



# Texas Legislative Study Group

*An Official Caucus of the Texas House of Representatives*

## LSG Budget Primer, Third Called Session

This report outlines updated available revenue and spending limits for the 88th Legislature, Third Called Session, ahead of impending floor debate and potential state spending.

### Available Revenue

The Comptroller's Certified Revenue Estimate ([CRE](#)) determined that **\$18.3 billion of surplus funds** are at the Legislature's disposal for the Third Called Session. In addition to this, roughly **\$4.6 billion** of funds relevant to the [Governor's Call](#) is earmarked under the General Appropriations Act (GAA).

#### **\$4.6 billion**

The 2024-25 GAA earmarked \$4 billion for public education, \$500 million for school choice, and \$100 million for border security, contingent on legislation (Art IX, Sec 18.78 and Sec 7.10). Because no corresponding legislation passed, these funds remain unspent.

#### **\$18.3 billion**

After accounting for actual revenue collections during fiscal years 2022-23 and projected spending for the 2024-25 GAA, the Comptroller's Certified Revenue Estimate (CRE) determined that there was an additional \$18.3 billion at the Legislature's disposal.

### Spending Limits

Texas has dynamic budget caps that limit available spending to ensure long-term fiscal health. There are two Constitutional limits and one statutory cap that restrict appropriations. Some caps have exemptions that do not count towards the limit.

Any spending over these caps requires a vote — the higher the cap amount, the higher the vote threshold to “bust” it. In addition to a vote, the Legislature must adopt a concurrent resolution outlining an “emergency” for exceeding the spending limit. According to the Legislative Reference Library, the only time an adopted limit has been exceeded, or “busted,” was in 2007, [SCR 20](#), 80th Regular Session.

The Legislature can only spend up to what the lowest cap dictates; as of now, that is the Tax Spending Limit set at \$6 billion for the Third Called Session. However, the \$6 billion does not include the \$4.6 billion of contingencies relevant to the call in the GAA. **Therefore, the most that the Legislature can spend on items relevant to the call without busting the lowest spending cap is \$10.6 billion.**

Spending Limit	Cap for Third Called Session ( <i>LBB</i> )	Exceptions	Vote Threshold
<p><b>Tax Spending Limit</b></p> <p><i>Texas Constitution, Article VIII, Section 22</i> <i>Texas Gov't Code, Section 316.001(b)</i></p>	\$6 billion	Appropriations funded with non-tax revenues or Constitutionally-dedicated tax revenues.	Simple majority vote in both chambers (with a finding of an “emergency”)
<p><b>Consolidated GR Limit</b></p> <p><i>Texas Gov't Code, Section 316.001(c)</i></p>	\$13 billion	Appropriations to pay for tax relief or costs associated with recovery from a disaster declared by the Governor (i.e. border security).	3/5th vote in both chambers (with a finding of an “emergency”)
<p><b>Pay-as-you-go Limit</b></p> <p><i>Texas Constitution, Article III, Section 49(a)</i></p>	\$18.3 billion		4/5th vote in both chambers (in the case of “emergency and imperative public necessity”)

### Economic Stabilization Fund (ESF)

As of now, the Economic Stabilization Fund (ESF), also known as the “rainy-day fund,” has a total of \$14.2 billion. The Comptroller forecasts an additional \$10.2 billion will be transferred into the ESF during the biennium due to regular oil and natural gas taxes, investments, and other transfers. **After accounting for 2024-25 spending and transfers, the Comptroller projects that the ESF will reach \$23.8 billion.**

Rainy day funds should maintain sufficient balances to ensure state services can continue during times of economic downturn. State statute puts the ESF sufficient balance at 7 percent of the certified general revenue-related appropriations made for that fiscal biennium (Section 316.092, Government Code). The sufficient balance of the ESF for 2024-25 is \$11.2 billion.

That said, even the architects of the original rainy day fund never expected it would grow as large as it has. Originally, the Biennial Revenue Estimate (BRE) released before the regular session projected that the ESF would reach its Constitutional Cap during fiscal year 2025. However, because severance taxes were slightly less than projected and less unencumbered funds were transferred, the CRE now shows that the ESF is projected to reach its constitutional maximum balance of \$26.35 billion during fiscal year 2026.

A three-fifths or two-thirds vote in each chamber is required to tap into the ESF (Tex. Const. Art. III, § 49-g). A three-fifths vote is required to use the fund if there is a current-year budget deficit or projected decline in revenue. However, to use the fund for any other purpose, the voting requirement is more stringent (two-thirds in each house).

Since the ESF was created in 1989, The Legislature has made [seven appropriations](#) totaling \$10.6 billion from the ESF, most recently in 2013.

## **Other Budgetary Considerations**

During regular sessions, the Legislature often adopts a supplemental appropriations bill to cover budget shortfalls for the current biennium, respond to emergencies, and capture budget savings in the last fiscal year of a biennium. Occasionally, the supplemental bill provides one-time funding for priority projects.

Covering a budget shortfall in the Medicaid program in a supplemental is fairly common. During the 88th Legislative Session, the supplemental budget appropriated roughly \$2.5 billion for 2022-23 for the Medicaid shortfall. In the 86th, the supplemental included \$2 billion for 2018-29. In these situations, supplemental appropriations count towards the current biennium's spending cap.

Budget experts have cautioned that the state will again likely need to backfill Medicaid in a supplemental bill during the 89th Legislative Session. Accordingly, the state would either need to reserve funds under the spending cap during this special session to put towards Medicaid in the future or plan to bust the cap in 2025.

## **Moving Forward**

Relevant to the budget, the Governor's call includes education savings accounts and various border measures.

As a nonpartisan research caucus, the LSG strives to lead with facts and evidence, and vouchers in any form are bad policy. Vouchers divert funds from public schools, cost taxpayers more money with zero accountability or transparency, and do not improve student outcomes. The state is responsible for educating all its students, not just the few with a voucher or ESA.

Additionally, as in previous sessions, the LSG has concerns about the various proposals moving through the Legislature on immigration. These bills raise questions about state government overreach into federal jurisdiction, as well as irresponsible spending of taxpayer dollars and violations of civil rights.

The LSG will monitor legislation as it progresses.