



## BlueCross BlueShield of Texas

### 2023 Texas Legislative Summary – Issues 13 & 14

#### **2024-2025 HOUSE BUDGET**

The General Appropriations Bill, or the budget bill, was approved by the House on April 6. The budget totaled \$302.6 billion with tax cuts and teacher and state employee raises. House members pre-filed [almost 400 amendments](#) for debate on budget day, though more than half were pulled from consideration. A summary of select [budget items](#) is provided below.

#### **Public School Funding**

- \$60.3 billion for state aid to school districts and charter schools through the Foundation School Program (FSP), which represents a \$12.5 billion increase from the 2022–23 biennium.

#### **Medicaid**

- \$79.3 billion for the 2024–25 biennium.
- The budget takes into consideration reduced federal funding as a result of the ending Public Health Emergency.

#### **Behavioral Health**

- \$6.2 billion for non-Medicaid/Children’s Health Insurance Program (CHIP) behavioral health services, including inpatient and outpatient services, and mental health and substance abuse treatment for adults, children, veterans and prison inmates.

#### **Teacher and Retiree Health Benefits**

- Active employee health insurance funding of \$875.4 million to maintain TRS-ActiveCare premium increases.
- Retiree health insurance funding of \$960.2 million to maintain current TRS-Care premiums and benefits.

#### **State Employee Salary Increase and Health Benefits**

- \$1.8 billion for a 5% increase in state employee salaries, as well as funding for benefits.
- \$4.1 billion for group insurance benefits for general state employees, retirees and their dependents.

The House budget is under the amount the Legislature has to spend.

#### **HOUSE INSURANCE COMMITTEE BILLS**

The House Insurance Committee chaired by Rep. Tom Oliverson, M.D., (R-Cypress), voted favorably on several bills, including:

- [House Bill 1647](#) by Rep. Cody Harris, (R-Palestine), which restricts “white bagging.” White bagging is the distribution of patient-specific medication from a specialty pharmacy to a provider for administration. After working with the bill author to address concerns, The Texas Association of Health Plans (TAHP) is neutral.
- [House Bill 895](#) by Rep. Sergio Munoz, (D-Mission), bans extrapolation, which is a practice that uses a sample of claims to determine overpayments to providers. TAHP testified against the bill.
- [House Bill 468](#) by Rep. Shawn Thierry, (D-Houston), extends current hearing aid and cochlear implant mandate for children from age 18 to age 25. TAHP is neutral on the bill.
- [House Bill 755](#) by Rep. Julie Johnson, (D-Carrollton), prevents a health plan from requiring prior authorization more than once a year for a prescription drug to treat a chronic or autoimmune disease. TAHP opposes the bill as filed but is negotiating with Rep. Johnson on substitute language.

- [House Bill 1592](#) by Rep. Oliverson allows ASO plans to opt in to the out-of-network dispute resolution process enacted in 2019 as part of [Senate Bill 1264](#).
- Committee substitute for [House Bill 109](#) by Rep. Julie Johnson. The bill prohibits denial of hearing aid coverage solely based on whether the price of the hearing aid is more than the benefit available under the plan. HB 109 was recommended for the Local and Consent calendar, which streamlines the passage of bills with no opposition.
- Committee substitute for [House Bill 1236](#), which revises the definition of “emergency care” to clarify that final diagnosis of the condition doesn’t determine whether it’s considered emergency care from the prudent layperson perspective.

Among the bills considered by the committee and left pending:

- [House Bill 3351](#) by Rep. Caroline Harris, (R-Round Rock), removes requirements that limit physician-ranking programs and allows data sharing with providers in value-based care agreements. TAHP testified in favor of the bill.
- [House Bill 1073](#) by Rep. Lacey Hull, (R-Houston), expands use of value-based contracting between health plans and health care providers, including PPOs and multiple employer welfare arrangements (MEWAs).
- [House Bill 3414](#) by Rep. Oliverson expands the entities that would have access to the data in the Texas All Payor Claims Database (APCD).
- [House Bill 3848](#) by Rep. Oliverson directs TDI to set minimum access standards for nonemergency transport services provided by an emergency medical services provider. TAHP is opposed to the bill as filed but would be neutral with changes.
- [House Bill 2414](#) by Rep. James Frank, (R-Wichita Falls), expands the availability of value-based contracting to permit value-based risk sharing contracts between self-funded employee welfare benefit plans and providers. TAHP testified in support of HB 2414.
- [House Bill 4367](#) by Rep. Phillip Cortez, (D-San Antonio), prohibits health plans and HMOs from denying or reducing payment for preauthorized services based on medical necessity or eligibility. TAHP is opposed to the bill as filed.

### **HEALTH CARE REFORM COMMITTEE**

The House Health Care Reform Committee considered two major Medicaid bills at its April 6 hearing. Both were left pending.

- [House Bill 1283](#) by Rep. Oliverson repeals the sunset date for the Medicaid prescription drug list (PDL) in the current statute and allows the Health and Human Services Commission (HHSC) to remain in control of the vendor drug program. TAHP testified as neutral but is discussing concerns with Oliverson.
- [House Bill 3286](#) by Rep. Stephanie Klick, (R-Fort Worth), establishes a process for requesting exceptions to step therapy protocol for Medicaid MCO members like those in the commercial market. The bill also requires MCOs to post their preferred drug lists online. TAHP testified in support of the bill.

The committee voted favorably on numerous bills including:

- [House Bill 2180](#) by Rep. Cody Harris requires a member’s prescription drug cost-sharing amount be calculated at the point of sale and the rebate used to reduce the amount the member pays at checkout. The bill applies to all group and individual health benefit plans. TAHP opposes the bill.
- Committee substitute for [House Bill 3317](#) by Rep. Frank creates federally qualified health center (FQHC) primary care access programs. The programs would provide primary health care services to employees of participating employers and other uninsured or underinsured groups.

### **STATE-BASED EXCHANGE**

[House Bill 700](#) by Rep. Oliverson was considered by the House [Select Committee on Healthcare Reform](#). HB 700 creates the Texas Health Insurance Exchange, a state-based exchange for individual and small

employer plans. Various stakeholders, including Blue Cross and Blue Shield of Texas (BCBSTX) and other industry and advocacy groups, drafted governing principles for the state exchange:

1. Increase enrollment in comprehensive, affordable health care coverage
2. Help extend quality coverage to the uninsured in Texas, including adults working in low-wage jobs
3. Enhance enrollment/application process between Medicaid and the Exchange to ensure people are connected to the right services
4. Match or exceed federal investments in marketing, outreach and community-based enrollment assistance
5. Secure sufficient funding
6. Implement data-driven design and operations, guided by a formal advisory committee
7. Ensure transparency and accountability
8. Direct the Texas Department of Insurance to enforce ACA market rules

The Select Committee discussed the operation of a state-based exchange in its [interim report](#) released in January but didn't recommend the creation of a Texas state-based exchange. The bill was left pending.

### **SENATE HEALTH AND HUMAN SERVICES COMMITTEE**

Senate Health and Human Services Committee, Sen. Lois Kolkhorst, (R-Brenham), presiding, considered several bills of interest to the insurance industry. Except for SB 1581, which was left pending, the bills were voted favorably.

- [Senate Bill 989](#) by Sen. Joan Huffman, (R-Houston), mandates health plan coverage for certain biomarker testing. TAHP testified as neutral after working with Sen. Huffman to address concerns. The bill was voted favorably by the committee.
- [Senate Bill 1581](#) by Paul Bettencourt, (R-Houston), establishes a mandate review process to evaluate proposed health insurance mandates and assess their impact on the health insurance market and affordability of coverage in the state. TAHP testified in favor of the bill and TMA testified against it.
- [Senate Bill 1140](#) by Sen. Charles Schwertner, (R-Georgetown), improves oversight of health plan network adequacy by adding additional authority to the Office of Public Insurance Counsel (OPIC).
- [Senate Bill 1286](#) by Sen. Schwertner is the companion to [House Bill 3196](#) by Rep. Ann Johnson, (D-Houston). The bills amend current law on prompt payment deadlines for health plan claims affected by a catastrophic event. The bill was recommended for the Senate Local and Uncontested Calendar, which streamlines the passage of bills with no opposition in that chamber.

### **BILLS OF INTEREST**

- Committee substitute for [House Bill 1599](#) by Rep. John Bucy, III, (D-Austin), was passed by the House on April 4 and sent to the Senate. The bipartisan bill requires HHSC to establish an "express lane" option for determining a child's eligibility for CHIP or Medicaid.
- [Senate Bill 1275](#) by Sen. Kelly Hancock, (R-North Richland Hills), was considered by the Senate Health and Human Services (HHS) Committee on April 5. The bill prohibits health care providers from charging "hospital facility fees" for services not performed on a hospital campus. This would also prohibit free-standing emergency rooms from charging a facility fee for non-emergency-related services. The bill was left pending.
- [Senate Bill 622](#) by Sen. Tan Parker, (R-Flower Mound), requires disclosure of a health plan's list of covered generic and brand-name prescription drugs, the member's eligibility, cost-sharing information and applicable utilization review requirements. The bill is pending in Senate HHS. Its companion, [House Bill 1754](#), has been considered by the House Insurance Committee.
- [House Bill 300](#) by Rep. Donna Howard, (D-Austin), makes certain family care items tax-exempt, including adult and children's diapers, baby wipes, bottles, menstrual products, maternity clothing and breast milk pumping products. The bill passed the House and has been referred to the Senate Finance Committee.
- The Senate Finance Committee chaired by Sen. Huffman approved its version of the [2024-2025 state budget](#). The House's version, [House Bill 1](#), and [Senate Bill 30](#), the Senate's version of the supplemental budget, were approved by the full House on April 6.

- Rep. Ernest Bailes, (R-Shepherd), filed [House Bill 590](#), which would penalize for bottling and selling honey labeled as “Texas honey” if it isn’t purely sourced Texas honey. The bill passed.

### **TIDBITS**

- [Senate Bill 1509](#) and [House Bill 3493](#) were voted out of their committees. These bills would repeal a provision allowing state employees and legislators who meet age and years of service requirements to access their pension while continuing to receive a state salary.
- For the first time, the Comptroller’s office, in the 2024-25 Biennial Revenue Estimate (BRE), projects that the [Economic Stabilization Fund](#) — commonly referred to as the “Rainy Day Fund” — in 2025 will hit the upper limit on its balance.
- The LBJ School of Public Affairs at the University of Texas has [named an endowment](#) for Willie Nelson to celebrate his contributions and fund various agricultural and disaster relief efforts.
- On March 18, the Wise County Heritage Museum building [caught fire](#) and was destroyed. The 1893 building was once home to Decatur Baptist College, the world’s oldest junior college.
- On March 27, 1836, more than three hundred Texas prisoners of war were executed by the Mexican Army in the [Goliad massacre](#).
- H-E-B was voted #1 Texas brand in a [Texas Monthly reader survey](#).

### **TIMETABLE**

Important dates related to the 88<sup>th</sup> legislative session:

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| ▪ | Jan. 10, 2023 | 88 <sup>th</sup> Legislature convenes at noon  |
| ▪ | May 23, 2023  | Last day for House to pass most Senate bills on second reading   |
| ▪ | May 24, 2023  | Last day for the Senate to pass bills  |
| ▪ | May 28, 2023  | Last day for both chambers to adopt conference committee reports or accept the amendments from the other chamber |
| ▪ | May 29, 2023  | Last day of 88 <sup>th</sup> Regular Session   |
| ▪ | June 18, 2023 | Last day governor can sign or veto bills passed during regular session   |
| ▪ | Aug. 28, 2023 | Bills without specific effective dates or immediately effective become law                                       |