

- SUBJECT:** Constitutionally dedicating lottery revenue to public education
- COMMITTEE:** Appropriations — committee substitute recommended
- VOTE:** 19 ayes — Pitts, Raymond, Aycock, F. Brown, Button, Creighton, Crownover, Driver, Edwards, Eiland, Giddings, Herrero, Hochberg, S. King, D. Miller, Morrison, Otto, Riddle, Villarreal
- 0 nays
- 8 absent — Chavez, Cohen, Darby, Dukes, Flores, Isett, McClendon, Zerwas
- WITNESSES:** None
- BACKGROUND:** In 1991 Texas voters approved a constitutional amendment, Art. 3, sec. 47(e), authorizing the state lottery. The first tickets were sold in May 1992, and the proceeds went into the General Revenue Fund. In 1997, the Legislature enacted HB 4 by Craddick, which statutorily dedicated lottery revenues to the foundation school fund. Since then, more than \$11 billion in lottery proceeds has gone to the Foundation School Fund, with almost \$1 billion contributed in fiscal 2008, representing 27 percent of total lottery revenue.
- Five percent of total lottery revenue is spent on retailer commissioners, 5 percent on lottery administration, 62 percent on prizes paid, and 1 percent of revenue is appropriated to other state programs.
- The 1 percent of lottery revenue appropriated to other state programs represents unclaimed lottery prize money, which is deposited in general revenue and the state-owned multi-categorical teaching hospital account. The state-owned multi-categorical teaching hospital account funds indigent health care, including at the University of Texas Medical Branch (UTMB).
- DIGEST:** CSHJR 37 would amend Art. 3, sec. 47(e) of the Texas Constitution to require all money received by the state from the operation of the lottery to be deposited in the state treasury, except amounts paid for lottery prizes and administrative costs. The money would be dedicated to and would be expended only on the enrichment of the educational programs of the

public primary and secondary schools and for items that directly benefit classroom teaching, including teacher compensation and the acquisition of textbooks and education supplies, materials, equipment, and services.

The constitutional amendment, in Art. 3, sec. 43(f), would prohibit lottery advertisements or promotions from encouraging or attempting to influence a person to purchase a lottery ticket or number for the purpose of supporting or providing additional funds to public primary or secondary schools.

The proposal would be presented to the voters at an election on Tuesday, November 3, 2009. The ballot proposal would read: "The constitutional amendment to dedicate net revenue from the state lottery to support classroom teaching in the public schools."

**SUPPORTERS  
SAY:**

CSHJR 37 would ensure that lottery revenue is deposited in the Foundation School Fund to fund public school instructional programs. It would put into the Constitution the longstanding statutory dedication of net lottery revenue to public education. When Texas voters in 1991 approved the constitutional amendment authorizing the state lottery, they believed all proceeds would fund public school education. HJR 37 simply would implement the voters' understanding.

The constitutional amendment also would ensure that lottery advertisements did not use the education dedication as a selling point for the state lottery. Although lottery revenue would be dedicated to public education, the lottery should not be presented to the public as a means for them to contribute to public education. Restricting advertising messages would not hamper the promotion of the lottery because advertisements would focus on the entertainment that the lottery provides to participants.

The amendment would not decrease the appropriations to reimburse hospitals for indigent care because unclaimed prize money would be included in the provision of the amendment exempting the amounts paid for lottery prizes from the dedication.

**OPPONENTS  
SAY:**

CSHJR 37 would not change the total amount of state money appropriated to public schools because the amendment would not mandate a change in the amount of school revenues spent for school purposes. Lottery revenues fall well short of covering all state costs for public education, so the

constitutional amendment would not increase public education funding, only constitutionally dedicate one revenue source for that spending.

By dedicating all money received by the state from the lottery, other than for prizes and administrative costs, this amendment would dedicate to public education unclaimed prize money now used for payments to hospitals to compensate for indigent care. It could siphon \$20 million from UTMB and decrease the appropriations available to reimburse hospitals for the cost of providing health care to those who cannot pay. It is important that hospitals provide care for these individuals, but without reimbursement from the state, the reach of the program would be shortened. The amendment would not exempt unclaimed prize money from the dedication because it only would exempt the amounts actually paid for lottery prizes.

By constitutionally dedicating all net lottery revenues to public education, HJR 37 would limit legislative discretion to use lottery proceeds for other worthy purposes, such to assist veterans.

**NOTES:**

In the fiscal note, the LBB estimates the dedication of lottery revenues to public education by HJR 37 would increase funds available to the Foundation School Fund by about \$20 million, with a corresponding decrease of \$20 million in the funds available to the state owned multi-categorical teaching hospital account because unclaimed lottery prize would be dedicated to public education

The substitute differs from the original as filed by allowing lottery revenue to be used to pay lottery prizes and for administration costs. The original would have required all net revenue to be dedicated to public school funding.

HB 1299 by C. Turner, which would establish a lottery game with revenue dedicated to veterans' assistance, is on the May 8 General State Calendar.