

Writing the state budget

85th Legislature

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Writing a two-year budget is one of the Texas Legislature’s main tasks. During the 2017 regular session, the 85th Legislature will consider a budget for fiscal 2018-19, the two-year period (“biennium”) from September 1, 2017, through August 31, 2019.

The Texas budget is written and implemented in a two-year cycle that includes developing the budget, approving the general appropriations bill, acting on the bill after passage, and acting on the budget in the interim.

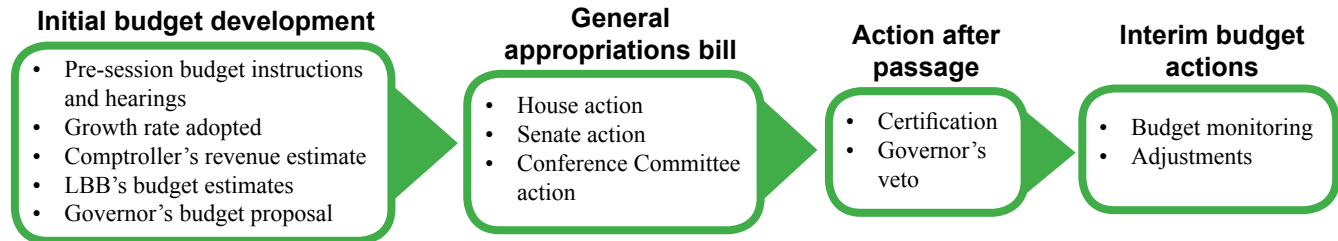
Initial budget development

Developing the budget begins with state agencies receiving instructions for submitting budget requests, followed by hearings on those requests. In addition, the Legislative Budget Board (LBB) adopts a growth rate that limits appropriations, the comptroller issues an estimate of available revenue, and agencies submit their budget proposals.

Pre-session budget instructions and hearings. State agencies are required in even-numbered years to develop five-year strategic plans (Government Code, sec. 2056.002) that include the agency’s goals, strategies for accomplishing the goals, and performance measures. The summer before a regular legislative session begins, agencies submit to the governor’s budget office and the LBB requests for funding, called Legislative Appropriations Requests, or LARs. The LARs have two parts: the base level request and requests for exceptional items beyond the baseline.

In June 2016, the governor, lieutenant governor, and speaker instructed state agencies to submit fiscal 2018-19 spending requests for general revenue and general revenue dedicated funds that were 4 percent less than their fiscal 2016-17 appropriations.

Funds for certain programs were exempt from these reduction requirements, including amounts necessary to maintain funding for the Foundation School Program and Child Protective Services and to maintain



public safety resources in the state's border region. Also exempt from the 4 percent reduction was the money used to maintain funding for behavioral health services programs, which could apply to several state agencies. Exempted funds also included those needed to maintain current benefits and eligibility in Medicaid, the Children's Health Insurance Program, the foster care program, the adoption subsidies program, and the permanency care assistance program, which provides financial support under certain circumstances to relatives and others who become foster parents.

State law requires the governor to hold budget hearings at which agencies and the public may testify (Government Code, secs. 401.043 and 401.044). Such hearings are optional for the LBB (Government Code, sec. 322.010). The LBB and the governor's budget staff held joint hearings in the late summer and fall of 2016 for agencies to explain their requests, provide supporting data, and answer questions about the LARs.

Strategic fiscal review. Sixteen agencies will undergo Strategic Fiscal Review during this budget cycle. The process is designed to examine the performance and cost-effectiveness of state agency operations. The LBB will collect detailed data on each agency's programs and examine alternative program funding levels and methods. During the budget writing process, the LBB will report on its reviews. The [16 agencies](#) subject to review represent seven budget articles and include the Facilities Commission, the Department of Family and Protective Services, the Department of State Health Services, several higher education institutions, and the Department of Agriculture.

Growth rate adopted. Under the Texas constitutional spending cap (Art. 8, sec. 22), spending not constitutionally dedicated to particular purposes may not increase from one biennium to the next beyond the rate of growth in statewide personal income adopted by the LBB unless the cap is waived by a majority vote of both houses of the Legislature. On December 1, 2016, the LBB adopted a projected state personal income growth rate of 8 percent

from fiscal 2016-17 to fiscal 2018-19. Subject to revisions in the revenue forecasts and subsequent appropriations, this limits spending from non-dedicated tax revenue in fiscal 2018-19 to \$99.9 billion, up from \$94.6 billion, according to the LBB.

Comptroller's revenue estimate. Before each regular legislative session, the comptroller must estimate the revenue and expenditures for the current fiscal year and anticipated revenue for the upcoming biennium. (Art. 3, sec. 49a of the Constitution) A supplemental estimate is required before any special session.

The revenue estimate issued in January 2017 projected the 85th Legislature would have [\\$104.9 billion](#) available for general-purpose spending for the next biennium. This is a 2.7 percent decrease from last biennium. The comptroller projected the state will have a beginning balance of \$1.5 billion from fiscal 2016-17. Added to this are collections from taxes, fees, and other income, estimated at \$106.5 billion, of which \$3.1 billion of severance tax revenue will be transferred to the Economic Stabilization Fund ("rainy day fund") and the State Highway Fund. The revenue estimate takes into account that under Proposition 7, a Constitutional amendment approved in 2015, \$4.7 million of sales tax revenue will be sent to the State Highway Fund. The comptroller may revise the initial revenue estimate at any time. The only revenue estimate that applies in determining if the state budget is balanced is the one made when the comptroller certifies the general appropriations bill (see "*Certification*," page 8). See the comptroller's January 2017 [Biennial Revenue Estimate, 2018-19](#) for a detailed description of revenue estimates and the projected economic outlook.

Rainy day fund. The Economic Stabilization Fund ("rainy day fund") is expected to reach \$11.9 billion by the end of fiscal 2018-19, absent appropriations from the fund, according to the comptroller's biennial revenue estimate.

Revenue for the rainy day fund comes almost entirely from oil and natural gas production taxes. Before fiscal 2015, the rainy day fund received 75 percent of any

oil or natural gas production tax revenue that exceeded the amount collected in fiscal 1987. A constitutional amendment adopted in 2014 requires the comptroller to send one-half of this amount to the State Highway Fund (Fund 6), with the rest continuing to go to the rainy day fund.

The comptroller will reduce or withhold allocations to Fund 6 as needed to maintain a sufficient balance in the rainy day fund. As required by Government Code, sec. 316.092, the Select Committee to Determine a Sufficient Balance of the Economic Stabilization Fund recently determined \$7.5 billion to be a sufficient minimum balance for fiscal 2018-19. Government Code, sec. 316.092(d) establishes procedures for the Legislature to approve or change the sufficient balance adopted by the committee. If the Legislature does not finally approve a resolution with a balance by the 45th day of the legislative session, the balance adopted by the committee takes effect.

The comptroller also must transfer one-half of any unencumbered balance remaining in the general revenue fund at the end of a biennium to the rainy day fund (Art. 3, sec. 49-g). Only twice has such a balance been transferred to the fund under this provision — once in fiscal 1992 (\$20.2 million) and again in fiscal 2008 (\$1.8 billion).

The rainy day fund may not exceed 10 percent of the total amount deposited into general revenue (minus certain types of income and funds) during the previous biennium. The cap for fiscal 2018-19 is \$16.9 billion. Money drawn from the rainy day fund counts toward the state's constitutional spending limit, according to the LBB.

Spending money from the rainy day fund requires legislative approval. At least three-fifths of the members present in each house of the Legislature must approve spending from the fund to cover but not exceed an unanticipated deficit in a current budget or offset a decline in revenue for a future budget. However, any amount from the fund may be spent for any purpose if approved by at least two-thirds of the members present in each house.

The Legislature has appropriated money from the rainy day fund during six legislative sessions, including four times since 2000.

LBB budget submission. Government Code, sec. 322.008 requires the LBB to send copies of an estimated state budget to the governor and the Legislature within the

first five days of a regular session. This document is called Legislative Budget Estimates. (See [House](#) and [Senate](#) versions of the LBB's *Summary of Legislative Budget Estimates*, January 2017.)

The LBB also must submit a budget in the form of a bill within seven days of the beginning of the regular session. This baseline bill includes agency-by-agency figures for funds spent or budgeted in previous years, the budget amount requested by each agency, the amount recommended in the baseline bill, and proposed methods of financing. These proposals serve as the starting point for the Legislature's budget deliberations. The House Appropriations Committee and the Senate Finance Committee each hold hearings at which agencies may justify their spending priorities and others may express their views.

Governor's budget proposal. Governors are required to submit their own budget proposals (Government Code, sec. 401.0445). Historically, these documents have varied in the detail they include. The governor must submit a budget before giving the State of the State address (Government Code, sec. 401.046) and may prepare a general appropriations bill that must be submitted by the 30th day of the session (Government Code, sec. 316.009). In January 2017, Gov. Abbott released a [budget](#) proposing a total of \$103.3 billion in general revenue spending and \$213.3 billion in all funds spending. The proposal highlights only certain programs and spending within each budget article.

General appropriations bill

The Senate and the House general appropriations bills for fiscal 2018-19, SB 1 by Nelson and HB 1 by Zerwas, are the starting points for the Legislature to prescribe agency spending and to set state accounting and performance measures and other budgetary provisions.

Budget format. Appropriations bills may deal only with spending. The Texas Constitution, in Art. 3, sec. 35, limits bills to one subject, except for general appropriations bills, which may include various subjects and accounts. This provision has been interpreted as prohibiting changes to substantive law through an appropriations bill. House Rule 8, sec. 4 reflects this interpretation and explicitly prohibits changes in general law in an appropriations bill.

Articles. For fiscal 2018-19, LBB recommendations for the general appropriations act retain the basic structure of previous budget acts and include 10 articles for agency budgets. Articles 1 through 8 include state agency budgets by functional category. For example, Article 3 covers agencies of public and higher education. Article 9 contains general provisions and directions to state agencies, the state salary classification schedule, and other items. Article 10 contains appropriations for the Legislature. Appropriations bills in some previous sessions have included an article listing some agencies' exceptional items or "wish lists."

Agency budget configuration. Each agency's budget first describes the method of financing or the mix of revenue sources intended to finance the agency's appropriation. Sources can include the general revenue fund, general revenue dedicated accounts, federal funds, and other funds.

In the early 1990s, the state began developing budgets through a form of performance-based budgeting based on strategic planning. House and Senate budget bills listed agency goals and strategies, with each strategy having its own appropriations.

While the introduced version of HB 1 for the 85th Legislature presents all agencies by strategy, the introduced version of SB 1 presents the appropriations for five state agencies by specific programs, rather than strategies. More than one program may be funded by a single strategy. The proposed appropriations for the Department of Family and Protective Services, Texas Education Agency, Higher Education Coordinating Board, Texas Forest Service, and the Department of Agriculture are grouped into program areas and listed alphabetically.

In the House version, appropriations for each agency are listed in sections:

- **Goals** are general statements of the agency's purposes. They provide a framework for expressing specific strategies, which state how an agency intends to achieve its goals. Each goal also has specific outcome measures assessing public impact.
- **Strategies**, sometimes called line items, are the bases for appropriating money to an agency. An appropriation for a single strategy may fund more than one department or program in the agency.

The agency may need more than one strategy to accomplish each goal. Strategies also are linked to specific output and efficiency measures. Output measures gauge the quantity of a service provided or a good produced. Efficiency measures gauge the cost or time taken per unit of output.

The examples on page 5 show the format for two portions of the fiscal 2018-19 appropriation for the Commission on the Arts in HB 1 as introduced. Figure 1 expresses one set of goals and strategies in terms of funds appropriated, and Figure 2 illustrates the performance measure targets for the same set of goals. The example on page 6 illustrates the program-based format used in the introduced version of SB 1 for five state agencies.

Riders in an appropriations bill can do several things, including set conditions or limits on funds or make an appropriation. Some riders provide instructions specific to a particular agency's operations. Riders also are used to describe an agency's capital budget or to break down agency funding by goals and strategies and by performance measures. Some riders contain *contingent appropriations*, which appropriate money only if the Legislature enacts other specific bills. If such bills are not enacted, these riders have no effect.

Lump-sum appropriations. In recent state budgets, each institution of higher education has been funded through a single line item, or lump-sum appropriation, instead of through multiple-line appropriations for separate strategies.

Legislative action

While the House and the Senate each works on the budget and holds hearings simultaneously, they traditionally take turns originating the general appropriations bill and chairing the budget conference committee. For the 2017 regular session, the bill is expected to originate in the Senate so the final version of the bill would be SB 1.

House action. In the House, the Appropriations Committee (HAC) has jurisdiction over appropriations bills. For the 2017 session, the HAC includes a chair, a vice chair, and 25 additional members. House Rule 4, sec. 4(b) prohibits the chair of the Appropriations Committee from serving on another substantive committee.

Figure 1

COMMISSION ON THE ARTS

Items of Appropriation:	For the Years Ending	
	August 31, 2018	August 31, 2019
A. Goal: ARTS AND CULTURAL GRANTS		
Provide and Support Arts and Cultural Grants.		
A.1.1. Strategy: ARTS ORGANIZATION GRANTS	\$ 3,897,533	\$ 3,897,533
A.1.2. Strategy: ARTS EDUCATION GRANTS	\$ 744,354	\$ 744,353
A.1.3. Strategy: CULTURAL TOURISM GRANTS	\$ 670,000	\$ 670,000
A.1.4. Strategy: DIRECT ADMINISTRATION OF GRANTS	\$ 583,622	\$ 583,936
Total, Goal A: ARTS AND CULTURAL GRANTS	<u>\$ 5,895,509</u>	<u>\$ 5,895,822</u>

source: HB 1 by Zerwas as introduced

Figure 2

Performance Measure Targets:	2018	2019
A. Goal: ARTS AND CULTURAL GRANTS		
Outcome (Results/Impact):		
Percentage of Grant Dollars Provided to Minority Organizations	12%	12%
Percentage of Grant Dollars to Rural Counties	6%	6%
Percentage of Grants Funded for Arts Education	25%	25%
Number of Artists Compensated for TCA Texas Touring Roster Performances	1,500	1,500
Number of Texas Cities in Which Organizations Received TCA Grants	150	150
Number Served by Arts Respond Projects in Education	1,000,000	1,000,000
Number Served by Arts Respond Projects in Health & Human Services	100,000	100,000
Number Served by Arts Respond Projects in Public Safety & Criminal Justice	125,000	125,000
A.1.3. Strategy: CULTURAL TOURISM GRANTS		
Output (Volume):		
Number of Grants that Promote Cultural Tourism	107	107

source: HB 1 by Zerwas as introduced

The chair of the HAC usually appoints standing subcommittees to consider different parts of the budget, such as general government, health and human services, education, criminal justice, and business and economic development. Subcommittees hold public hearings and make recommendations on budget proposals for agencies, programs, or funding under its jurisdiction.

Time constraints. House Rule 8, sec. 21(g) requires the HAC to report the general appropriations bill to the House by the 90th day of the session, which will be April

9 for the 2017 session. Under House Rule 8, sec. 21(a), during the first 118 days of the session the speaker may not lay before the House any bill appropriating money unless the general appropriations bill already has been enacted and the comptroller has certified it. If the HAC does not meet its 90th-day reporting deadline, this rule is suspended. The 118th day of the 2017 session is May 7.

House Rule 8, secs. 21(b) and (f) further restrict consideration of certain appropriations bills. To ensure compliance with the constitutional limit on spending from

Figure 3

DEPARTMENT OF AGRICULTURE

Items of Appropriation:	For the Years Ending	
	August 31, 2018	August 31, 2019
<u>Administration</u>		
Indirect Administration	\$ 11,147,884	\$ 11,187,088
<u>Food and Nutrition</u>		
3 E's (Education, Exercise & Eating Right) Nutrition Education	\$ 445,046	\$ 450,000
Child Nutrition - Community Nutrition Program	\$535,915,109	\$581,794,658
Child Nutrition - School Nutrition Program	\$ 48,092,864	\$ 49,339,571
Surplus Agricultural Product Grant Program (Low Income Students)	\$ 592,588	\$ 592,588
Texans Feeding Texans (Home Delivered Meals)	\$ 9,175,856	\$ 9,175,856
Texans Feeding Texans (Surplus Agricultural Products Grant Program)	\$ 2,930,353	\$ 2,937,765
Subtotal, Food and Nutrition	<u>\$597,151,816</u>	<u>\$644,290,438</u>
<u>Markets and Public Health</u>		
Boll Weevil Eradication	\$ 4,893,508	\$ 4,892,120
Commodity Boards	\$ 37,103	\$ 37,103
Feral Hog Abatement Program	\$ 442,592	\$ 442,592
Handling and Marketing of Perishable Commodities (HMPC)	\$ 23,139	\$ 23,139
International and Domestic Trade Program	\$ 581,333	\$ 581,537
Livestock Export Pens	\$ 1,097,419	\$ 1,087,972
Specialty Crop Block Grant Program (SCBGP)	\$ 1,714,219	\$ 1,714,219
Wine Marketing, Research and Education	\$ 250,000	\$ 250,000
Subtotal, Markets and Public Health	<u>\$ 9,039,313</u>	<u>\$ 9,028,502</u>

source: SB 1 by Nelson as introduced

state tax revenue not dedicated by the Constitution, no bill appropriating such revenue may be considered before final approval of the general appropriations bill, and no bills may be considered that, when added to amounts previously appropriated, would exceed the limit.

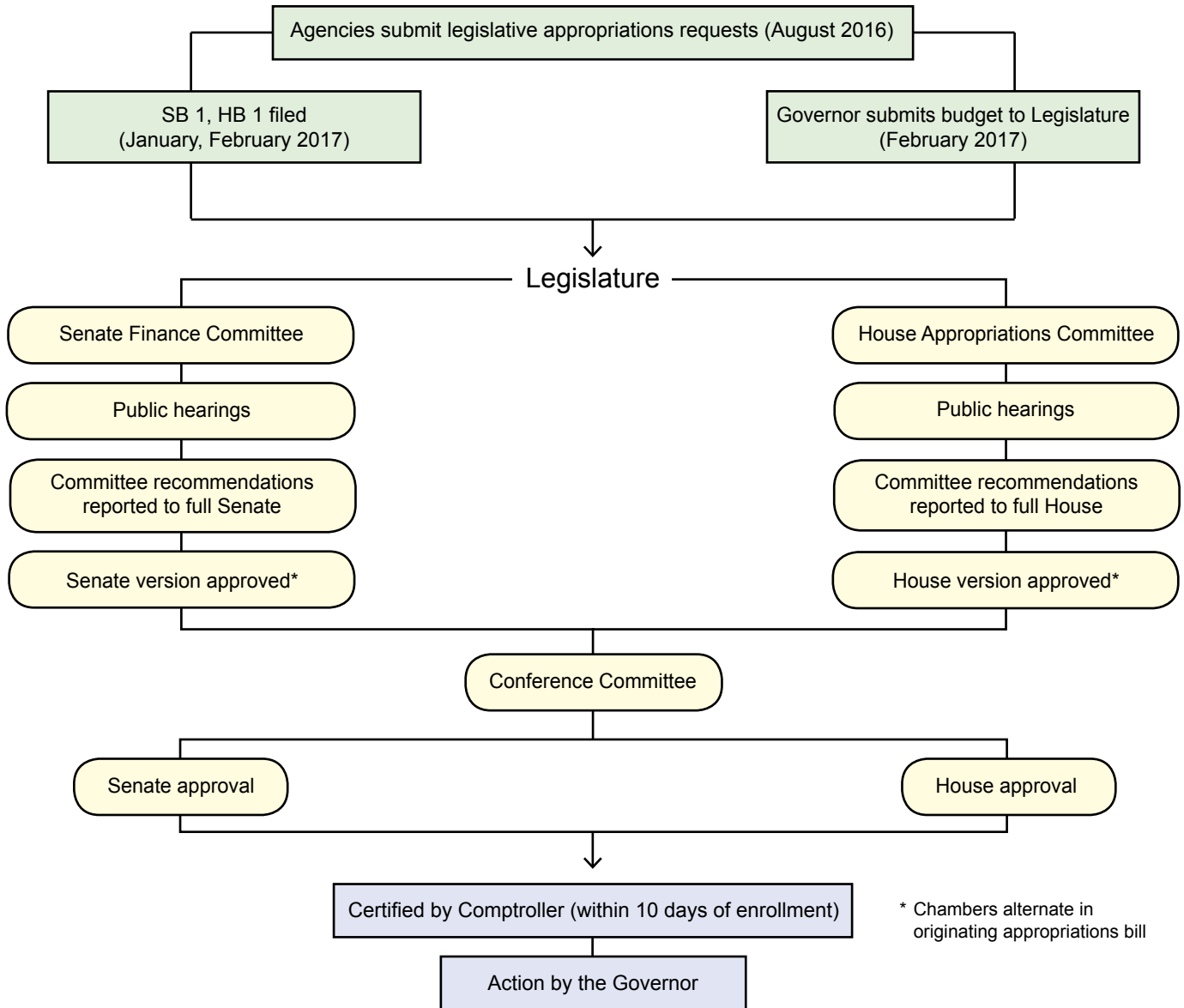
Bills reducing taxes or providing payment for legislative expenses, judgments against the state, and emergency matters are not subject to rules restraining House appropriations (House Rule 8, sec. 21(e)).

Dynamic economic impact statement. The HAC chair must send the general appropriations bill to the LBB to prepare a dynamic economic impact statement. This statement must include the number of state employees to be affected and the estimated impact on private sector and local government employment resulting from any change the bill makes in state expenditures (Rule 4, sec. 34 (a-1)).

Distribution of the bill. A printed copy of the general appropriations bill reported by the HAC must be distributed to each House member at least 168 hours (seven days) before it may be considered on second reading during a regular session. During a special session, the bill must be distributed at least 72 hours in advance (House Rule 8, sec. 14(a-1)). The Calendars Committee must post electronically the calendar on which the general appropriations bill is eligible to be considered on second reading at least 144 hours (six days) in advance for that calendar to be eligible for consideration (House Rule 6, sec. 16(a-1)).

Limit on amendments. The House Calendars Committee usually adopts a special rule limiting floor amendments to the appropriations bill to changes that do not increase the budget's overall expenditures. The rule generally has required that any amendment adding or

Figure 4 Overview of the Legislative Appropriations Process



increasing an appropriation item must contain an equal or greater reduction in one or more other appropriation item. For a special rule proposed by the Calendars Committee concerning a general appropriations bill to take effect, House members must adopt it by a majority vote (House Rule 6, sec. 16(f)).

Second-reading amendments must be filed at least 72 hours before the calendar on which the bill appears is eligible for consideration (House Rule 11, sec. 6(h)). The House usually considers numerous floor amendments before approving its version of the budget.

Senate action. The Senate Finance Committee develops the Senate budget proposal. Budget hearings often have occurred before the entire committee, although in past sessions workgroups have heard testimony on specific areas of the budget. Unlike in the House, the Senate Finance Committee version of the budget often passes the full Senate without floor amendments.

Conference committee action. After both chambers adopt their versions of the general appropriations bill, the speaker appoints House members and the lieutenant governor appoints senators to a conference committee to reconcile differences between the bills. The

conference committee usually includes the chairs and four other members of the House Appropriations and Senate Finance committees, although the rules do not restrict who may be chosen.

House Rule 13, sec. 9(b) and Senate Rule 12.04 allow conferees to reconcile only points on which the House and Senate bills differ. They may not alter figures that are identical in both bills. On any given spending item included in both bills, the conferees may not set the amount lower than the smaller of the two amounts nor increase it above the larger amount. If an item appears in only one bill, the conferees may include or delete it.

The conferees may not include an item in the conference committee bill that does not appear in either the House or the Senate bill. However, House Rule 13, sec. 9(b)(5) and Senate Rule 12.04(5) allow the conference committee to add contingent appropriations for purposes or programs authorized by bills that have been passed by at least one house. The conference committee may seek permission from the House and the Senate to make changes otherwise prohibited by the rules — “outside the bounds” — by means of a resolution specifying the changes.

House Rule 13, sec. 10(a) requires that the conference committee report on any bill, including the general appropriations act, be distributed to members at least 24 hours before it may be considered. Senate Rule 12.09(a) requires that the conference committee report be laid out for 48 hours before being considered in a regular session and 24 hours before being considered in a special session.

Action after final passage

After final approval by the Legislature, the appropriations bill must be certified by the comptroller. It is then sent to governor who, subject to certain deadlines, has line-item veto authority over parts of the bill.

Certification and restrictions on state spending. After an appropriations bill is passed by each house and is signed by the speaker and the lieutenant governor, it goes to the comptroller. Under Art. 3, sec. 49a of the Constitution, no appropriations bill may be enacted or sent to the governor for consideration until the comptroller certifies the state will have enough revenue to cover the approved spending. Government Code, sec. 403.0131(a) requires the comptroller to certify the

appropriations by the 10th day, excluding Sundays, after the act is reported enrolled by the house from which it originated.

Art. 3, sec. 49a of the Texas Constitution allows appropriations in excess of anticipated revenue in cases of “emergency and imperative public necessity” with approval of four-fifths of the total membership of each house. Generally, however, the Legislature does not approve an appropriations bill unless the revenue necessary to pay for it is available.

Appropriations bills also must comply with other constitutional and statutory restrictions on spending (see *Restrictions on Spending*, page 10).

Governor’s veto powers. Art. 4, sec. 14 of the Constitution authorizes the governor to veto line items in any spending bill that contains more than one item of appropriation. In 2013, Gov. Perry used his line-item authority to veto appropriations for the state’s Public Integrity Unit, higher education special item funding, and the transfer of funds from the Texas Water Development Board to an entity for aquifer research, capital infrastructure and other projects, along with several contingent riders for bills that were not enacted or were vetoed.

While the Legislature is in session, the governor has 10 days (not counting Sundays) after receiving the appropriations bill to make line-item vetoes. If the governor fails to act within the 10 days, the bill becomes law. If the Legislature still is in session when the governor vetoes a line item, the bill is returned to the Legislature, which may override the veto if two-thirds of the members present in each chamber approve. The chamber where the bill originated votes first.

If the appropriations bill goes to the governor later than the 10th day (not counting Sundays) before the session ends, the governor has 20 days (counting Sundays) after the session ends to act. In these circumstances, if the 85th Legislature’s 2017 regular session lasts its full 140 days and ends on May 29, the veto deadline will be Sunday, June 18.

Because the general appropriations act usually receives final approval during the last few days of a session, the Legislature typically forfeits the chance to override any line-item vetoes.

In 2015, Gov. Abbott [issued a proclamation](#) vetoing about \$295 million in spending in the fiscal 2016-17 general appropriations act. In his proclamation message, the governor said that the vetoed items, many of which were found in riders, easily satisfied the requirements in the Constitution and Texas Supreme Court decisions describing the governor's line-item veto power. Texas Constitution, Art. 4, sec. 14 states: "If any bill presented to the Governor contains several items of appropriations he may object to one or more of such items, and approve the other portion of the bill."

A July 2015 [memo](#) from the LBB to Comptroller Glenn Hegar said the governor's proclamation sought to go beyond the Texas Constitution's authorization for the governor to veto "items of appropriation." The letter said nearly all instances in the proclamation sought to veto either non-appropriating rider language or informational items. The comptroller requested an opinion from Attorney General Ken Paxton, who said in an opinion ([KP-0048](#)) that the vetoed provisions "each designate a specific purpose and the amount to be used therefor, and they are items of appropriation subject to the Governor's veto."

Interim budget action

An enacted appropriations bill may be adjusted after it takes effect, either to reduce or adjust appropriations.

Adjustments. Once it enacts a general appropriations bill, the Legislature may adjust appropriations during the two-year budget period, either in a special session called by the governor or in a subsequent regular session. The appropriations bill itself may include provisions allowing agencies to make discretionary transfers between appropriations items, subject to various limitations or prior approval by the governor and the LBB.

Budget execution authority. Government Code, ch. 317 allows the governor and the LBB, acting jointly, to use budget execution authority to make certain changes in appropriations when the Legislature is not in session.

A budget execution order may prohibit an agency from spending funds, change the purpose for an appropriation, change the time an appropriation is distributed to an agency, or transfer an appropriation from one agency to another. An order cannot spend money that has not already been appropriated by the Legislature. An order may not withhold for more than 180 days money appropriated to

any agency, reduce the salary of an elected state official or a board member appointed by the governor, or reduce appropriations to the Legislature or legislative agencies. A budget execution order may not extend beyond the budget period and may be superseded by legislative action.

Informal reductions. The governor and legislative leaders also may informally instruct agencies to modify their spending without taking official action to reduce appropriations. For example, in 2010, the governor, lieutenant governor, and speaker of the House jointly instructed state agencies to identify reductions in spending for fiscal 2010-11. The three state leaders approved some of the proposed reductions and modified or waived others.

Supplemental appropriations. The Legislature may change the state budget through a supplemental appropriations bill after the budget has been approved. Because the regular session begins in January, with eight months remaining in the two-year budget period, the Legislature sometimes appropriates funds to supplement an agency for the last fiscal year of a biennium.

Budget monitoring. Several legislative entities evaluate agency budget performance and state finance issues between legislative sessions.

The LBB monitors agency performance measures and expenditures. After a regular session ends, the LBB summarizes the state budget, state revenue, and state government functions, activities, and agencies in its *Fiscal Size-up* report.

The State Auditor's Office audits state government management and financial systems, and its work can include audits of state agencies' financial operations. It also assists in strategic planning and budgeting by assessing the use and reliability of agency performance measures.

The Sunset Advisory Commission reviews all agencies scheduled by the Texas Sunset Act (Government Code, ch. 325) for termination in a given year, examining each agency's operations, conformity to its strategic plan and objectives, and any duplication or overlapping jurisdictions with other agencies.

The House Appropriations Committee and the Senate Finance Committee often schedule oversight hearings during the interim between regular sessions. Other House and Senate committees also may review spending of state agencies under their jurisdiction.

Restrictions on spending

Lawmakers must adhere to a number of restrictions when approving state spending, including limits in the Texas Constitution and state law and limits associated with dedicated and federal funds.

Constitutional limits. Five major constitutional limits affect the appropriations process.

Appropriation requirement. Under the Texas Constitution, no money may be drawn from the state treasury unless it has been appropriated by law and no appropriation may be made for longer than two years (Art. 8, sec. 6).

Budget growth limit. The Constitution also caps spending of state tax revenue that is not dedicated by the Constitution to a particular purpose. Under the constitutional spending cap, state spending not constitutionally dedicated to particular purposes may not increase from one biennium to the next beyond the rate of growth in statewide personal income adopted by the LBB unless the cap is waived by a majority vote of both houses of the Legislature. Examples of revenue subject to the spending cap include funds resulting from sales, motor vehicle sales, franchise, and cigarette and tobacco taxes (Art. 8, sec. 22).

Government Code, ch. 316, subch. A specifies how the LBB adopts the growth rate. On December 1, 2016, the LBB adopted a projected state personal income growth rate of 8 percent from fiscal 2016-17 to fiscal 2018-19. Subject to revisions in the revenue forecasts and subsequent appropriations, this limits spending from non-dedicated tax revenue in fiscal 2018-19 to \$99.9 billion, up from \$94.6 billion. The spending cap amount is subject to change with further appropriations or adjustments for fiscal 2017. Additional appropriations for fiscal 2017 may be made through supplemental appropriations bills enacted by the 85th Legislature.

Revenue that the Constitution restricts to a specific purpose is not subject to the constitutional spending limit. Motor-fuels tax revenue dedicated to highways and the 25 percent of oil and natural gas production taxes dedicated to public education are examples of restricted revenue that does not count toward the limit.

Prohibition on deficit spending. The Constitution also limits spending to the amount of revenue the comptroller estimates will be available during the two-year budget period (Art. 3, sec. 49a). The comptroller must certify that the state will have enough revenue to pay for the approved spending. This certification stands, even if the comptroller subsequently determines that revenue will not cover expenditures. The Legislature may override the deficit spending prohibition only if at least four-fifths of the members in each house approve.

Five major constitutional limits affect the appropriations process.

The state may end a fiscal biennium with an unanticipated deficit but must eliminate the deficit in the subsequent budget. Any deficit carried from one biennium to another must be deducted from anticipated revenue when determining how much revenue is available for appropriation and certification in the new biennium (see Atty. Gen. Opinion, No. [JM-666](#), April 1, 1987).

Limits on state debt. The Constitution prohibits state borrowing except to “supply casual deficiencies of revenue” up to \$200,000, repel invasion, suppress insurrection, defend the state in war, or for a purpose it specifically authorizes (Art. 3, sec. 49).

The Legislature may not authorize general-obligation or revenue bonds or large lease-purchase agreements designed to be repaid from general revenue if the resulting annual debt service from general revenue would exceed 5 percent of the

average amount of general revenue (excluding funds dedicated by the Constitution) during the preceding three fiscal years (Art. 3, sec. 49-j). The limitation does not include bonds that are backed by the full faith and credit of the state and are reasonably expected to be paid from other revenue sources and not draw on general revenue.

At the end of fiscal 2016, debt service on outstanding debt payable from general revenue equaled about 1.4 percent of unrestricted general revenue, according to the Bond Review Board. The total authorized debt service (issued and unissued) equaled 2.4 percent of unrestricted general revenue.

Limit on child welfare spending.

The Constitution limits state spending on assistance to needy children and their caretakers to no more than 1 percent of the total state budget in a biennium (Art. 3, sec. 51-a(b)). Federal matching funds and administrative expenses are not included under this cap, which was about \$2.1 billion for fiscal 2016-17, according to the LBB. The fiscal 2016-17 budget allocated \$96.5 million in state spending to grants for Temporary Assistance for Needy Families that counts under this limit.

Dedicated revenues and funds.

Discretion in legislative spending also is restricted by constitutional or statutory dedications that reserve certain revenue sources for special purposes or by requirements for the state to comply with court orders or federal requirements.

According to the LBB's [Fiscal Size-up: 2016-17 Biennium](#), 81.8 percent of the general revenue funds and general revenue dedicated funds appropriated for fiscal 2016-17 is restricted by

various means. Of the general revenue and general revenue dedicated funds budgeted in fiscal 2016-17:

- 44.9 percent is restricted by constitutional or statutory dedications;
- 25.5 percent is influenced or directed by federal laws, regulations, and court decisions; and
- 11.4 percent is influenced by funding formulas.

After accounting for these restrictions, 18.2 percent of all general revenue and general revenue dedicated funds in fiscal 2016-17 were available for discretionary spending, according to the LBB.

Discretion in legislative spending also is restricted by constitutional or statutory dedications.

General revenue dedicated funds are those funds within the general revenue fund, such as the State Parks Account, reserved for specific purposes by the Texas Constitution or specific

statutes. Many of these funds have balances carried over from previous biennia that have been unspent but counted toward budget certification.

The 84th Legislature appropriated \$7.8 billion in general revenue dedicated funds for fiscal 2016-17, an increase of \$422.5 million from fiscal 2014-15. The LBB reports estimated balances of about \$3.5 billion across all general revenue dedicated accounts available to be counted toward budget certification for 2016-17 general revenue fund appropriations.

Federal funds. The state's \$209.1 billion total appropriation for fiscal 2016-17 included about \$68 billion in federal fund expenditures. Federal funds generally are granted for specific purposes or with restrictions on how states may spend them.

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