers report that the uncertainty and cost of increased legal and technical services required to achieve an individual permit has become very burdensome to dairy producers in the Bosque Watershed. These permits also require much more time for TCEQ review and approval. The increased expense and burdensome regulations are limiting producers' ability to add acreage for waste disposal and put producers and TCEQ at a very high risk of legal battles over the approval of an individual permit.

The Texas Association of Dairymen believes producers have been penalized long enough and that a change back to a general permit with best management practices for the Bosque Watershed would be beneficial for both TCEQ and the dairy industry.

RECOMMENDATIONS - DAIRIES

Review statutes and TCEQ rules to allow the dairies in the Bosque Watershed to meet best available environmental practices to obtain general permits rather than the current individual permits.

