



INTEROFFICE MEMO

Gary Grief, Executive Director

LaDonna Castañuela, Charitable Bingo Operations Director

To: Robert G. Rivera, Chairman
Cindy Fields, Commissioner
Mark A. Franz, Commissioner
Erik C. Saenz, Commissioner
Jamey Steen, Commissioner

From: Gary Grief, Executive Director *gg*

Date: August 1, 2023

Re: Report, possible discussion and/or action on Article IX, Section 17.36 of the FY 2024-2025 General Appropriations Act (Lottery Sales by Phone)

The following documents are provided for your information: 1) the Rider; 2) the legislative intent; and 3) the Governor's proclamation. Additional information may be provided at the Commission meeting.

**CONFERENCE
COMMITTEE REPORT**
3RD Printing

**H.B. NO. 1
GENERAL APPROPRIATIONS
BILL**

MISCELLANEOUS PROVISIONS

(Continued)

Sec. 17.36. Lottery Sales by Phone. It is the intent of the Legislature, pursuant to Government Code, Sec. 466.015, the Executive Director of the Texas Lottery Commission shall not allow the order, purchase, or sale of lottery tickets by telephone including facilitating the sale of tickets via an application on a phone.

Sec. 17.37. Appropriations for Department of Transportation. In addition to amounts appropriated elsewhere in this Act, the Department of Transportation is appropriated General Revenue for the state fiscal biennium beginning September 1, 2023, in the following amounts:

- (a) \$20,000,000 for the purpose of funding improvements to the Pharr International Bridge located in Hidalgo County;
- (b) \$10,000,000 for the purpose of funding projects related to the Texas State Railroad;
- (c) \$8,000,000 for the purpose of funding runway expansion projects at Wood County Airport Collins Field;
- (d) \$5,000,000 for the purpose of funding a hangar facility project at the McKinney National Airport for use by the Department of Public Safety;
- (e) \$20,000,000 for the purpose of funding improvements to the Abilene Regional Airport relating to a Statewide Fire Fighting Headquarters; and
- (f) \$10,000,000 for the purpose of funding airport runway improvement projects at the Sugar Land Regional Airport.

Sec. 17.38. Appropriation: Texas Water Development Board Water Grants and Lake Houston Accumulated Siltation.

- (a) **Water Development Board Water Grant Projects.** In addition to amounts appropriated elsewhere in this Act, \$106,900,000 in General Revenue is appropriated to the Water Development Board in Strategy C.1.1, State and Federal Financial Assistance Programs, in fiscal year 2024 for grants for the following water projects in the following amounts:
 - (1) \$50,000,000 for structural improvements to the Lake Houston Dam Spillway;
 - (2) \$28,000,000 for a riverbank erosion mitigation project along the Brazos River in Fort Bend County near the Levee Improvement District No. 15 levee;
 - (3) \$16,900,000 for structural improvements to the Poor Farm Ditch in Harris County; and
 - (4) \$12,000,000 for the T.C. Jester Stormwater Detention Basin project in Harris County.

Any unexpended and unobligated balances remaining as of August 31, 2024, are appropriated for the same purpose in the fiscal year beginning September 1, 2024.

- (b) **Unexpended Balances.** Any unexpended balances remaining as of August 31, 2023, from appropriations made to the Water Development Board in Strategy B.1.1, State and Federal Financial Assistance Programs, in the 2022-23 biennium (estimated to be \$0) are appropriated to the Water Development Board in Strategy C.1.1, State and Federal Financial Assistance Programs, for the fiscal biennium beginning September 1, 2023, for the following purposes:
 - (1) removing accumulated siltation and sediment deposits throughout the San Jacinto River

SENATE JOURNAL

EIGHTY-EIGHTH LEGISLATURE — REGULAR SESSION

AUSTIN, TEXAS

PROCEEDINGS

SIXTY-FIRST DAY

(Continued)

(Friday, May 26, 2023)

AFTER RECESS

The Senate met at 11:10 a.m. and was called to order by President Pro Tempore Hancock.

Pastor Kert Prater, First Baptist Church, Georgetown, offered the invocation as follows:

How great You are, sovereign Lord. There is no one like You. In Your wisdom You have appointed these elected officials to govern, guide, and protect the laws and citizens of our great state. As an all-sufficient God, You don't need anyone's help, but You kindly give us the opportunity to participate in caring for Your most prized creation—people. Thank You for giving these leaders the courage and willingness to serve in this sacred manner. As these men and women carry out their duties, Lord, would You generously pour out Your wisdom on them? Enlighten them to the needs of our great state. Empower them to work together for solutions that promote the good of the whole. Use this day to draw their hearts closer to You. Revive them as they carry out this weighty call. Use these servants for Your glory, for the good of our fellow Texans, and for the good of those our state influences. Thank You for Your kindness to involve us, though sinners, in Your precious work. In Jesus' name. Amen.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

Friday, May 26, 2023 - 1

The Honorable President of the Senate
Senate Chamber
Austin, Texas

Mr. President:

I am directed by the house to inform the senate that the house has taken the following action:

HINOJOSA
JOHNSONWHITMIRE
ZAFFIRINI

The resolution was read.

On motion of Senator Alvarado, **SR 633** was adopted by a rising vote of the Senate.

In honor of the memory of Harold Lee Cook, the text of the resolution is printed at the end of today's *Senate Journal*.

SENATE RESOLUTIONS

Senator Middleton offered the following resolution:

SR 669, In memory of the life of Dustin Lee Mortenson.

The resolution was read.

Senator Middleton offered the following resolution:

SR 670, In memory of the life of Lucas Maurice Lowe.

The resolution was read.

On motion of Senator Middleton, **SR 669** and **SR 670** were adopted by a rising vote of the Senate.

In honor of the memory of Dustin Lee Mortenson and Lucas Maurice Lowe, the texts of the resolutions are printed at the end of today's *Senate Journal*.

SENATE RESOLUTION 658

Senator Huffman offered the following resolution:

SR 658, BE IT RESOLVED, BY THE Senate of the State of Texas, that Senate Rule 12.03 and 12.04, be suspended in part as provided by Senate Rule 12.08 to enable consideration of, and action on, specific matters which may be contained in the Conference Committee Report on House Bill 1.

The resolution was read and was adopted by the following vote: Yeas 30, Nays 1.

Nays: Gutierrez.

(Senator King in Chair)

(President in Chair)

CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1 ADOPTED

Senator Huffman called from the President's table the Conference Committee Report on **HB 1**. The Conference Committee Report was filed with the Senate on Wednesday, May 24, 2023.

On motion of Senator Huffman, the Conference Committee Report was adopted by the following vote: Yeas 29, Nays 2.

Yeas: Alvarado, Bettencourt, Birdwell, Blanco, Campbell, Creighton, Eckhardt, Flores, Hall, Hancock, Hinojosa, Huffman, Hughes, Johnson, King, Kolkhorst, LaMantia, Middleton, Miles, Nichols, Parker, Paxton, Perry, Schwertner, Sparks, Springer, West, Whitmire, Zaffirini.

Nays: Gutierrez, Menéndez.

REMARKS ORDERED PRINTED

On motion of Senator Hall and by unanimous consent, the remarks by Senators Hall and Huffman regarding the Conference Committee Report on **HB 1** were ordered reduced to writing and printed in the *Senate Journal* as follows:

Presiding Officer: Senator Hall, for what purpose?

Senator Hall: This would be the right time, a couple of questions on some riders in the bill?

Presiding Officer: Chairman, do you yield?

Senator Huffman: Yes.

Senator Hall: First of all, I want to thank you, Chairwoman, for working with us on these riders. They're a very important part of the budget because it's quite often hard to determine exactly what we intend. And so, we did amend a couple to it. One I'd like to clarify to make sure we all understand and that is in the section on the Secretary of State. That's on page I-95.

Senator Huffman: Okay.

Senator Hall: And it's instruction number 15. And this came about because we know that we all, we all want accurate voter rolls, that's extremely important to everyone that's involved in voting process. And in a previous session, we had allocated funds and directed those funds to a single vendor, previously. And since then we have learned things that many other states have learned that that is probably not the best way to go about making sure we have an accurate voter rolls. So, this rider was put in there so that the Secretary of State will have the latitude to be able to select the process, the technique, and use whatever tools the Secretary of State thinks are the right ones to ensure that we do have an accurate voter roll without dictating a single vendor.

Senator Huffman: That is correct. It gives her, or the Secretary of State, flexibility in how they want to implement the program. Yes.

Senator Hall: Yeah. And they will be able to use any funds left over from previous budget that had been allocated with a single vendor to use that freely with however they come about.

Senator Huffman: That's correct. Yes, there is—

Senator Hall: Okay.

Senator Huffman: —flexibility in the funding.

Senator Hall: Right.

Senator Huffman: Yes.

Senator Hall: And I've got a second one here.

Senator Huffman: Okay.

Senator Hall: This book is thick in case you didn't know.

Senator Huffman: Yeah.

Senator Hall: Let me get to it.

Senator Huffman: Take your time.

Senator Hall: Okay. This is in the miscellaneous provisions. It's Section 17.36 and it has to do with the Lottery Commission and their rules changes. You know, after the session started, we learned that the Lottery Commission back in 2020 changed its rules on how it was wrought to operate. The original intent when the lottery came into being was that these tickets would be sold through legitimate brick and mortar facilities. They'd be sold for cash and they must be purchased by the person making a personal appearance in that brick and, legitimate brick and mortar establishment.

Senator Huffman: That, those are the rules, yes.

Senator Hall: That was what, that's what the—

Senator Huffman: Supposed to be.

Senator Hall: —Legislature had it intended.

Senator Huffman: Yes.

Senator Hall: And they operated that way for decades. And then, in June of 2020, they made some significant changes to the rules in those, in that they moved away from that requirement for an individual to go into a legitimate brick and mortar store and purchase the tickets. They arranged for a third party to insert themselves between the brick and mortar facility and the people who are actually playing the lottery.

Senator Huffman: Yes.

Senator Hall: And therefore, we lost any ability to ensure that those people playing the lottery were actually using cash. And they did it in a clever way by having a courier service actually make the purchase for the person playing the lottery as opposed to the person actually going in.

Senator Huffman: That is correct. Yeah.

Senator Hall: And that is a clear circumvention by a tortuous interpretation of the way we wrote the law to allow folks to play any, without having going into a legitimate brick and mortar facility, and we have found that there are folks that have set up so that it's highly questionable how legitimate they are in their actual sales of products in that they only have maybe one or two things in there, but they had a multitude of lottery machines. And so, this rider is intended to instruct the Lottery Commission to go back to operating the lottery like the Legislature had intended when it was first written.

Senator Huffman: That is the intention of the rider, yes, to instruct the Commission to knock off these practices that have been occurring. Correct.

Senator Hall: Okay. Very good. Well, thank you.

Senator Huffman: Thank you. Thanks for working on this. Yeah.

Senator Hall: Mr. President, I'd like to move that the discussion between Senator Huffman and myself on these two be reduced to writing and included.

REASON FOR VOTE

Senator Blanco submitted the following reason for vote on **HB 1**:

I commend Chairwoman Huffman, Chairman Bonnen, the conferees, and the Finance Committee staff on crafting a thoughtful and deliberative state budget that invests in our future and represents many of our shared values. However, I would be remiss if I did not express my disagreement with specific provisions in the bill, such as prohibiting the implementation of Diversity, Equity, and Inclusion (DEI) programming in our higher education institutions, diverting public school dollars to private vouchers or ESAs, increasing border security spending and the contingency funding for a Border Force, lacking teacher pay raises, and prioritizing alternatives to abortion programming while neglecting comprehensive, evidence-based reproductive healthcare and family planning services. With that said, the conference committee report for House Bill 1 will make big and bold investments in our state's future, with its historic and unprecedented \$321.3 billion spending plan to invest in property tax cuts, critical mental health infrastructure, broadband, water, state parks, and public/higher education to address Texans' most essential needs. CSHB 1 also contains hundreds of millions of dollars in funding priorities for El Paso and Far West Texas, paving the way for a healthier, wealthier, and brighter future for our communities and families. Our only constitutional duty in a legislative session is to pass a state budget to fund state government. Therefore, I will vote AYE on the conference committee report for CSHB 1.

BLANCO

REASON FOR VOTE

Senator Menéndez submitted the following reason for vote on **HB 1**:

Thank you to Chairwoman Huffman and all members of the Senate Finance Committee. While I appreciate you and our colleagues' tireless work, many key priorities were left out of this budget.

Having a historic \$32.7 Billion surplus provided us a tremendous opportunity. We had the ability to make needed investments in areas that have been historically underfunded, in addition to strategic funding that could improve the lives of millions of Texans.

It is difficult to vote for a plan that has about \$5.35 Billion wrapped up in bills that have not yet passed, including half a Billion tax dollars that are earmarked for ESA's aka vouchers. Our Foundation School Program is \$8.8 Billion less than last session, in spite of the surplus. Aside from the minimal increase in the basic allotment, contingent upon passage of another bill still in conference, there are no provisions outlining the possibility for teacher pay raises.

There are additional concerns about our financial support of school safety and student well-being this session. We are on the horizon of a loss of Federal Elementary and Secondary School Emergency Relief (ESSER) funding from the pandemic. Our

PROCLAMATION

BY THE

Governor of the State of Texas

TO ALL TO WHOM THESE PRESENTS SHALL COME:

House Bill No. 1, the General Appropriations Act, having been duly certified by the Comptroller of Public Accounts pursuant to Article III, Section 49a of the Texas Constitution, has been presented to me for action.

This budget provides historic levels of property tax relief and does not allow government to grow in an amount greater than the increase in population and inflation. This Act also makes targeted investments in areas such as public education, higher education, mental health care, foster care, law enforcement, border security, pension solvency, state parks, and broadband access that will continue building the Texas of Tomorrow.

Before turning to the objectionable item of appropriation in House Bill No. 1, I must note that Section 17.36 of Article IX is unconstitutional. Section 17.36 purports to tell the Lottery Commission that it must issue a new rule on a particular subject. This attempt to make general law in the General Appropriations Act violates Article III, Section 35 of the Texas Constitution. A similar command to the Lottery Commission was proposed in Senate Bill No. 1820, but the Legislature did not pass that bill.

I hereby object to and veto the following item from House Bill No. 1, and include a statement of my objection to this item.

Article IX – General Provisions

Contingency and Other Provisions

~~Sec. 18.76. Contingency for Senate Joint Resolution 81. Contingent on the enactment of Senate Joint Resolution 81 by the 88th Legislature, Regular Session, 2023, or similar legislation, and after approval of the constitutional amendment by the voters:~~

~~(a) Appropriate \$1,050,000,000 in General Revenue Funds to the Comptroller of Public Accounts, for distribution to the permanent fund on January 1, 2024; and~~

~~(b) Create a new bill pattern for the Available Instruction in Manufacturing and Technical Workforce Operations Fund and in relevant strategies, increase funding by an amount of Other Funds the Comptroller determines to be available for distribution from the Permanent Instruction in Manufacturing and Technical Workforce Operations Fund in fiscal year 2024 and fiscal year 2025, in accordance with a distribution policy to be adopted by the Comptroller. Add the following riders to the bill pattern:~~

~~1. Texas State Technical College System Share. There is appropriated to the board of regents of the Texas State Technical College System for the biennium ending August 31, 2025, upon request of the system to the Comptroller of Public Accounts, that portion of the Available Instruction in Manufacturing and Technical Workforce Operations Fund apportioned to it by Article VII, Section 23(j) of the Texas Constitution, together with interest and any balance in any account established within the available fund by the system for any previous fiscal year.~~

~~2. Texas State University System Share. There is appropriated to the board of regents of the Texas State University System for the biennium ending August 31, 2025, upon request of the system to the Comptroller of Public Accounts, that portion of the Available Instruction in~~

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
10:00 PM O'CLOCK

JUN 18 2023

~~Manufacturing and Technical Workforce Operations Fund apportioned to it by Article VII, Section 23(j) of the Texas Constitution, together with interest and any balance in any account established within the available fund by the system for any previous fiscal year.~~

~~3. Reporting. The Texas State Technical College System and the Texas State University System shall report to the Legislature and the Governor no later than December 1 of each year, beginning December 1, 2024, the uses of the Available Instruction in Manufacturing and Technical Workforce Operations Fund for each system component for the two previous fiscal years, the current fiscal year, and two future fiscal years (projected). Each report shall contain detailed information on the following:~~

- ~~(1) debt service allocations, by component;~~
- ~~(2) bond proceeds allocations, by component;~~
- ~~(3) available fund allocations, by component, and their purposes;~~
- ~~(4) available fund income, interest, beginning and end of year balances; and~~
- ~~(5) the rationale used by the respective boards to distribute the available funds.~~

~~4. Appropriation: Unexpended Balances. Any unobligated and unexpended balances as of August 31, 2023, in Available Instruction in Manufacturing and Technical Workforce Operations Fund appropriations apportioned to the Texas State Technical College System or Texas State University System are appropriated for the same purpose for the fiscal year beginning September 1, 2023. Any unobligated and unexpended balances as of August 31, 2024, in Available Instruction in Manufacturing and Technical Workforce Operations Fund appropriations apportioned to the Texas State Technical College System or Texas State University System are appropriated for the same purpose for the fiscal year beginning September 1, 2024.~~

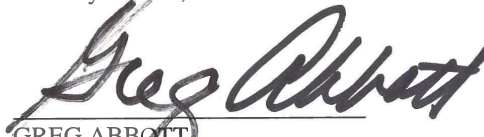
This veto deletes a contingency rider for a joint resolution that did not pass.

I have signed House Bill No. 1 together with this proclamation, stating my objections in accordance with Article IV, Section 14, of the Texas Constitution.

Since the 88th Legislature, Regular Session, by its adjournment has prevented the return of this bill, I am filing this bill and this objection in the office of the Secretary of State and giving notice thereof by this public proclamation according to the aforementioned constitutional provision.



IN TESTIMONY WHEREOF, I
have signed my name officially
and caused the Seal of the State to
be affixed hereto at Austin, this
18th day of June, 2023.


GREG ABBOTT
Governor of Texas

ATTESTED BY:


JANE NELSON
Secretary of State

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
10:00pm O'CLOCK

JUN 18 2023