



April 28, 2009

The Honorable Steve Ogden, Chair
The Honorable Juan “Chuy” Hinojosa
The Honorable Florence Shapiro
The Honorable Royce West
The Honorable Tommy Williams
Senate Conferees

The Honorable Jim Pitts, Chair
The Honorable Richard Raymond
The Honorable Ruth Jones McClendon
The Honorable John Otto
The Honorable John Zerwas
House Conferees

Re: Conference on SB 1, General Appropriations Act

Dear Budget Conferees:

Writing the budget for Texas is a challenging and important responsibility. As a policy institute concerned about low-income Texans, we closely study the state’s budget. In this brief letter, we make recommendations to you. The House and the Senate have already funded many of our priorities in each chamber’s proposed budget. Consequently, we focus our recommendations on unfunded priorities and ways to reconcile differing approaches between the chambers. In part 1, we make three general recommendations regarding state spending. In part 2, we urge additional and important General-Revenue related spending primarily related to health and human services. In part 3, we make recommendations regarding budget riders that have no General-Revenue impact. In part 4, we suggest ways to maximize TANF spending.

Part 1—General Recommendations Regarding State Spending

Preserve General Revenue

Proposals to expand the small business franchise exemption (HB 4765) and reduce the tax rate (SB 19) would cost hundreds of millions of dollars in lost General Revenue for the next biennium and beyond. The fiscal note on HB 4765 projects a \$172 million loss of GR; SB 19 would result in a \$402 million GR loss. We recommend against taking any steps that would reduce the state’s ability to fund critical public services. A tax cut means critical needs such as those in this letter go unfunded. Moreover, during an economic downturn, public spending on critical needs better stimulates the economy than tax cuts for businesses.

Use the Economic Stabilization Fund

The Comptroller’s Biennial Revenue Forecast projects that the Economic Stabilization Fund, commonly called the Rainy Day Fund, will have \$9.1 billion for the upcoming biennium, 2010-11. Because the fund is supported by a dedicated tax, Texas can reasonably expect additional deposits to the fund for 2012-13. Given that the fund is designed to stabilize the state’s budget and protect vital state services during an economic downturn, the state should not hesitate to spend several billion dollars from this fund to meet critical needs.

Protect the Unemployment Compensation Trust Fund

Because of high unemployment and inadequate financing, the Unemployment Compensation Trust Fund will soon be empty, requiring the imposition of a deficit tax on Texas employers. To minimize this tax, Texas could draw down \$555 million in federal dollars under the American Recovery and Reinvestment Act by making some modest reforms to our UI eligibility laws. If Texas chooses not to draw down these federal funds, then the Legislature should take other steps to minimize the deficit tax, including adopting a contingency rider transferring all funds in the Texas Enterprise Fund back to the UI Trust Fund. The House budget has a rider (Amendment No. 171 by Representatives Davis and Walle) on this subject. We recommend that you amend this rider so that all funds currently held in the Texas Enterprise Fund as well as

any future funds are transferred directly to the Unemployment Compensation Trust Fund to reduce the deficit tax, instead of the Employment and Training Investment Holding Fund named in the rider, from which it could eventually go back to the Enterprise Fund.

Part 2—Additional General-Revenue Related Spending

We urge you to spend an additional \$854 million in General Revenue as follows:

HHS Provider Rates: We recommend the Senate proposal that provides an additional \$129.5 million in GR for community care attendants' hourly wage increases, and \$180 million more in GR for health care and foster care provider rate increases.

Community Services Waiting Lists (\$223 million originally requested, HHS enterprise item): Funding in the two budgets for reducing the size of waiting lists for community services covers programs ranging from community mental health care, services for children with special health care needs, care for Texans with mobility impairments, and care for frail seniors, to care for Texans with intellectual and cognitive disabilities. The Senate's Rider 48 would dedicate \$200 million to increasing capacity in two waiver programs, HCS and CLASS, which would help reduce current state school censuses and divert persons who might otherwise be newly admitted to a state school. Expanded access to the HCS and CLASS waivers (coupled with increased support for the local Mental Retardation Authorities, which are critical to reducing institutionalization) is needed to support meaningful progress toward downsizing the state school system in favor of community-based support systems and to respond to the U.S. Department of Justice findings of serious problems with our state schools. At the same time, it is critical that community care waiting list funding be equitably distributed across the full array of community programs, and not be dedicated exclusively to expanding the capacity of HCS and CLASS. To do so while still maintaining adequate support for state school reforms may require additional funds—at least \$25 million more GR—above the roughly \$200 million allocated by both chambers to the waiting list exceptional item.

Medicaid buy-in for children with disabilities: The House includes a contingency rider for HB 67 in Article XI; the Senate has it in Article XI for HHSC. We urge that the \$22.5 million GR for this initiative be included in Article II of the final budget.

“Three-share” Program: \$24.2 million is Article II in the House budget, but in the Senate's Article XI, for “three-share” premium assistance programs to increase access to private health insurance for the uninsured. We urge that this program be funded in Article II.

Healthy Texas: This initiative, which would be established by SB 6, could put private health insurance within the reach of many uninsured Texans working for small employers by using a public-private partnership to address the primary barrier to coverage—the high cost of premiums. Assuming enrollment of 50,000 in 2010 and 100,000 in 2011, the SB 6 fiscal note estimates a \$112 million GR cost for the 2010-11 biennium, but the cost could be lowered by capping enrollment. We urge inclusion of this program but that it be funded by GR other than through Medicaid cost savings, as we explain in the next section.

Medicaid cost savings: Even if these General Revenue reductions of \$107.1 million are being proposed as a way to fund Healthy Texas, we do not support this provision (Senate budget, HHSC Rider 60). The proposed policy changes are questionable, will require a significant amount of state resources, may prove to be unsuccessful in saving any General Revenue, and will have a negative impact on provider groups.

Child protection: The Department of Family and Protective Services originally requested \$251 million in GR (\$292 million All Funds) for all of its exceptional items. The House added \$37 million in GR (\$125 million All Funds, of which \$54 million is TANF Federal Funds). The Senate added only \$7.1 million in GR

(\$26 million All Funds). Funding the House proposal would require \$30 million more in GR and \$35 million more in TANF Federal Funds or Child Care Development funds, but would better protect our state's children and families. As noted above, foster care provider rates also need to be increased.

Skills Development Fund: This customized job training program is budgeted at \$50.9 million in 2008-09. The House proposed a \$20 million increase in Article VII (Workforce Commission appropriations), plus \$10 million from federal Workforce Investment Act funds (Article XII). The Senate budget has a \$30 million increase as part of the Article IX economic development Rider 17.03, plus the \$10 million from WIA/ARRA funds. We support the higher level of funding to provide skills training to help workers retool during this economic downturn.

Texas Grants: This higher education financial aid program is budgeted at \$428 million (all GR) in 2008-09. The House added \$224.4 million, plus \$76 million in Article XI. The Senate added only \$86.2 million. We support the House proposal to increase access to higher education.

Part 3—Rider Differences Having No General-Revenue Impact

Twelve-month continuous eligibility for children's Medicaid: Rep. Turner's rider (House budget, Special Provisions Relating to All Health and Human Service Agencies, Sec. 52) would fund 12-month eligibility out of a higher-than-currently-assumed federal Medicaid match rate under the American Recovery and Reinvestment Act. This budgeting assumption is reasonable, and we support this rider. Twelve-month eligibility would substantially increase access to health care for children and help fix our state's broken eligibility system by dramatically reducing workload.

Eligibility system: The House's HHSC Rider 59 ensures the current authorized levels and allows for increased staff (the additional 823 staff in HHSC Exceptional Item 3) to be funded with GR transfer authority from Medicaid strategies (Goal B). The HHSC Commissioner would notify the Governor, LBB, and Comptroller prior to any proposed transfer. These staff are necessary to fix our state's broken eligibility system.

In the House budget, an amendment by Rep. Herrero deleted language that would have directed HHSC to take TIERS statewide by the end of 2011 despite problems with the system and system-wide poor timeliness. The Senate budget still contains the provision (HHSC Rider 52). Given our state's broken eligibility system, it is important that the state not try to take TIERS statewide until the system works.

Frew: With respect to the funding provided to continue the state's compliance with the *Frew* settlement agreement, the House budget proposal is clearer about including \$150 million in the base for a new round of strategic initiatives (House Budget, HHSC Rider 53b), and \$117 million in unspent funds from 2008-09 that will be carried over to continue existing initiatives (HB 4586, Sec. 27). The Senate proposal, meanwhile, specifically authorizes \$45 million GR to continue compliance with the 2007 Corrective Action Order (HHSC Rider 53c). All three amounts should be included in the final budget proposal.

CHIP coverage to 300% of the federal poverty level: The House budget proposal would use unexpended funding from 2008-09, including funds that would be repaid from hurricane-related uses (HB 4586), to implement this initiative. No additional federal or GR funds are needed.

Part 4—Temporary Assistance for Needy Families

Non-Custodial Parent (NCP) Choices Employment Program: The House budget's Article XI includes \$12 million in TANF Federal Funds for HB 2636, expanding a successful pilot program that provides

employment assistance to non-custodial parents with children on TANF or Medicaid. Modeled after the Choices Employment Program for custodial parents, NCP Choices serves non-custodial parents who are unemployed and behind in paying child support. A University of Texas evaluation of the pilot found it to be a highly cost effective approach to increasing child support collections and fostering family economic security: The Attorney General's Office brings in \$3 in child support collections for every \$1 spent on the program. Moreover, families who receive child support are less likely to rely on TANF, working parents are less likely to file unemployment claims, and their children are more likely to be covered by private health insurance.

TANF Emergency Contingency Fund: ARRA created the TANF Emergency Contingency Fund to reimburse states for 80 percent of any increased spending in 2009-2010 on cash assistance, one-time emergency payments, and subsidized employment for TANF-eligible families. Texas is eligible to receive up to \$243 million from this fund in 2009-10. The House budget's Article XI includes a \$28.7 million rider titled "TANF ARRA." Though it is unclear to us to what this rider refers, we do recommend increasing spending in one or more of the three eligible areas in 2010 so that the state can take advantage of this extraordinary match rate for *one-time spending* during this economic downturn.

VITA Grants: The House budget's Article XI includes \$2.6 million in TANF Federal Funds for HB 955, creating a grant program for certified Volunteer Income Tax Assistance Community Centers, coordinated through Community Action Agencies. The subsequent increase in tax preparation assistance will help more working families take advantage of the temporary changes in the federal income tax code made by ARRA, totaling nearly \$5 billion in new tax credits over the upcoming biennium. This small amount of money should be included in the final budget to leverage billions in tax credits for working Texans.

Conclusion

Please let us know if we can provide any additional information. We wish you well as you confer on the best way to meet the needs of Texas.

Sincerely yours,



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Executive Director



Anne Dunkelberg
Associate Director

Copy:

The Honorable David Dewhurst
Lt. Governor of Texas

The Honorable Joe Straus
Speaker of the House