

Congress of the United States
Washington, DC 20515

September 30, 2022

The Honorable Janet Yellen
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

The Honorable Charles P. Rettig
Commissioner
Internal Revenue Service
1111 Constitution Avenue NW
Washington, DC 20224

Dear Secretary Yellen and Commissioner Rettig:

We write in strong support of the attached requests previously submitted to your offices by Congressman Doggett and Congressman Arrington to update an administrative exemption (Notice 2010-5) that permits the Texas Permanent School Fund (“PSF”) to guarantee bonds under the Texas Bond Guarantee Program (the “BGP”) for the construction of school facilities in the State. Absent this administrative exemption, these bonds would be subject to Federal restrictions that limit the ability of the BGP to issue additional bonds. Treasury last issued this exemption in 2010 which has to date ameliorated the realization of the Federal limitation.

Recent inflationary pressures and increased borrowing costs have increased both the cost and demand for school construction projects in the State of Texas, thereby accelerating the realization of this limitation. These pressures have caused a surge in demand for the BGP, shrinking the program’s remaining capacity to guarantee bonds from over \$14 billion at the end of 2021 to \$3.8 billion as of August 31, 2022, which translates to a roughly 75% capacity depletion over the eight-month period. Moreover, it is also our understanding that the ability of the BGP to guarantee bonds ultimately allows Texas schools to save an estimated \$425 million annually in interest costs that would be incurred should the PSF BGP not obtain the relief it needs and, therefore, no longer be allowed to guarantee the bonds at the lower interest rate.

Our concern is great, since the expected increase in applications following local school bond elections next month will most likely mean that the amount of guarantees sought will exceed the existing federal limit. An inability to provide guarantees will harm Texas schools and the families and children that they serve. As you are well aware, for two years the PSF has urged the Internal Revenue Service (“IRS”) to extend the 2010 guidance. Since last December, Members of our Delegation have been urging action in order to avert the type of disruption, which Texas schools experienced in 2009, when the BGP was unable to guarantee new debt. While we appreciate your response last week, it is unacceptable after so long to be advised only that “we have not concluded our study of the requested regulatory revisions.” With the November deadline looming, we need action now.

Texas’ public-school population is growing and the need for additional school facilities and expansions of existing facilities is of great concern to us. But what is more concerning is the possibility that because of inaction, more taxpayer dollars would be used to cover interest costs


rather than the facility construction projects themselves that benefit children and families in the State of Texas.

The BGP has proposed to IRS that the limiting date in Notice 2010-5 be deleted altogether to provide the BGP with the capacity it needs to continue to guarantee bonds well into the future. If that solution cannot be achieved in the very near-term, prior to the fund reaching the currently set Federal limitation the alternative, temporary solution for the BGP would be to have the currently cited date in Notice 2010-5 amended to May 31, 2022, allowing the BGP to meet the increased capacity so urgently needed at this time.

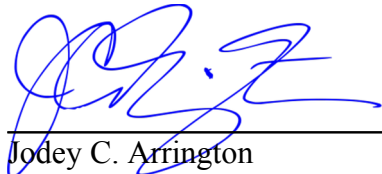
Given that this issue has taken on a heightened sense of urgency, we would deeply appreciate your acting now to include this matter on the IRS' priority list of issues and proceed to promptly issue a new Notice responsive to our concerns. Because this has been done before we would expect that an extension of existing Notice can be accomplished both quickly and efficiently. Furthermore, the issue has been discussed extensively with the appropriate officials at the Service.

Public education is the foundation of families and communities across the country and certainly in the State of Texas, as is every critical dollar that goes into fostering the education of our children. We sincerely appreciate your prompt attention to, and consideration of this request, and look forward to hearing from you at your earliest convenience.

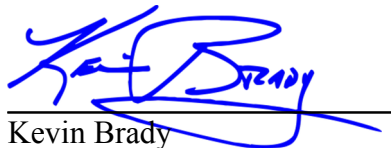
Sincerely,



Lloyd Doggett
Member of Congress



Jodey C. Arrington
Member of Congress



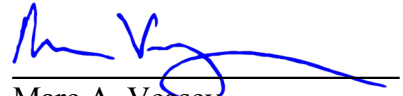
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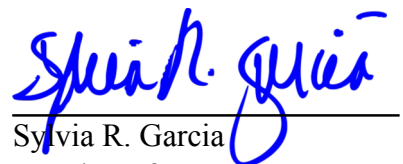
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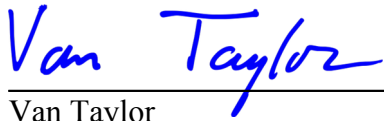
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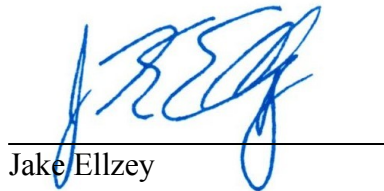
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Cc: Lily Batchelder, Assistant Secretary of the Treasury (Tax Policy)
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