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HOUSE RESEARCH ORGANIZATION

state finance report

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CSHB 1 — THE HOUSE APPROPRIATIONS COMMITTEE'S PROPOSED FISCAL 2000-01 BUDGET

The House Appropriations Committee reported CSHB 1 by Junell, the general appropriations bill for fiscal 2000-01, on March 31. The bill is scheduled for floor consideration on April 13. The proposed state budget would appropriate a total of $95.2 billion, up 7.6 percent from fiscal 1998-99 spending, with $59.2 billion coming from general revenue-related funds, a 9.2 percent increase. These figures exclude $1.8 billion in tobacco lawsuit settlement receipts, which are earmarked for spending in a separate Article 12 of the bill. CSHB 1's appropriations would fall within the comptroller's estimates of available revenue for the next biennium.

Article 11 of the bill includes a "wish list" of provisions totaling $6.8 billion. These amounts are not included in the spending totals for CSHB 1. The conference committee on the state budget may decide to add some of these provisions to the final version of the budget, depending in part on whether the comptroller adds to the revenue estimate issued in January.

This State Finance Report includes an overview of the proposed state budget and each article of CSHB 1 and highlights significant budget issues, including differences from the original version of HB 1, the governor's proposed budget, and other spending proposals. For a summary of funding proposals for all state agencies, see the Legislative Budget Board report, *Summary of the Committee Substitute for HB 1*, March 31, 1999.

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Fiscal 2000-01 Budget Overview

CSHB 1 by Junell, as reported by the House Appropriations Committee, would authorize total spending of $95.2 billion for fiscal 2000-01 (excluding tobacco-settlement receipts), an increase of $6.7 billion (7.6 percent) over fiscal 1998-99 spending. The bill would account for about $97 billion in spending by including proposed spending of tobacco-settlement receipts, which are earmarked in Article 12 and treated in this budget as dedicated funding.

Note: In this report, the term "general revenue-related funds" refers to the combined total of general revenue and general revenue-dedicated funds.

Biennial Spending Comparisons
(millions of dollars)

Type of Funds	Expended/ Budgeted 1998-99	Recommended CSHB 1	Biennial Change	Percent Change
General revenue-related	$54,250.8	$59,230.4	$4,979.6	9.2%
Federal funds	$25,577.0	$27,468.7	$1,891.7	7.4%
Other funds	$ 8,684.0	$ 8,527.2	$ (156.8)	(1.8)%
All funds	$88,511.8	$95,226.2	$6,714.5	7.6%

Source: Legislative Budget Board, Summary of CSHB 1, March 31, 1999.

More than half of the overall increase in spending would go to public education, which would receive an additional $3.6 billion, an increase of 13.4 percent from fiscal 1998-99. More than 90 percent of this additional spending would come from general revenue. Health and human services (HHS) agencies would receive an additional $926 million, nearly 60 percent of which would be federal funds. Together, public education and HHS account for about 60 percent of the proposed total budget for fiscal 2000-01.

CSHB 1 would represent a net $3.1 billion increase over budgeted amounts in HB 1 as filed. Major increases in CSHB 1 over the original bill include $397 million in federal TANF fund expenditures, $702 million in additional federal highway fund spending, and an additional $1.3 billion in general revenue-related funding for public education.

For more detailed agency-by-agency information on increases and decreases from HB 1 as filed and from fiscal 1998-99 appropriations, see the LBB document, *Summary of Committee Substitute for House Bill 1,* March 31, 1999.

Tobacco Settlement Spending

Like HB 1, CSHB 1 would earmark the spending of $1.8 billion in tobacco-settlement receipts in Article 12, about 82.5 percent of which would be appropriated in fiscal 1998-99 to establish permanent endowment funds for health care and higher education. New to the list of endowments for higher education is a proposal for a $46 million endowment for general academic institutions with nursing and allied health programs.

The remaining 17.5 percent of tobacco-settlement receipts would be used to pay for the following:

- a new state/federal health benefit program, the Children's Health Insurance Program (CHIP)($179.6 million);
- cash payments to government entities to pay for health benefit costs ($10 million to the Municipal Employee Group Benefit Risk Pool and $5 million to the Texas Association of School Boards' group health benefit plan);
- $3 million to the Texas Healthy Kids Corporation;
- $30.5 million for new-generation medications for the mentally ill; and
- $50 million for long-term health care for children.

The state can expect an average of about $1 billion per biennium in the future from the tobacco settlement, but current and future spending options may be subject to the enactment of federal proposals to recoup these funds or restrict state spending.

Spending Versus Revenues

According to LBB, CSHB 1 would spend $53.6 billion in general revenue, about $772 million less than the general revenue estimated to be available for fiscal 2000-01 spending, and would require no increases in tax rates nor any new taxes. This surplus takes into account $104 million of emergency spending for fiscal 1998-99 (SB 482 by Ratliff) and a $45 million reduction in oil and gas severance taxes (SB 290 by Brown et al.) enacted by the 76th Legislature.

An appropriations bill may become law only if the comptroller certifies that sufficient revenue will be available to fund it (Texas Constitution, Art. 3, sec. 49a). The comptroller is not bound by the pre-session revenue estimate and may revise it at any time. Because the comptroller's estimate of available general revenue is the major limit on appropriations, most discussion of appropriations focuses on general revenue spending rather than on spending from all sources. In January 1999, Comptroller Carole Keeton Rylander estimated that general revenue funds available for certification would total $58 billion, which was reduced to $54.5 billion after fund adjustments (see HRO State Finance Report 76-1, *Writing the State Budget*, pages 21-22).

Wish List

Article 11 of CSHB 1 contains a "wish list" of about $6.8 billion in additional funding provisions for fiscal 2000-01 that agencies deem "desirable and necessary." These items are not included in the reported spending amounts for CSHB 1 and *are not considered as appropriations*. The Article 11 provisions include strategy funding increases, new program funding, and budget riders.

The Senate Finance Committee did not compile a wish list this session, although it has used a wish list in the past. The House Appropriations Committee has compiled a wish list each session since 1993. Proponents of the wish list say it allows the Appropriations Committee to recommend essential agency funding within existing revenue estimates and to prioritize additional appropriations for consideration by the conference committee in the event that new legislation or other factors raise revenue estimates for the next biennium or reduce anticipated fiscal 2000-01 spending levels.

Critics of the wish list say that it does not actually reflect spending priorities because it contains provisions that are unranked, often described only loosely with few spending directives or details. They say the list removes real funding choices from House floor consideration and is solely a negotiating tool, placing some of the state's most important or controversial spending decisions in the hands of the five senators and five House members on the conference committee. Especially in this era of budget surplus, critics say, the wish list is no longer needed to limit spending to tight revenue estimates.

Article 1 Overview

The 26 agencies within Article 1 are considered to perform the core business functions of state government. They include the offices of the governor, secretary of state, attorney general, and comptroller; agencies charged with general operations of state office buildings, activities, and bond issues; agencies that support and coordinate statewide and federal priorities; and agencies that administer state employee benefits, pensions, and workers' compensation payments. The budgets of the Legislature and legislative agencies appear in Article 10.

For Article 1 agencies, CSHB 1 proposes spending almost $2.3 billion in all funds for fiscal 2000-01, about 2 percent of the total state budget, including $1.6 billion in general revenue-related funds. Total appropriations would rise by about 11.5 percent from the fiscal 1998-99 level.

Article 1 Spending Comparisons
(millions of dollars)

Type of Funds	Expended/ Budgeted 1998-99	Recommended CSHB 1	Biennial Change	Percent Change
General revenue-related	$ 1,466.8	$1,564.9	$ 98.1	6.7%
All funds	$ 2,062.2	$2,299.7	$237.5	11.5%

Source: Legislative Budget Board, Summary of CSHB 1, March 31, 1999.

Background

The General Services Commission (GSC) plays a major role in state government as the primary provider of many support services for most state agencies, including buying goods and services, finding and leasing office space, and managing construction and printing services, and the agency has various cost-recovery procedures for such services. GSC also administers the state's energy and Historically Underutilized Businesses (HUB) programs. The State Auditor's Office recently criticized GSC management in the areas of cost recovery, construction management, and state procurement (SAO Report 99-029, February 1999). According to the auditor, similar problems have continued at GSC for more than 18 months.

Budget Highlights

Funding increases proposed in Article 1 include $67 million for the Texas Public Finance Authority for the defeasance of Superconducting Supercollider bonds. The

State Preservation Board would receive increased funding to build and operate the State History Museum, including $26 million in unexpended bond proceeds for construction, $9.2 million for debt-service payments, and $4.5 million for pre-opening and operating costs.

GSC funding. CSHB 1 would appropriate $339.4 million to GSC for fiscal 2000-01 and would include recovery of all surplus balances from the cost-recovery program into general revenue. CSHB 1 also would create a grievance process for expressing dissatisfaction with construction management and would create performance measures to track completion of projects on time and within budget.

Supporters of CSHB 1 provisions for GSC say these funding changes and rider directions are necessary to make GSC an efficient, cost-effective agency and contain the cost of operating state government. The state auditor's report identified more than $18 million in available surplus balances in the cost-recovery accounts.

Other Article 1 issues. Significant provisions addressed in the Article 11 wish list for Article 1 agencies and not discussed elsewhere in this report include:

- $940,000 for fiscal 2000-01 for upgrades to the Ethics Commission's electronic filing system;
- $10 million to GSC for development of a statewide public safety radio system;
- $1.8 million to GSC for development of a common information center for public inquiries about state government, contingent upon enactment of HB 2283 by Maxey;
- $3.6 million for asbestos removal from the Stephen F. Austin state office building;
- $2.5 million to the Governor's Office, contingent upon enactment of HB 424 by B. Turner et al., to provide grants to reimburse eligible counties for the costs of prosecuting capital murder cases; and
- $5.25 million to the Governor's Office for Project Spotlight, a program to improve enforcement of the terms of juvenile and adult probation.

The pages that follow discuss these Article 1 budget issues:

- funding of child-support enforcement by the Office of the Attorney General;
- the reserve level for health-maintenance organization insurance in the Employees Retirement System budget;
- the governor's initiative to restore historic courthouses;
- funding for the state 9-1-1 commission;
- funding for the comptroller's performance reviews of school districts;
- funding for the Texas Library and Archives Commission;
- funding for the Cultural Endowment Fund to support the arts; and
- use of the state's oil overcharge funds.

Child-support enforcement

Agency: Office of the Attorney General (OAG)

Background: The OAG administers child-support enforcement for the state. Major functions include locating the absent parent, establishing paternity, obtaining a court order for payment, enforcing that order through wage withholding, collecting the payment, and disbursing it to the custodial parent. The OAG estimates that 1.2 million cases fall under its jurisdiction, representing about 2 million children. Of those cases, only 40 percent have a court order allowing the collection of child support, and only 41 percent of those with a court order are being paid. Thus, only 18 percent of the 1.2 million cases actually are receiving child-support payments. Cases in which there is no dispute and in which support is being paid are not under the OAG's jurisdiction.

The child-support enforcement division is funded primarily at the state level through retained collections of Temporary Assistance to Needy Families funds that are matched 2-to-1 by federal funds. According to the OAG, falling welfare rolls have led to declines in the retained collections accounts, potentially limiting increased funding for child-support enforcement.

HB 3281 by Goodman, enacted in 1997, required the Sunset Advisory Commission to select an independent firm to review state child-support functions and evaluate whether they should remain a part of the OAG. David M. Griffith and Associates performed the analysis and determined that the operations should remain within the OAG, but recommended many changes to improve customer service and increase collections.

In 1996, the comprehensive federal welfare-reform law placed many requirements on states, including the development of a centralized statewide unit for the collection and disbursement of child-support payments.

CSHB 1 . . . . $380.5 million

CSHB 1 would appropriate $48 million above the funding proposed in HB 1 as filed. Of the total appropriation, $36.7 million would be used to fund federal welfare-reform requirements, except for the state disbursement unit, which appears in the Article 11 wish list. CSHB 1 would include an additional $11.3 million to fund 114 additional FTEs to take phone calls in four regional call centers. It would increase the appropriation for the interagency contract with the Office of Court Administration by $852,000 to fund the hiring of additional IV-D court masters (judges for child-support cases) and staff. CSHB 1 also includes $4.5 million in unexpended balances from fiscal 1998-99 to be used in the child-support enforcement division.

Supporters say additional funding for child-support enforcement is necessary to bring the system into compliance with federal mandates and to provide better customer service. The new attorney general has pledged to make significant management changes in the child-support enforcement division to improve customer service, but some funding is needed to make sure the changes are effective. According to OAG statistics, the regional call centers answer only one in eight calls placed to them. The current system forwards all calls from regional call centers to the central call center. Putting additional staff on regional call centers and changing the forwarding of calls would significantly increase the percentage of calls answered.

Wish list funding

Article 11 contains $55.9 million in all funds for the state disbursement unit. The wish list also contains an additional $8.6 million for capital items in the child-support enforcement division.

Supporters say the state disbursement unit has been placed in the wish list to give the agency an opportunity to issue a request for proposal to obtain better cost estimates on the development and implementation of the disbursement unit. Funding for capital items would include replacing computers, expanding the data center, upgrading the current wide area network, and upgrading file servers.

HB 1 (filed version) . . . . $336.3 million

HB 1 as filed would have reduced the funding level for child-support enforcement by $7.1 million from fiscal 1998-99 levels due to a reduction in earned federal funds.

Governor's proposal . . . . $336.8 million

The governor's budget report, *Setting Priorities, Getting Results,* included no additional funding for child-support enforcement because of the expected revised request from the incoming attorney general. The budget did include an additional $556,000 in funding for three additional IV-D court masters.

Other funding proposals . . . . $457.3 million

The OAG requested an additional $36.8 million in general revenue and $107.9 million in all funds for the child-support enforcement division above the amounts in HB 1.

Supporters say the child-support enforcement division needs full funding to comply with federal mandates, including the estimated cost of the state disbursement unit. The total amount of the OAG's request in the Article 11 wish list should be included in the bill because of the child-support enforcement division's significant needs. The OAG's funding request for this division demonstrates its commitment to correct the problems with this program.

Group insurance contingency reserve funding

Agency: Employees Retirement System (ERS)

Background: The Texas Employees Uniform Group Insurance Benefits Act (Insurance Code, art. 3.50-2) requires ERS to maintain a contingency fund of 10 percent of the total benefits expected to be provided directly from the fund as a result of claims incurred during the fiscal year. ERS has maintained a contingency fund equal to 10 percent of all benefits expected to be provided regardless of whether those benefits result from self-insurance programs or from outside insurance programs, primarily health maintenance organizations (HMOs). State Auditor's Report 98-024, February 1998, criticized the calculation of the reserve funding amount and said the statute required the reserve fund to be based only on benefits expected to be paid from self-insured programs. ERS disagreed with the auditor's interpretation of the statute.

CSHB 1 . . . . $1.23 billion

CSHB 1 would fund the projected increases in medical costs and a 10 percent contingency reserve fund for self-insurance programs but would not include funding to maintain a 10 percent contingency reserve for other insurance programs. This would save an estimated $28 million in comparison with HB 1 as filed.

Supporters say the amount included in CSHB 1 would be sufficient to fund the required reserve for the self-insurance program but would save the state money by not fully funding the reserve for outside programs like HMOs. While some risks are associated with HMOs, such as increased premiums and the possibility of HMOs going out of business, the sound actuarial state of the ERS group insurance programs and the current cost projections indicate no need for appropriating money to cover HMOs. This proposal is substantially similar to the governor's budget proposal, although CSHB 1 would fully replenish the 10 percent reserve fund for self-insurance, part of which was spent down during fiscal 1998-99.

HB 1 (filed version) . . . . $1.26 billion

HB 1 as filed would have provided 10 percent growth in fiscal 2000 and 10.3 percent growth in fiscal 2001 to cover increased medical costs and projected growth in the number of retirees. It also would have provided for a 10 percent contingency reserve for all group insurance plans as calculated by ERS.

This amount would have represented an increase of $186.2 million over fiscal 1998-99 levels for group insurance (ERS Strategy B.1.1). About $60 million of that amount would have replenished funds spent out of the contingency amount during fiscal 1998-99. Those funds were spent because ERS agreed to lower the reserve amount below what actually was required after consultation with the Legislature.

Group insurance contingency reserve funding

Governor's proposal . . . . $1.18 billion

The governor's budget proposal in *Setting Priorities, Getting Results* would exclude HMO components from the contingency reserve amounts because HMOs assume the risk of incurring costs in excess of those projected. According to the Governor's Budget Office, eliminating this reserve would save $85.3 million for fiscal 2000-01.

Other funding proposals . . . . $1.26 billion

ERS proposed retaining the 10 percent contingency reserve fund for all expected benefits. That would require funding levels equal to those in HB 1 as introduced.

Supporters say the biennial budget process exposes group insurance plans to significant risks even with fully insured (HMO) plans. ERS must project the premiums for such coverage at least six months before the beginning of the biennium, when there may be preliminary indications as to the premiums for the first year but no indications as to premiums for the second year. Once the appropriation has been established, the fund is at risk for premiums that rise faster than expected, just as it is for unexpected increases in self-insured program benefits and expenses.

HB 706 by Tillery proposes creating a 60-day contingency reserve for HMO-type programs. The 10 percent contingency reserve amount required by ERS would not include such plans but would be calculated only on the self-insured program.

Texas courthouse preservation initiative

Agency: Texas Historical Commission (THC)

Background: In June 1998, Gov. Bush announced his Historic Courthouse Preservation Initiative (HCPI), designed to focus attention on the need to preserve Texas' historic courthouses. The governor created a working group of cities and public officials to make recommendations regarding a matching-grant program that communities could use to repair and restore historic courthouses throughout the state. The HCPI working group's report recommended that most of the money for the program be dispersed as grants, that the state provide long-term dedicated funding, and that a revolving loan fund be established to provide a continuing source of funding.

CSHB 1 . . . . $0

Wish list funding

Article 11 would include $100 million in general revenue for the HCPI for fiscal 2000-01, contingent upon enactment of HB 1341 by Gallego et al. or similar legislation.

HB 1 (filed version) $0

Governor's proposal . . . . $100 million

The governor's budget proposal in *Setting Priorities, Getting Results* would provide $100 million in general revenue for the HCPI for fiscal 2000-01, as described in the Article 11 item. The proposal would fund the first phase of a four-year, $200 million initiative, including three new employees in fiscal 2000 and five in fiscal 2001. The money would go to local communities for matching grants and technical support.

Supporters say Texas' historic courthouses are in dire need of repair. In June 1998, the National Trust for Historic Preservation added 225 Texas courthouses to its annual list of America's most endangered historic places, saying the courthouses are threatened by deterioration, lack of maintenance, and insufficient funding. Historic courthouses are a source of pride and attract needed tourism to small communities across the state. The governor's proposal would create state-local partnerships by providing local matching grants to restore these examples of the state's historical legacy.

Other funding proposals $0

Opponents of the HCPI funding proposal say the state has more pressing needs for general revenue than funding the preservation of historic courthouses. Individual counties should look for innovative ways to support these local projects, such as issuing bonds and sponsoring private funding initiatives.

Increased funding for state 9-1-1 services

Agency: Advisory Commission on State Emergency Communications (ACSEC)

Background: Political subdivisions in Texas have three ways to implement 9-1-1 service: through home-rule authority (used by most of the state's larger cities), by creating an emergency communication district under Chapter 772 of the Health and Safety Code, and through ACSEC, which serves 228 counties through 24 regional councils of government (COGs). The biggest cities served by ACSEC are Austin, Corpus Christi, Beaumont, and Temple. ACSEC delivers 9-1-1 service to the COGs, which arrange for the calls to reach emergency medical services and police departments. ACSEC also funds and administers six regional poison-control centers.

ACSEC is funded by four telephone fees. The Emergency Service Fee and Wireless Service Fee are assessed on local telephone service, while the 9-1-1 Equalization Surcharge and Poison Control Surcharge are assessed on intrastate long-distance calls. The Emergency Service Fee goes directly to the 24 COGs. The Wireless Service Fee goes to ACSEC, which distributes it to local 9-1-1 authorities. The 9-1-1 Equalization Surcharge and Poison Control Surcharge go to the state treasury and are appropriated to ACSEC, which distributes the funds to the COGs and poison-control centers.

ACSEC underwent sunset review during the interim between the 75th and 76th legislative sessions. The Sunset Advisory Commission made several recommendations regarding the agency's funding structure, including requiring telephone companies to remit revenue from the Emergency Service Fee and Wireless Service Fee to ACSEC for deposit in a dedicated account in the state treasury, where it would be subject to the legislative appropriations process, instead of directly to the 24 COGs.

The state auditor's July 1998 report on the 9-1-1 system found that the statewide organizational structure was inefficient and that coordination between ACSEC and the COGs needed improvement in areas such as contract administration, financial reporting, performance management, and oversight policies. The report also cited duplicative administrative costs and inconsistent accounting practices.

The amounts shown below represent proposed ***increases*** over the amount appropriated for 9-1-1 services for fiscal 1998-99.

CSHB 1 . . . . $0

CSHB 1 would fund ACSEC's 9-1-1 services at $13.3 million for fiscal 2000-01, about the same level as for fiscal 1998-99.

HB 1 (filed version) $0

HB 1 as filed proposed the same amounts for ACSEC as in CSHB 1.

Increased funding for state 9-1-1 services

Governor's proposal . . . . $8 million

The governor's budget document, *Setting Priorities, Getting Results,* proposed $8 million in funding above the current appropriations to ACSEC to implement 9-1-1 wireless services and expand local addressing identification across the state. These funds and an additional 4.4 FTEs would provide 187 more public safety answering points (PSAPs) with automatic number-identification capability and 96 PSAPs along Highways I-35, I-45, and I-10 with automatic location identification. The funds also would be used to educate 500,000 more customers about 9-1-1 services.

Supporters say ACSEC desperately needs more funds to protect the public. The number of people served by the 9-1-1 system is rising, and the agency needs to update its telephone and computer systems to keep pace with rapidly changing technology. Without increased funding, the agency will not be able to maintain current service for an expanding client base nor to ensure the reliability of 9-1-1 service. In some situations, this could mean the difference between life and death for people in trouble in the 228 Texas counties where ACSEC provides service.

ACSEC also needs to address the explosive growth in wireless communication. When citizens dial 9-1-1 from cellular phones, the calls are not routed consistently to 9-1-1 centers, or the centers may not respond at all. Also, the caller's number is not displayed for call-back and tracing purposes, and nowhere in the state can an operator locate the source of an emergency cellular call unless the caller can give an address. Addressing information is important because an emergency call may come from someone who cannot give an address — for example, a child or someone who is too ill to speak.

In response to the state auditor's report, ACSEC is implementing changes in its rulemaking and agency procedures. The agency does not control the funds discussed in the auditor's report that go directly to the COGs. If the sunset recommendations are enacted, the agency could work to solve these problems.

Opponents of increased funding for ACSEC say the agency needs to address the problems enumerated in the state auditor's report before it receives more money.

Other funding proposals . . . . $ varied

Some oppose funding ACSEC at all, saying that the problems cited in the auditor's report are so egregious that the agency should be consolidated into the Public Utility Commission (PUC). Supporters of keeping the agency intact note that the Sunset Advisory Commission report identified no workable option for consolidating ACSEC with the PUC or any other agency.

Increased funding for school-district performance reviews

Agency: Comptroller of Public Accounts

Background: The Comptroller's Office is responsible for tax collection, revenue estimating, and most of the financial activities of state government. Since 1991, the comptroller's Texas School Performance Review (TSPR) program has performed management audits — called performance reviews — of 32 school districts. To carry out these reviews, the comptroller uses outside consulting teams overseen by agency staff. During fiscal 1998-99, the teams are scheduled to complete eight school-district reviews. The agency expects to spend about $2 million for the TSPR program out of $8.2 million budgeted for the Texas Performance Review (Strategy B.2.1).

The amounts shown below represent proposed ***increases*** over current funding for the TSPR program.

CSHB 1 . . . . $2 million

Rider 15 for the comptroller would add $2 million in funding for TSPR to increase the number of school-district performance reviews to 30 (10 in fiscal 2000 and 20 in fiscal 2001). The rider would allow the comptroller to enter into interlocal cost-sharing agreements with school districts so that schools requesting reviews would be responsible for up to 25 percent of the cost of the review. Costs to participating school districts are estimated at $500,000 for the biennium.

Supporters say that increasing the number of schools reviewed would be the most effective way to ensure better school performance. According to the Comptroller's Office, the 32 school districts that have undergone reviews since 1991 have implemented 89 percent of the cost-saving recommendations in those reviews and have reported savings of more than $85 million.

Anticipating a shortage of consulting services, the comptroller in January 1999 began holding meetings with potential contractors to educate firms about the school-review process and to give small contractors an opportunity to build teams for future reviews. By fiscal 2001, when 20 reviews would be performed, there should be enough experienced consultants available for the reviews.

Critics have questioned whether the comptroller should increase so sharply the number of planned reviews, as there could be a shortage of qualified consulting firms to perform the reviews.

HB 1 (filed version) $0

HB 1 as filed would have maintained fiscal 1998-99 funding levels for TSPR.

Increased funding for school-district performance reviews

Governor's proposal $0

The governor's budget proposal in *Setting Priorities, Getting Results* was based on the previous comptroller's request for appropriations, which did not address the issue of increasing the number of school-district performance reviews.

Other funding proposals . . . . varied

Supporters say TSPR employees should be allowed to exceed the travel limitations in the General Appropriations Act because it is crucial for them to oversee the work of outside consulting teams. According to the Comptroller's Office, the average cost of travel per review is $4,000, so TSPR's travel costs for the biennium are estimated at $120,000. Lifting the travel cap by that amount would allow the agency to oversee the performance reviews properly.

Additional funds for the TexShare program

Agency: Texas State Library and Archives Commission (TSLAC)

Background: TSLAC operates the Texas Library System, protects the state archives, and encourages cooperation and sharing of resources among libraries across the state. TSLAC has administered the TexShare program since 1997.

TexShare is a resource-sharing program for academic libraries in Texas, under which member libraries share access to electronic information sources. TexShare spends most of its funds on electronic subscriptions. Current TexShare subscriptions include ABI/Inform (an index of business and current events), Periodical Abstracts, the Federal Register, and *Commerce Business Daily*. Other components include a courier service to promote interlibrary sharing; the TexTreasure program, which grants money to make lesser-known collections available for users; and the TexShare Card, which allows patrons of participating libraries to borrow materials from other member libraries.

The amounts shown below represent proposed ***increases*** over the amount already appropriated to the TexShare program.

CSHB 1 . . . . $0

CSHB 1 includes TexShare with other library-resource programs in TSLAC Strategy A.1.1. The bill would appropriate $10.8 million to that strategy for fiscal 2000-01, of which $2.2 million would go to TexShare, according to TSLAC.

Wish list funding

Article 11 includes an additional $2 million in general revenue for the TexShare program for subscriptions for additional electronic databases and training for electronic resources.

Supporters say the TexShare program deserves expansion. The program has tripled its membership recently with almost 100 new community colleges and private universities having joined since September 1, 1998. The service is particularly valuable for smaller libraries that cannot afford individual subscriptions to valuable electronic publications. These subscriptions give students in every part of Texas access to valuable resources statewide, leveling the differences between rich and poor and between rural and urban institutions. Students and faculty at all academic institutions in Texas have come to rely on TexShare for the library resources essential to their education.

TexShare is lagging behind similar programs in other states because of insufficient funding. Georgia’s program, for example, provides access to more than 100 full-text electronic databases and spends about $11 per higher-education student, while TexShare provides access to only four databases and spends only about $1 per student.

Additional funds for the TexShare program

Critics of expanding the TexShare program say that increasing public library funding to bolster collections, supporting literacy programs, and providing materials for the blind are all better ways to spend general revenue than buying more electronic subscriptions for academic libraries.

HB 1 (filed version) $0

Funding the Cultural Endowment Fund

Agency: Texas Commission on the Arts (TCA)

Background: For fiscal 1998-99, about 12 percent of TCA's funding came from federal sources and the rest from general revenue. TCA received a total of about $11 million, including $2 million of general revenue that went to the Cultural Endowment Fund, a trust fund established outside the state treasury. The Cultural Endowment Fund was created in 1993 as a public-private initiative to provide a stable source of funding for the arts. The goal is to obtain a base fund of $200 million by fiscal 2005.

CSHB 1 $2 million

CSHB 1 would continue to appropriate $2 million to the Cultural Endowment Fund (TCA Strategy A.1.1) for fiscal 2000-01, about the same amount as in fiscal 1998-99.

Wish list funding

Article 11 would include a $200 million one-time interest free loan to be deposited in TCA's Cultural Endowment Fund.

Supporters of granting TCA a $200 million no-interest loan from general revenue to fund the Cultural Endowment Fund say that the arts in Texas deserve a stable source of funding. The money in the endowment would be invested in the private sector, earning about 8 percent annually in dividends. This would fund TCA entirely and could be repaid over 15 to 25 years, depending on appropriation requirements and the rate of return.

With the additional money, TCA could fund grant requests at an estimated 43 percent of historically requested need instead of at the current 17 percent. Public investment in the arts produces economic benefits for Texas communities. For every dollar the state provides, corporations, individual Texans, and visiting tourists generate $70 in economic activity.

The House State, Federal and International Relations Committee's Subcommittee on the Arts recommended the $200 million endowment to achieve the fund's legislatively prescribed goal. Now is the time to secure a permanent funding source for the arts, while the state economy is robust and federal funds for the arts are dwindling. According to TCA, Texas invests less money per resident for the arts than any other state. Increased funding for the Cultural Endowment Fund would expose more students to arts education, generate economic development through tourism, and greatly benefit smaller, geographically isolated communities.

Critics of loaning the money to TCA say the state cannot justify making a large no-interest loan of general revenue to support the arts when so many Texans lack health

Funding the Cultural Endowment Fund

care and other necessities. If the money is to be invested by a private entity for whose services the TCA probably would have to pay a hefty fee, general revenue funds could be invested unwisely with little oversight by the state.

HB 1 (filed version) . . . . $2 million

HB 1 as filed also would have continued biennial funding for the Cultural Endowment Fund at $2 million.

Governor's proposal . . . . $2 million

The governor's budget proposal, as set forth in *Setting Priorities, Getting Results*, also would continue funding for the Cultural Endowment Fund at $2 million.

Oil overcharge funds

Agency: General Services Commission (GSC)

Background: Federal court settlements dealing with violation of price controls in effect for oil and gas between 1973 and 1981 have generated more than $300 million in oil overcharge funds for Texas since 1986. The settlements designated the funds for use in energy-related programs focused on research and promotion of alternative and renewable fuels and energy efficiency.

The State Energy Conservation Office (SECO), part of GSC, administers oil overcharge funds. The funds are divided by rider into six primary programs: schools and local government, state agencies and higher education, renewable energy, housing, transportation energy, and alternative fuels. SECO awards grants from these programs to government entities or private companies for energy-related programs.

While the state continues to receive some funds from settlements of the price-control cases, the amount available from oil overcharge funds in the future probably will not be significant, according to LBB estimates.

For more information on oil overcharge funds, see the LBB Staff Performance Report to the 76th Legislature, *Availability and Use of Texas' Oil Overcharge Funds*, p. 123.

CSHB 1 . . . . $5.8 million

CSHB 1 would retain funding proposed in HB 1 as filed for SECO programs (GSC Strategy C.1.1 and Rider 16). CSHB 1, however, would remove Housing Trust Fund programs from additional appropriations and would limit the Housing Trust Fund, Weatherization Assistance, and Emergency Nutrition Temporary Emergency Relief Program, all administered by the Texas Department of Housing and Community Affairs, to unexpended balances.

Supporters of this approach say these programs have sufficient unexpended balances to cover their current needs. LBB found that expenditures for these programs for fiscal 1998-99 were significantly below the amounts appropriated.

HB 1 (filed version) . . . . $5.8 million

HB 1 as filed would have appropriated $1.2 million of funds the state is expected to receive in fiscal 2000-01, plus $30.4 million of estimated unexpended balances, to the six programs designated as beneficiaries of the oil overcharge funds. The funds would have been divided equally among the individual programs. SECO would have received $2.8 million for each fiscal year to promote and manage the office's programs. HB 1 funding would have represented a decrease of $54 million from fiscal 1998-99 funding.

Oil overcharge funds

Governor's proposal . . . . $5.8 million

The governor's budget proposal, *Setting Priorities, Getting Results*, called for a funding decrease of $54.5 million to GSC due to the decline in oil overcharge funds and reduced unexpended balances in the programs.

Other funding proposals . . . . $ varied

With diminishing funds being received from oil overcharge settlements, some have suggested that to continue to fund energy conservation programs previously funded by oil overcharge funds, the Legislature should begin spending general revenue.

Others question whether the grants awarded through these programs truly benefit the greatest number of citizens or if undue influence has directed the awarding of grants to certain regions of the state. These critics have proposed stricter standards for grant awards and an audit of the grant process and of selected grants to ensure maximum use of these funds for the intended purposes.

Article 2 Overview

Health and human services (HHS) make up Texas' second largest budget function after education, accounting for about 29 percent of the total fiscal 2000-01 budget and 19 percent of general revenue-related spending. Article 2 of CSHB 1 would appropriate funds to 13 HHS agencies that vary widely in size, mission, and funding mix.

The Texas Department of Health (TDH), Texas Department of Human Services (DHS), and Texas Department of Mental Health and Mental Retardation (MHMR) are the largest agencies in this article, with proposed biennial budgets of $12.9 billion, $7.5 billion, and $3.5 billion, respectively. They are funded by multiple federal, state, and local sources and operate with thousands of employees. The smallest Article 2 agency, the Commission on Deaf and Hard of Hearing, has a proposed biennial budget of about $3.5 million and about 14 full-time equivalent employees.

CSHB 1 would fund Article 2 agencies at $27.3 billion in all funds for fiscal 2000-01, 3.5 percent more than in fiscal 1998-99. The general revenue-related portion, $11.1 billion, would represent a 4 percent increase from the previous biennium.

Article 2 Spending Comparisons
(millions of dollars)

Type of Funds	Expended/ Budgeted 1998-99	Recommended CSHB 1	Biennial Change	Percent Change
General revenue-related	$10,641.6	$11,062.5	$420.9	4.0%
Federal funds	$15,503.8	$16,052.6	$548.9	3.5%
Other funds	$ 225.0	$ 181.7	$(43.4)	(19.3)%
All funds	$26,370.4	$27,296.8	$926.4	3.5%

Source: Legislative Budget Board, Summary of CSHB 1, March 31, 1999.

Federal directives drive many of the HHS programs. Federal funds finance about 58.8 percent of all HHS spending in Texas and often require matching contributions from the state. Funding for Medicaid and Temporary Assistance to Needy Families (TANF), the two largest sources of federal funds, crosses several state agencies, including programs administered by the Texas Education Agency (TEA, in Article 3) and the Texas Workforce Commission (TWC, in Article 7). Much of the overall increase in spending proposed for Article 2 is due to Medicaid cost increases, including an increased state match, and the expanded use of available TANF funding.

Other influences on HHS spending include the high rate of poverty and high number of medically uninsured people in Texas, the review of HHS agencies by the Sunset Advisory Commission, and the recent receipt of new revenues from the state's settlement of a lawsuit against the tobacco industry.

Background

Uninsured. In 1997, according to U.S. Census statistics, 24.5 percent of Texans — about 3.4 million adults and 1.5 million children — lacked medical insurance, tied with Arizona for the highest percentage of any state. Texas also leads the nation in the percentage and number of uninsured children. Texas' relatively high level of poverty is one reason for the high number of uninsured. In 1997, one out of six Texans were impoverished, compared to one out of seven for the nation as a whole.

Sunset considerations. Recommendations by the Sunset Advisory Commission will affect all Article 2 agencies this legislative session and could change Article 2 budget patterns and fiscal 2000-01 spending, particularly through proposals to give the Health and Human Services Commission greater authority over the HHS agencies under its purview (HB 2641/SB 372) and to create a long-term care agency that would combine functions and services of DHS, TDH, the Texas Department on Aging, and the Texas Rehabilitation Commission (HB 2955/SB 374).

Tobacco settlement receipts. Up to $1.8 billion in receipts from the settlement of the state's lawsuit against the tobacco industry is expected to be available for spending in fiscal 1998-99 and 2000-01 (see HRO Focus Report 76-5, *Health Care for Uninsured Texans*). Proposals for spending tobacco-settlement receipts are found in Article 12 of CSHB 1 and are dedicated to health spending for institutions of higher education and selected health-related programs or issues.

Fiscal 1998-99 spending of tobacco receipts may include $500 million to capitalize permanent funds for public and children's health, tobacco education and enforcement, rural health-facility capital improvements, and emergency medical services and trauma care (HB 1676 by Junell). A permanent trust fund to reimburse hospital districts' and local governments' costs in providing indigent care also may be established in fiscal 1998-99 (HB 1161 by Junell), along with permanent health-related endowment funds for institutions of higher education (HB 1945 by Junell).

Tobacco settlement funds also may be included in the final version of the general appropriations bill for fiscal 2000-01, predominantly in Articles 2 and 3.

Caseloads. Federal entitlement programs such as Medicaid, TANF, and food stamps require the state to serve *all* individuals who meet the eligibility standards. However, these entitlement caseloads in Texas are expected to be lower during fiscal 2000-01. This trend, also being felt in many other states, may be due to such factors as a healthier economy, welfare reform, and perceived stigmatization of welfare recipients.

However, as the Texas population grows in number and average age, several HHS programs, especially those delivering social, nursing, and rehabilitative services in the community, cannot serve all eligible individuals within current budget levels. These programs maintain waiting lists that often include thousands of names.

Disabled individuals also demand a sufficient provision of community services as their right under the federal Americans with Disabilities Act (ADA). ADA regulations direct public entities to "administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities." The state of Georgia, in its appeal of *L.C. v. Olmstead* (138 F.3d 1485 (11 Cir. 1998)), has asked the U.S. Supreme Court to decide whether the ADA compels the state to provide treatment and habilitation for mentally disabled persons in a community placement. Texas is one of eight states that have signed an *amicus* brief arguing against federal interference in state operation of mental health and developmental disability systems.

Medicaid. Medicaid is the largest single source of federal funds to the state budget. In fiscal 1998-99, Texas will spend about $18.2 billion in Medicaid programs, only $6.2 billion of which would be state general revenue. Medicaid expenditures are split between the federal government and the states according to each state's relative average per-capita income, which is adjusted annually. In fiscal 1999, Texas pays about 37.5 percent of all program costs and 50 percent of most administrative costs, and the federal government pays the rest. In fiscal 2000, Texas' share will increase to about 38.6 percent of total program costs, requiring an increase in general revenue spending to maintain current services. Medicaid spending also may increase because of providers' demands for the state to pay for their cost increases due to inflation, labor demands for increased wages, and changes in medical technology and practice.

Medicaid funding spans at least 12 agencies in Article 2. Medicaid also funds the Medicaid fraud-detection unit of the Attorney General's Office and some health programs in public schools, and contributes toward graduate medical education costs.

TANF. The federal welfare-reform law in 1996 created TANF to replace the Aid to Families with Dependent Children, Job Opportunities and Basic Skills, and Emergency Assistance programs. Texas has received more federal funds through TANF than it would have received before welfare reform, and lower than anticipated welfare caseloads have left sizeable unspent funds. TANF is administered in Texas by DHS.

HB 1 as filed, which essentially continued fiscal 1998-99 TANF spending patterns, would have left unspent almost $580 million in federal TANF funds. The governor's budget proposal included several method-of-finance changes that would have expanded several TANF-funded services and retained a reserve of about $175 million to handle any transition problems due to the reauthorization of TANF in fiscal 2002.

States may use federal TANF funds to provide the following services to families that meet state income and resource criteria: assistance allowing children to be cared for in their homes or in relatives' homes; job preparation, work, and marriage promotion services; services to prevent out-of-wedlock pregnancy; and services that encourage the formation and maintenance of two-parent families. In addition, states must meet minimum work-participation rates of their welfare clientele.

In fiscal 1998-99, Texas uses TANF funds to pay for:

- cash assistance (DHS);
- TANF eligibility determination (DHS);
- child protective services and related programs (PRS);
- employment and training services (TWC);
- child care (TWC);
- children's mental health services (MHMR);
- Early childhood intervention services (Interagency Council on Early Childhood Intervention);
- adult education (TEA and TWC);
- teen support services (TEA);
- family planning (TDH);
- children's mental health services (MHMR); and
- employee benefits (Employees Retirement System).

States do not have to spend all of their TANF funds in a given year, and most states are carrying surpluses. The funds can be transferred into other federal block-grant funding sources (Title XX or the Child Care and Development Fund) or can be saved and spent in later years. Federal TANF reauthorization considerations include requiring states to refund some or all of their surpluses back to the federal government.

Texas has a required maintenance of effort (MOE) expenditure level in which it must spend about 75 to 80 percent of its 1994 spending on AFDC. To maintain an 80 percent MOE level, Texas has to spend $251.4 million in general revenue on TANF per year. TANF programs may be paid for entirely with federal TANF funds, with federal funds and state MOE funds, or with MOE alone. The choice of funding affects the requirements that will apply to families and state administrators.

Article 2 Overview

Budget Highlights

CSHB 1 would increase Article 2 spending by $926 million over fiscal 1998-99. Major net increases would occur in DHS ($447 million), MHMR ($85.8 million), PRS ($74.5 million), and the Texas Rehabilitation Commission (TRC) ($37.3 million). The Interagency Council on Early Childhood Intervention (ECI) would receive a $26.6 million increase in federal funding to meet caseload growth for eligible children.

In addition to the budget issues that follow, DHS budget increases would include $65.2 million in all funds for caseload growth in the STAR+PLUS program, $30.7 million in federal funds for nutrition assistance, and $5.8 million to provide shelter and nonresidential services to women and children who are victims of family violence. PRS funding increases would include a net $900,000 for adult protective services and $360,000 for child-care regulation, in addition to the increases in child protective services described in the pages that follow this overview.

TRC budget increases would be largely due to an expansion of the Vocational Rehabilitation program by almost $30 million, about $24 million of which would be federal funding. TRC also would receive additional funding of $1.7 million in all funds for services to individuals who are both deaf and blind and have multiple disabilities.

TDH would receive a net funding reduction of $37.3 million, primarily due to Medicaid-related changes and one-time fiscal 1998-99 expenditures. However, its budget increases would include $3.4 million for kidney health and epilepsy services to meet increased demand, $2 million for HIV medications, and $63.4 million for the Women, Infants, and Children (WIC) program. Other spending issues for TDH are reported in the pages that follow this overview.

Article 12 spending would include $3 million for the Texas Healthy Kids Corporation, a nonprofit organization created by the Legislature last session to provide access to health insurance for children, with the commitment to fund operations until 2001.

Medicaid. Texas was required to increase state matching funds by at least $102.7 million in general revenue because of less favorable matching rates for fiscal 2000-01. Medicaid spending also would be increased to pay for the increasing proportion of high-need clients in hospitals, outpatient medical care, community care services, and nursing homes.

CSHB 1 in general did not appropriate additional funds to increase provider reimbursement rates to meet inflation and other factors. However, several provisions in the Article 11 wish list would do so if adopted by the conference committee.

TANF. CSHB 1 would increase TANF spending by $397 million over HB 1 as filed and would make other method-of-finance and administrative changes. The TANF surplus would be reduced from around $580 million to $179 million.

CSHB 1 funding would consolidate the state's federally required accounting of general revenue matching funds — its MOE — from programs within DHS (as proposed in the filed version of HB 1) to programs within PRS. Supporters say that by linking MOE funding contributions to programs with stable caseloads in PRS, instead of to those with declining caseloads in DHS, the state MOE contributions would be maintained at a stable, predictable level and TANF funds could be used to pay for DHS programs formerly paid for with general revenue. The net change in MOE accounting and method-of-finance changes freed up $162.1 million in general revenue to be spent in other programs. The federal government must approve MOE cost-allocation changes, and general revenue savings would not be realized if the plan was not approved.

Computer upgrades. Many agencies requested increased funds to replace or upgrade existing automation and information systems. PRS requested about $28 million to upgrade its CAPS system, which tracks data on child protective services, and $8.6 million to automate child-care licensing. DHS requested about $48 million to replace obsolete hardware and software, establish a fraud-detection system, and make changes to comply with federal welfare reform requirements. PRS and DHS automation requests were not funded in the base bill but were included in the Article 11 wish list.

Budget issues. The pages that follow address these specific budget proposals:

- federal funding in the Texas Commission on Alcohol and Drug Abuse;
- TDH public and preventive health programs;
- TDH Medicaid increases;
- TDH county indigent health care funding;
- TDH tobacco education funding;
- TDH EMS/trauma system funding;
- funding for the Children's Health Insurance Program;
- funding for the Texas Integrated Enrollment and Services program;
- Texas Healthy Kids Corporation funding;
- TANF cash assistance changes;
- DHS community care services funding;
- nursing-facility payment changes;
- MHMR funding for new-generation medications;
- MHMR community care services funding;
- MHMR state school funding; and
- funding for child protective services.

Wish list. Major HHS funding provisions in the Article 11 wish list that are not discussed elsewhere in this report include:

- in the ECI budget, $8 million in general revenue for new respite-care services and $5.7 million to pay community providers an annual increase;
- about $2.2 million for ECI to produce a parenting education newsletter, a proposal made by the governor for the TDH budget;
- in the Health and Human Services Commission budget, $10 million to fund the Texas Information Network Pilot and $400,000 to fund a Texas Traumatic Brain Injury Advisory Board;
- in the PRS budget, $8.6 million to automate child-care licensing and about $1.8 million to expand the Healthy Families program;
- in the TRC budget, $4 million to expand the personal attendant program to serve 52 counties instead of 38 and $1.3 million to serve 240 new clients in extended rehabilitation;
- $2.2 million for the Texas Department on Aging for residential repair services and about $1.8 million for the ombudsman program to begin serving personal care facilities and to expand services in nursing facilities;
- in the DHS budget:

  - $27.2 million to increase provider rates in the STAR+PLUS program and about $22 million to pay for increased patient needs and use of services;
  - about $34.2 million to increase funding in long-term care regulation, including regulating personal care facilities;
  - $14.6 million to fund food assistance for legal immigrants; and
  - about $50 million to improve or replace information system resources, including the development of a neural network to detect recipient fraud; and

- in the TDH budget:

  - $150 million for Children and Public Health;
  - $40 million for Women's Health services;
  - $32 million in federal funds and general revenue for HIV/STD medications;
  - $10 million to establish a Rural Community Health Development Fund for the purpose of developing a rural health care network;
  - $10 million for construction of a new inpatient tuberculosis facility at South Texas Hospital; and
  - $5 million for an Institute for Research for Prevention and Education of Chronic Diseases.

TCADA funding

Agency: Texas Commission on Alcohol and Drug Abuse (TCADA)

Background: TCADA receives a sizeable amount of funding from the federal Substance Abuse Prevention and Treatment (SAPT) grant. For fiscal 1998-99, the grant accounted for about 77 percent of the agency's budget. SAPT grant awards and expenditures have varied significantly over the past four years, resulting in a balance of unexpended federal funds each year. For fiscal 1998 through 2001, annual grant awards are expected to exceed $89 million. The agency is projected to have a cumulative surplus of $43.7 million in SAPT funds at the end of fiscal 1999.

LBB staff has recommended that the Legislature consider policy direction and appropriation levels regarding unexpended balances and funding increases for the SAPT grant, and that in the event that SAPT grant award levels fall, TCADA should include in its statewide service-delivery plan a contingency plan for allocating funds to service providers.

CSHB 1 . . . . $329.8 million

The amount proposed in CSHB 1 would represent an increase of about $23 million over fiscal 1998-99 spending, funded by annual SAPT grant and SAPT-grant surplus funds from previous years. The funding levels in CSHB 1 would reduce the SAPT surplus to about $3.9 million by the end of fiscal 2000-01. Major increases would be budgeted in the following areas:

- expanding services along the Texas-Mexico border ($2 million);
- enhancing prevention services for preschool children enrolled in early childhood development and the Head Start program ($14 million);
- expanding integrated services for persons dually diagnosed with mental illness and chemical dependency by creating seven new programs ($4 million); and
- providing prevention, intervention, and treatment services to youths completing residential treatment programs and reentering society ($1.4 million).

Rider 18 would specify the amounts of SAPT funds carried over from previous years to be spent on each new funding initiative or expansion. Total spending of carry-forward SAPT funds would be $12.5 million per year or $25 million for the biennium. The rider also would specify that these levels of funding might not be maintained in the future because of the depletion of available federal funds. Rider 17 would require TCADA to notify LBB and the governor of its intent to use additional SAPT funds in excess of amounts appropriated.

Supporters say it is not right for Texas to be sitting on so much federal money when the need for substance abuse prevention, intervention, and treatment is so great. Texas always has received a generous share of SAPT allocations, and there is no indication that federal funding levels will decline in the future. In addition, Rider 18 specifically notifies providers, legislators, and the public that the Legislature does not intend to create program expansions that must be continued if federal funds decrease.

Wish list funding

Article 11 includes provisions to establish a Level 1 detoxification center for adolescents in Laredo, to be funded annually at $337,260 from federal funds. It also includes $10.8 million to implement a structured training program and to hire trainers and supervisors for new licensed chemical-dependency counselors.

HB 1 (filed version) . . . . $304.8 million

HB 1 as filed would have maintained spending for prevention, intervention, and treatment strategies at the fiscal 1998-99 levels and reduced the entire agency budget by $1.9 million, primarily because the current budget includes one-time expenditures related to the development of an integrated information system.

Governor's proposal . . . . $343.9 million

The governor's budget proposal in *Setting Priorities, Getting Results* would increase TCADA funding by about $37.2 million in federal funds over earlier estimates of fiscal 1998-99 spending, primarily in the following areas:

- $6.5 million for prevention services for youths, adults, and families;
- $2.0 million for prevention services for children enrolled in Head Start;
- $1.9 million for intervention services, including HIV early intervention and family intervention services; and
- $25.8 million in treatment services, including family treatment and improving clinical training of licensed chemical-dependency counselors.

Other funding proposals . . . . reserve funds

Critics say the state should not spend surplus SAPT funds but should save them for a "rainy day" when federal funding declines or state funding is in a pinch. Increasing TCADA spending this biennium by using surplus funds would create an expectation on the part of service providers and communities that these programs will continue from this biennium forward. That would make it difficult for legislators to cut program funding if federal funds decline.

Increased funding for public and preventive health programs

Agency: Texas Department of Health (TDH)

Background: TDH requested $26.2 million over HB 1 proposed appropriation levels for fiscal 2000-01 to expand public health programs and create a disease-prevention network operating out of regional and central TDH offices to provide surveillance of and response to infectious and chronic diseases and injuries. The agency proposed this "exceptional item," a combination of several proposals and funding strategies, as its highest priority for additional funds within the department. It also would fund increased activities in programs relating to food safety, tuberculosis, immunizations, and oral vaccinations for rabies.

TDH also requested the addition of a new strategy to earmark funding for a Model Local Public Health Network, a pilot program designed to coordinate essential public health services at the local level for communities without public health departments. The pilot is being funded through surplus funds in the fiscal 1998-99 budget. TDH requested $290,000 for this program for fiscal 2000-01.

TDH administers a wide variety of programs to achieve its mission of protecting and promoting the health of all Texans. These programs fall into three categories. TDH provides *public health programs* through various strategies scattered throughout its budget, such as programs controlling the outbreak of rabies, collecting birth and death statistics, inspecting meat and poultry processing facilities, and educating the public about health risks of smoking. TDH also administers *regulatory programs* for many health-related professions and activities and *health-care delivery programs* to provide acute health-care services directly to individuals, such as comprehensive benefits through the Medicaid program, or through more narrowly focused programs such as kidney health-care services.

Supporters of public health expansions say this infusion of funds would reverse the trend of cutbacks and closures of local public health departments, which makes communities vulnerable to health dangers and disease outbreaks. Building basic public health infrastructure is not glamorous but is necessary for families to dine out safely, for protected water quality, and for lower health risks in the workplace.

Critics of public health funding expansions say funding increases in public health should not occur to the detriment of expanding direct services. Texas has the highest number and percentage of uninsured individuals among all states. Monitoring the outbreak of disease may benefit the population in general, but real human suffering is occurring in Texas when children and adults have medical problems and cannot afford to see a doctor. Funding for direct health-care services should be increased, not shifted to non-service-related activities.

The following amounts reflect proposed ***increases*** over fiscal 1998-99 funding levels.

Increased funding for public and preventive health programs

CSHB 1 . . . . $800,000

CSHB 1 would create a new strategy, E.2.4, Model Local Public Health Services, in which to place funding for the TDH initiative. It would appropriate no new funding but would transfer $290,000 from Strategy D.3.1, Community Health Services, into the new strategy.

CSHB 1 would increase funding for hepatitis A immunizations by $800,000 for the biennium for preschoolers and adolescents who are not eligible for Medicaid and who live in areas of high incidence. TDH requested funding for hepatitis A immunizations in its exceptional item priority of public health/prevention network expansions.

Wish list funding

Article 11 provisions include funding of $19.2 million in general revenue for the biennium for disease surveillance, food safety, tuberculosis, local health department grants, immunizations (excluding hepatitis A), and oral vaccinations for rabies.

The wish list also includes a provision that would appropriate $48.5 million in general revenue for the biennium to create population-based grants for local public health services, contingent on enactment of HB 1444 by Delisi.

HB 1 (filed version) $0

The TDH exceptional item request was not funded in HB 1 as filed. Total funding for TDH would have been $12.882 billion in all funds for fiscal 2000-01, a decrease of 0.7 percent from fiscal 1998-99 funding levels.

Governor's proposal . . . . $2.2 million

In *Setting Priorities, Getting Results*, the governor proposed increasing TDH funding over fiscal 1998-99 by $2 million for 14 additional staff members in disease surveillance and by $290,000 to fund the Model Local Public Health Network.

Other funding proposals . . . . $26.2 million

TDH requested an additional $26.2 million (see background above).

Medicaid funding increases

Agency: Texas Department of Health (TDH)

Background: Goal B of the TDH budget, Medicaid Services, funds a variety of programs, including premiums for low-income Medicare recipients, coverage for recipients of Temporary Assistance to Needy Families, and prescription drug coverage. Medicaid-related programs also are funded in other areas of the budget, particularly in Goal D, which includes the Medically Dependent Children's Waiver Program (Strategy D.1.3) and Texas Health Steps (Strategies D.2.1 for medical and D.2.2 for dental).

The Medically Dependent Children's Waiver Program provides support services such as home modifications, respite, and mobility aids to families with children who have high medical needs. Currently about 670 families receive assistance through the program, and about another 1,200 families are on waiting lists. Texas Health Steps provides medical and dental screening services for children. Fiscal 1998-99 budgeted appropriations equal about $10.478 billion for Medicaid services, $29.2 million for the Medically Dependent Children's Waiver Program, $150.8 million for Texas Health Steps - Medical, and $286.8 million for Texas Health Steps - Dental.

Although Medicaid caseloads are declining, program funding increases are still in demand to meet the generally more complex health-care needs of the remaining Medicaid caseload, to provide services to families on waiting lists for medical services for their children, and to raise payment rates to match inflation-related increases in provider costs. Also, because of the declining federal match rate, the state general revenue contribution for Medicaid funding must increase to maintain current service levels. For more information on the Medicaid program, see the Article 2 overview.

The following amounts reflect proposed ***increases or decreases*** over fiscal 1998-99 Goal B funding levels. However, the bill descriptions also include information about other Medicaid-related programs.

CSHB 1 . . . . $(23.4 million)

CSHB 1 would reflect a net decrease from fiscal 1998-99 levels of about $23.4 million in all funds. However, CSHB 1 would increase Goal B Medicaid funding over HB 1 as filed by about $33 million in all funds to cover the acute-care Medicaid portion expected to be generated by the CSHB 1-proposed expansions in community services and income eligibility in the Texas Department of Human Services (DHS) budget. (For supporting arguments, see DHS issues elsewhere in this report.)

The bill also would increase funding by $7.3 million for Texas Health Steps - Medical to provide hearing screening for newborns and would add Rider 48, which would prohibit those funds from being used for infrastructure and other nonservice expenses. Funding for Texas Health Steps - Dental would remain the same as in HB 1 as filed.

Medicaid funding increases

Supporters say this relatively easy and inexpensive screening program for hearing loss can prevent educational failure and developmental problems in children as they grow older. Hearing loss affects about one in every 100 newborns, but parents typically do not recognize the loss until the child is 12 to 18 months old.

Rider 52 would provide funding for a help line for enrollees who need information about their Medicaid managed-care plans and coverage. **Supporters say** this line is needed to support the effectiveness of the transition of the state's Medicaid program from a fee-for-service plan to managed-care plans and to ensure that enrollees obtain the services they need.

Wish list funding

Medicaid-related provisions in Article 11 include:

- $58.6 million to increase Medicaid reimbursement rates to dentists;
- $168.6 million for increases in Medicaid outpatient hospital and professional services; and
- $102 million to fund a 6 percent increase in premium rates paid to Medicaid managed-care plans.

HB 1 (filed version) . . . . $(56.5 million)

HB 1 as filed would have set total Goal B funding for Medicaid services at $10.421 billion, a decrease from fiscal 1998-99 funding of about $56.5 million in all funds. The net decrease largely would have been due to the result of funding changes associated with the transfer of STAR+PLUS funding from the TDH budget to DHS, to a one-time recoupment of employee benefits and costs by the federal government, to transferring the costs of Phase 1 of the Children's Health Insurance Plan program into Article 12, and to the expected substantial completion of the Y2K and COMPASS 21 automation projects.

HB 1 would have increased Medicaid funding by $102 million in general revenue because of an expected less-favorable federal matching rate for fiscal 2000-01 and by $128 million in all funds to cover the increased service needs of recipients and changes in medical technology.

Funding for the Medically Dependent Children's Waiver Program would have been budgeted at fiscal 1999 levels, or about $33 million for the biennium in all funds. Texas Health Steps - Medical would have been funded at $117.2 million for the biennium, about $34 million less than in fiscal 1998-99, and Texas Health Steps - Dental would have been funded at $262 million, about $25 million less than in fiscal 1998-99.

Medicaid funding increases

Article 12 of HB 1 as filed included a $50 million appropriation of tobacco-settlement receipts for long-term health care for children, which, though unspecified, could include funds for an expansion of the Medically Dependent Children's Waiver Program.

Governor's proposal . . . . $60 million

The governor's budget proposal in *Setting Priorities*, *Getting Results* would increase Medicaid funding in Goal B by about $60 million over fiscal 1998-99 funding. Total Goal B funding for Medicaid services was proposed at $10.537 billion, a $116.5 million increase over funding proposed in HB 1 as filed.

The governor's budget would make adjustments for declining caseloads and increasing medical needs and would transfer STAR+PLUS program funding from TDH to DHS. It also would adjust for inflation the Medicaid premium-rate structure and prescription costs and would include an increase of about $100 million to increase reimbursement rates for outpatient hospital and professional services, which have not increased in about six years.

The governor also called for an increase by almost $4 million over HB 1 as filed, to about $37 million in all funds for the biennium, for the Medically Dependent Children's Waiver Program. The budget also included $5.8 million more than in HB 1 as filed for Texas Health Steps - Medical, including $2.2 million for a parenting newsletter, and $12.6 million more for Texas Health Steps - Dental.

Other funding proposals . . . . $ varied

In its fiscal 2000-01 appropriations briefing book, TDH requested the following increases in Medicaid program funding over the amounts in HB 1 as filed:

- $9.3 million for hearing screening for newborns;
- $61.3 million to increase dental providers' reimbursement;
- $41.6 million to expand the number of clients served in the Medically Dependent Children's Waiver Program by about 500 in fiscal 2001; and
- $702 million in all funds ($258 million in general revenue) for various programs in Goal B.

Indigent health care

Agency: Texas Department of Health (TDH)

Background: The Indigent Health Care and Treatment Act (Health and Safety Code, chapter 61) defines the indigent health-care responsibilities of Texas counties and public hospitals. The act requires counties and public hospitals to establish indigent health-care programs that conform to minimum standards for eligibility, covered services, and payment responsibilities. Counties are defined explicitly as payers of last resort when other private or public sources of payment are not available. Counties also are not responsible for the care of indigent residents of an area served by a public hospital or hospital district.

A county is eligible to receive state assistance once it has spent 10 percent of its general revenue tax levy (GRTL) on mandatory indigent health-care services for eligible individuals. Counties are not required to report expenditures to the state nor to spend more than 10 percent of the GRTL. Public hospitals are not authorized to receive state assistance for indigent care.

For fiscal 1996-97, the state appropriated $12 million for assistance to counties (TDH Strategy E.2.1), but the counties drew down only about $7.4 million. For fiscal 1998-99, $11.4 million was appropriated, and as of January 1999, the counties had used about $2.6 million.

Indigent health-care advocates say increased funding is needed to improve indigent health care across the state by addressing problems in inconsistent statewide eligibility standards and covered services, declining eligibility rates, inequitable local resources and funding levels, program accountability, and intergovernmental reimbursement responsibilities. State lawmakers have filed several bills, including HB 1398 by Coleman, to revise the indigent health-care program and funding to counties and other entities.

Critics of increased funding say this would increase government spending on a welfare-type program that should be handled at the local level. Counties have not been drawing the available funds appropriated to them.

CSHB 1 . . . . $7.4 million

CSHB 1 would reflect a decrease from fiscal 1998-99 funding to $3.7 million per year to reflect counties' actual use of state assistance more closely.

Wish list funding

Article 11 contains a provision that would increase funding for indigent health-care assistance to counties by $60 million and another provision that would reserve $20 million of the proposed $60 million increase to reimburse political subdivisions that provide a significant amount of tertiary care to individuals who are not residents of their service areas.

HB 1 (filed version) . . . . $7.4 million

Like CSHB 1, HB 1 as filed would have decreased funding from fiscal 1998-99 levels to $3.7 million per year.

Governor's proposal . . . . $11.4 million

In *Setting Priorities, Getting Results*, the governor proposed funding indigent health-care assistance to counties at fiscal 1998-99 funding levels or $5.7 million per year.

Other funding proposals . . . . $11.4 million

TDH requested $5.7 million per year in funding for indigent health care in fiscal 2000-01.

HB 1611 by Junell would establish a permanent fund for the deposit of about $2 billion in tobacco-settlement receipts to reimburse indigent care costs paid for by counties and public hospitals. This permanent fund account would be established in accordance with a settlement reached by the counties and public hospitals, which intervened in the state's settlement with the tobacco industry, claiming that the state's settlement would have barred them from obtaining separate damages for the tobacco-related indigent health care that they provided. The amount granted to counties, about $2.275 billion in total, is the amount Texas is receiving under the "most favored nation" clause in the settlement, which aligns Texas receipts with the subsequent, more favorable settlement reached by Minnesota with the tobacco industry. As of January 1999, Texas counties and public hospitals already had received $300 million from this settlement agreement.

Tobacco education funding increases

Agency: Texas Health Department (TDH)

Background: Strategy A.3.3, Preventable Diseases, in the TDH budget includes about $3.4 million ($1.7 million per year) for fiscal 1998-99 activities related to tobacco-use prevention and cessation, administered by the Office of Tobacco Prevention and Control. In its Legislative Appropriations Request for fiscal 2000-01, TDH requested about $1.1 million per year for this office.

In March 1996, Attorney General Dan Morales filed a lawsuit on behalf of Texas against five major American tobacco companies. The suit sought to recover billions of tax dollars spent to treat Medicaid patients who suffered from tobacco-related illnesses. The industry was accused of violating both state and federal laws, including conspiracy, racketeering, wire fraud, mail fraud, consumer protection, and antitrust laws. In July 1998, Texas finalized a settlement of the lawsuit that awarded the state a total of $17.3 billion over the next 25 years.

As of January 8, 1999, payments totaling $1.096 billion had been deposited to the state general revenue fund. Up to $1.8 billion in receipts from the settlement is expected to be available for spending in fiscal 1998-99 and 2000-01.

The American Cancer Society and others have requested at least $200 million of the tobacco-settlement receipts to pay for a statewide tobacco-prevention campaign over the next four years. **Supporters** of this request say the campaign was designed by experts in health and advertising and that its expense is related in part to the high cost of reaching children through television. A statewide campaign is necessary, they argue, to reduce smoking rates demonstrably among children and adults. Pilot projects that focus on single areas or populations will not be as successful because of the pervasive use and advertising of tobacco in our culture. Supporters say it is only right that a sizeable portion of the tobacco receipts for fiscal 2000-01 go toward funding tobacco-cessation and prevention programs, because the state's case was founded on the expense of treating diseases caused by tobacco use.

CSHB 1 . . . . $ 0

CSHB 1 would not increase funding for tobacco education activities in Strategy A.3.3 but would earmark $200 million in tobacco-settlement receipts in Article 12 to establish an endowment for a "pilot project to reduce smoking." HB 1676 by Junell proposes creating a permanent fund for tobacco education and enforcement, and its fiscal note estimates that the fund would earn $11.2 million per year in interest.

Supporters of CSHB 1 funding say establishing an endowment is the best use of the tobacco windfall for tobacco-related activities because it would create a source of permanent funding for tobacco activities over time, instead of funding a single "blitz" over the next four years. Smoking cessation and prevention campaigns can be tested at local levels and then, if successful, expanded to other areas of the state. To give $200 million to the department for a statewide campaign ($80 million in the first two years) would be at least a 235 percent increase — too big a jump in funding, which may not be handled wisely and may not reduce smoking enough to justify expenditures.

HB 1 (filed version) . . . . $ 0

HB 1 would have funded tobacco-use prevention and cessation activities as proposed in CSHB 1.

EMS/Trauma System funding

Agency: Texas Department of Health (TDH)

Background: In 1989, the Legislature enacted legislation directing TDH to create a statewide emergency medical services (EMS) and trauma-care system, to designate trauma facilities across the state, and to maintain a trauma registry to monitor system effectiveness and costs. In 1997, the Legislature enacted SB 102 by Zaffirini, which created an EMS/Trauma System Fund and established statewide distribution formulas.

TDH expenditures on EMS/trauma system activities are found in Strategy E.2.2, Health Care Coordination, and in Strategy C.1.1, Health Care Standards (for EMS regulation and grants to providers). For fiscal 1998-99, Strategy E.2.2 was budgeted at about $30.4 million from various revenue sources, including 9-1-1 surcharge revenues (Fund 5007), and Strategy C.1.1 contained about $3.1 million for EMS-related activities funded through the Highway Fund (Fund 6).

The following amounts reflect ***increases or decreases*** compared to fiscal 1998-99 funding levels.

CSHB 1 . . . . $0

CSHB 1 would maintain fiscal 1998-99 funding levels. It would add $7.1 million to HB 1 as filed by restoring $4 million in revenue from 9-1-1 surcharge balances and substituting $3.1 million in general revenue for funds previously paid through the Highway Fund 6.

Article 12 would allocate $100 million of tobacco-settlement receipts to establish an endowment fund for the EMS/Trauma System, the interest from which would be expected to be used as supplemental EMS/Trauma System funding. The fiscal note for HB 1676 by Junell, which would establish the fund in fiscal 1999, estimates that the fund would generate about $5.6 million per year in interest.

Supporters of increased EMS/Trauma System funding say that although 22 regional advisory councils have been established around the state, 20 have not developed a trauma-response system, and more than half of Texas counties lack a trauma facility. All Texans would benefit from an improved trauma system, especially one that fills the gaps of services in rural areas. Accidents and other traumas can happen anywhere, and people traveling through, vacationing in, or living in rural areas need the same level and quality of response as demanded by those living in urban areas. The use of 9-1-1 surcharge revenues is appropriate because at the end of fiscal 1998, Fund 5007 had a net cash balance of $12.8 million, and because the 9-1-1 system plays a major role in obtaining appropriate EMS response.

EMS/Trauma System funding

Wish list funding

Article 11 includes a rider that would state that the intent of the Legislature is for TDH to target geographic areas with higher-than-average rates of trauma deaths in distributing funds relating to EMS/trauma programs.

HB 1 (filed version) . . . . $(7.1 million)

HB 1 would have reduced EMS/Trauma System support funding by $7.1 million by eliminating $4 million in revenues derived from 9-1-1 surcharge balances and $3.1 million in funds derived from Fund 6. The bill also included an appropriation in Article 12 for $100 million to be placed in an endowment fund for the EMS/Trauma System.

Supporters of HB 1 funding levels say the state should use 9-1-1 surcharge revenues and highway funds to maintain and build highways and 9-1-1 systems.

Governor's proposal . . . . $15 million

The governor's budget proposal in *Setting Priorities, Getting Results* would expand EMS/Trauma System funding by increasing general revenue funding by $15 million for fiscal 2000-01. The proposal would maintain the fiscal 1998-99 funding base and methods of financing.

Other funding proposals . . . . $ varied

TDH requested $15 million in general revenue above HB 1 as filed to fund regional trauma-system planning, support county EMS providers, and defray uncompensated costs of trauma care.

Critics say increased funding for EMS/trauma systems should proceed more slowly. If the endowment fund is established, TDH will receive about $11 million more in fiscal 2000-01 for these activities. Any further increases should be based on the actual spending and use of these new funds and on the identification of additional needs.

Agency: Texas Health and Human Services Commission (HHSC) or Texas Department of Health (TDH)

Background: The Children's Health Insurance Plan (CHIP) is a federal initiative, enacted in the Balanced Budget Act of 1997, under which Texas is eligible to receive an average of about $423 million per year over the next 10 years if the state establishes a health insurance program that meets federal criteria and contributes matching funds averaging about $151 million per year. Texas has at least 471,000 children who might qualify because they live in families with incomes above the current Medicaid limit but below 200 percent of the federal poverty level. During the 1997-98 interim, legislators directed HHSC and TDH to implement an initial phase of the CHIP plan that would expand Medicaid and to develop strategies to create a Phase 2 plan — a comprehensive program to be implemented in fiscal 2000.

States may provide CHIP coverage to infants who live in families with incomes up to 235 percent of poverty and to children aged 1-18 in families with incomes up to 200 percent of poverty. To deliver health-care services under CHIP, states either may expand their Medicaid programs or may use a benefits package that is the same as or actuarially equivalent to either the Federal Employee Health Benefit Plan, a state employee health-benefit plan (in Texas, Health Select), or the state's largest commercial health-maintenance organization plan (in Texas, NYLCare). The state also may use a combination of approaches, such as expanding Medicaid to include certain segments of the population while using a separate plan for other low-income Texans.

States were required to submit an implementation plan to the federal government by July 1, 1998, to draw down their allotment for federal fiscal year 1998. HHSC submitted a CHIP Phase 1 implementation plan that expanded Medicaid coverage to include teenagers aged 15-18 who live in families with incomes below 100 percent of poverty — a category of children who already were to be phased into the Medicaid program by 2001 under previous federal Medicaid requirements. Previously, the Texas Medicaid program was available to teens aged 15-18 if their family income was less than 25 percent of poverty. Currently TDH administers the CHIP Phase 1 plan, as well as programs that provide Medicaid acute-care services.

Legislation proposing the direction of CHIP Phase 2 development and implementation includes SB 445 by Moncrief, heard in the House Public Health Committee on March 31.

CSHB 1 . . . . $179.6 million

Article 12 of CSHB 1 would appropriate $35.8 million for fiscal 2000 and $143.8 million for fiscal 2001 from tobacco-settlement funds to implement the CHIP Phase 1 and 2 plans and to pay for newly eligible Medicaid children identified through the CHIP expansions (Medicaid "spillover"). Total funding for CHIP, should the state spend all state-appropriated funds, would amount to about $423.2 million. The bill would not establish a strategy number nor place the funding within any agency budget. Phase 1 of the CHIP plan is funded through TDH's Medicaid budget.

HB 1 (filed version) . . . . $179.6 million

Provisions for CHIP in HB 1 as filed are identical to those in CSHB 1.

Governor's proposal . . . . $154.4 million

This amount would implement both CHIP Phase 1 and 2 plans and cover Medicaid spillover from tobacco-settlement funds at $29.8 million for fiscal 2000 and $124.6 million for fiscal 2001. The governor, in *Setting Priorities, Getting Results*, placed CHIP funding in the budget proposal for HHSC.

Other funding proposals . . . . $ varied

Most of the debate surrounding CHIP funding centers on whether the budgeted funding is sufficient to enroll all eligible children in families at or below 200 percent of poverty due to the varying assumptions of enrollment increases and the number of Medicaid "spillover" children picked up by the state's outreach efforts in enrolling CHIP children. Many say that the proposed funding would be adequate if the state picked up Medicaid spillover costs and paid for them through the Medicaid strategy, as it would for any increased Medicaid program enrollment. Others say the budget proposal is sufficient to meet plan implementation, enrollment, and Medicaid spillover costs using LBB-developed assumptions. Because of these funding questions, the Legislature has concentrated on directing through legislation (SB 445 by Moncrief) Phase 2 income and age eligibility criteria, benefit levels, and other aspects that would affect program costs.

Also, because of federal proposals to recoup tobacco-settlement proceeds from states and the anticipated competing spending demands for tobacco funds in subsequent legislative sessions, some have proposed amending state law to give CHIP funding first access to future available tobacco-settlement revenues.

The Article 11 wish list for CSHB 1 contains a provision that would increase HHSC's budget by $6.2 million for the biennium to implement a non-entitlement program for certain legal immigrant children who are at or below the CHIP eligibility level to purchase low-cost health benefits that mirror CHIP coverage.

Texas Integrated Enrollment and Services

Agency: Texas Health and Human Services Commission (HHSC)

Background: The Texas Integrated Enrollment and Services (TIES) project is being developed among state agencies and coordinated by HHSC to create "one-stop" access points for needy Texans inquiring about the availability of services that may span multiple agencies and have different eligibility requirements. The current scope of the project involves integrating in a full or partial fashion 48 programs — including Food Stamps, Medicaid, Temporary Assistance to Needy Families, the Women, Infants, Children (WIC) program, and long-term care services — administered by the Texas Department of Human Services (DHS), Texas Department of Health, and Texas Workforce Commission.

As of April 1999, the agencies had developed a conceptual model of the TIES project and had begun discussions with the federal government on implementing the program over the next few years. The TIES model is expected to:

- streamline the application process by taking client information only once;
- reduce paperwork by taking applications over the phone or through a single form;
- limit face-to-face applicant visits to critical functions such as identity verification;
- increase focus on the needs of the whole family;
- improve fraud prevention;
- improve funding efficiencies;
- achieve a better client database to support state planning and reporting; and
- accommodate the addition of new programs such as the Children's Health Insurance Plan.

In addition, TIES implementation as conceived by the HHSC team would replace the current DHS computer system, the System for Application Verification Eligibility Referrals and Reporting (SAVERR).

TIES was launched under the direction of the 75th Legislature as set forth in HB 2777. However, integrating health and human services eligibility determination and data sharing has been a goal since at least 1991, when HHSC was created. In 1995, under HB 1863, the Legislature directed state agencies to achieve integration through a competitive, privatized approach, but the state's attempts did not meet federal approval.

CSHB 1 . . . . $1.4 million

CSHB 1 would fund TIES (HHSC Strategy A.1.2) at $684,576 per year for fiscal 2000-01 to pay for development staffing. This would represent a reduction of about $2.5 million from fiscal 1998-99 funding.

Article 2, Special Provisions, Rider 17, would state that the amounts spent for TIES implementation should replace SAVERR and related DHS automated systems to the greatest extent possible. It would require HHSC and DHS to design a plan that would describe the full costs of replacing SAVERR, independent of the costs of implementing TIES, and a schedule for SAVERR replacement, and to submit the plan to the House Appropriations Committee and Senate Finance Committee by December 1, 1999.

Supporters of CSHB 1 funding say the TIES model goes too far in eliminating about 2,400 staffing positions and relying on the use of urban call centers to handle eligibility determinations, program inquiries, and other functions now performed by staff in local and rural state offices. Attention should be focused on replacing the SAVERR system, which is one of the largest systems in the state and, having been developed in 1978, has become difficult to use and expensive to fix and maintain. If SAVERR were replaced in stages over time, the state could achieve most of its goals in integrating eligibility and other functions of state health and human services programs.

HB 1 (filed version) . . . . $1.4 million

Like CSHB 1, HB 1 as filed would have funded TIES at $684,576 per year for fiscal 2000-01.

Governor's proposal . . . . $87 million

In *Setting Priorities, Getting Results*, the governor proposed spending $87 million in federal, state, and bond revenues to support fully an earlier version of the TIES model developed by the HHSC team and presented to the Legislature. About $32.3 million of the total would be state funds.

Other funding proposals . . . . $ varied

In its original legislative appropriation request, HHSC requested $126 million in new funding for fiscal 2000-01 plus the authority to use an additional $5.4 million in left-over fiscal 1998-99 funding to implement TIES. It stated that according to a cost-benefit analysis, the TIES plan would cost the state an additional $442.7 million over seven years ending in fiscal 2007, mainly for technology development and for implementation and operational costs, but also would save $560 million by eliminating 2,539 staff positions. The commission also presented the Legislature with two funding scenarios that showed the advantages and disadvantages of paying for program costs over the next seven years with revenue bonds or with state general revenue.

The most recent version of TIES would reduce WIC's involvement in TIES and make other financing changes that would reduce the cost of the program to about $78.9

million. This most recent version would cost the state about $391 million over the next seven years and would eliminate about 2,400 staff positions.

Critics of CSHB 1 funding say the TIES model meets the direction and goals of HB 2777 and is built on concepts already used in state government, such as call centers. It would streamline government in a way that would reduce state employment while improving services to needy and inquiring Texans. Replacing the SAVERR system alone would not achieve the TIES goals and improvements as stated above.

Texas Healthy Kids funding

Agency: no agency specified

Background: The Texas Healthy Kids Corporation (THKC) is a nonprofit public-private enterprise established by HB 3 of the 75th Legislature to provide health-benefit coverage for uninsured children. The corporation is not an insurer but contracts with private companies to provide coverage at affordable rates. Enrollment in THKC coverage began August 15, 1998, and has expanded to the rest of the state.

The state contributed about $3 million for THKC start-up costs in fiscal 1998-99, with an expectation that the Legislature would appropriate $3 million for operational costs for fiscal 2000-01. In addition to state appropriations and family payments, the corporation also accepts grants and gifts of money, property, and services. Under certain conditions, it may use community-benefit donations by nonprofit hospitals.

Proponents of continued THKC funding say this private program has a tremendous potential to help responsible families of all incomes who are having trouble obtaining health benefits for their children. The state should keep the promise it made last session and continue funding for THKC in the upcoming biennium to implement the program fully. THKC also may be useful to the state as it develops health-benefit access through the federal Children's Health Insurance Plan.

CSHB 1 . . . . $3 million

Article 12 contains provisions to appropriate $3 million for fiscal 2000-01 from tobacco settlement funds to pay for the second-biennium operations of THKC. The bill would not establish a strategy number nor place the funding within any agency's budget.

HB 1 (filed version) . . . . $3 million

Provisions for THKC in HB 1 as filed are identical to those in CSHB 1.

Governor's proposal . . . . $3 million

In *Setting Priorities, Getting Results*, the governor proposed using $3 million in tobacco settlement funds to finance the phase-out of state funding for THKC. The governor addressed THKC funding in his budget proposal for the Texas Health and Human Services Commission.

Other funding proposals . . . . $ 0

Opponents of continued THKC funding say the state does not need to be paying for yet another public program concerning children's health benefits.

Cash assistance changes

Agency: Texas Department of Human Services (DHS)

Background: The federal welfare-reform effort in 1996 created the Temporary Aid to Needy Families (TANF) block grant to replace the Aid to Families with Dependent Children, Job Opportunities and Basic Skills, and Emergency Assistance programs. Strategy B.1.1 of the DHS budget funds with TANF dollars cash-assistance grants to eligible low-income families with children. Recipients may not exceed family income and resource limits and must meet age, citizenship, and residence requirements.

The average monthly cash-assistance grant in Texas is about $54 per individual, and the maximum grant for a family of three is $188 per month. TANF cash-assistance caseloads have been declining over the past two years and are expected to continue to decline through fiscal 2001 to 320,000, from about 600,000 recipients in fiscal 1997. For more information on TANF, see the Article 2 overview.

Federal TANF regulations allow states to choose to disregard certain types or levels of income earned by recipients of TANF services when determining eligibility for TANF benefits. Most states have enacted some sort of "income disregard" in their procedures for determining eligibility.

CSHB 1 . . . . $546.7 million

CSHB 1 would add $98.6 million in TANF funds over the level in HB 1 as filed for Strategy B.1.1 to pay for an increase in cash-assistance grants and an earned-income disregard provision and to approve TANF aid for recipients effective from their date of application. This strategy would be funded at $41.9 million less than in fiscal 1998-99.

Cash assistance increase. CSHB 1 would add $34 million in TANF funds to increase the monthly cash-assistance grant, and Rider 35 would direct DHS to peg that amount to at least 17 percent of the federal poverty level for a family of three. This provision would raise the average monthly grant for a family of three from $188 to about $203.43 in fiscal 2000 and to about $208.68 in fiscal 2001. (The federal poverty level for a family of three in fiscal 2000 will be an income of about $1,197 per month, and in fiscal 2001, about $1,228 per month.) The bill also would add about $27.6 million in federal funds to provide an annual $60 supplement for children enrolled in TANF as of August 1 of each year.

Supporters say this increase is long overdue. Cash-assistance grants were increased last in 1994 and then by only a few dollars per month. The last increase before that was in 1985. With inflation and other price increases, between 1970 and 1995 the maximum grant amount declined in value by 69 percent. Texas was more generous to the poor in 1985 than it is now, when the state has significant surpluses in federal funds and state general revenue. The new annual $60 supplement would help families buy the supplies and clothes necessary to send their children to school and thus would help support education as a means out of poverty. These changes would not increase the length of time a recipient could stay on welfare and would be a good way to use a small portion of the almost $580 million in TANF surplus funds.

Income disregard. CSHB 1 would add $20.4 million in federal TANF funds to Strategy B.1.1 to increase the earned-income disregard for working TANF families. The bill also would include a new rider, Rider 32, directing DHS to exclude, when determining eligibility, $120 of earnings and 90 percent of the remaining earnings for each of the first four months of employment by a TANF recipient. After the first four months of employment, DHS would exclude $120 of a recipient's earnings each month.

Supporters say such measures help welfare recipients make a smooth transition to self-support by allowing them to continue to receive cash assistance and medical and child-care benefits while trying to support their families on income derived usually from minimum-wage jobs. Texas ranks last in the U.S. in its treatment of TANF recipients' earnings. Currently Texas welfare recipients who get minimum-wage jobs at 20 hours per week lose all their cash assistance, even though the employment may not support a family sufficiently.

Supporters also say income disregards support timely welfare-to-work transitions by removing disincentives to look for work that are rooted in the sudden loss of support that occurs when a family is struggling for financial independence. These changes, like the proposed increase in cash assistance, would not increase the length of time a recipient could stay on welfare.

Effective date. CSHB 1 would appropriate an additional $16.6 million for Strategy B.1.1 to pay cash-assistance grants to eligible recipients effective from the date of application, but the grant would not be disbursed until eligibility was confirmed. Under current policy, the benefit amount is granted on the date of eligibility determination or on the 30th day after the application is submitted, whichever is earlier.

Supporters say this measure is a better way of helping desperate families, because current policy can deprive some families of much-needed financial assistance for up to 30 days while the department processes applications. These changes would not increase the length of time recipients could stay on welfare but merely would match cash assistance with their initial period of need.

Wish list funding

The Article 11 wish list contains a provision that would appropriate $51.3 million in TANF funds for fiscal 2000-01 to increase the earned-income disregard, contingent upon enactment of HB 503 by Tillery et al. It also contains a provision to appropriate about $78 million to pay federal penalties if the state fails to meet federally mandated TANF work-participation rates in fiscal 2000-01.

HB 1 (filed version) . . . . $448.1 million

HB 1 would have decreased funding for Strategy B.1.1 by $140.4 million from fiscal 1998-99 levels because of declining caseloads.

Governor's proposal . . . . $514.1 million

The governor's proposal in *Setting Priorities, Getting Results* for Strategy B.1.1 funding was about $66 million over the level in HB 1 as filed. It called for enacting an income-disregard provision identical to the one later proposed in CSHB 1, using TANF funds to pay for a child-support disregard of about $52 per month that now is retained by the child-support division of the Office of the Attorney General, and spending an additional $10 million on a project to provide services to clients who need help in dealing with personal barriers that keep them from acquiring or retaining employment.

Other funding proposals . . . . $ varied

Some say Texas has been notoriously stingy in its assistance to low-income citizens, and in this time of budget surplus and surplus TANF funds, the state should do more to help its needy citizens help themselves. The proposed increases in cash assistance would do little to improve Texas' low rank among other states in helping its poor. Texas should link the grant level to a higher percentage of the federal poverty level and make annual increases accordingly. Texas also can do better in increasing its disregard of earned income. Sixteen states allow families to receive TANF until their earnings exceed $1,000, and four states disregard 100 percent of earnings for a specified period.

Others say increasing TANF cash-assistance payments and authorizing an income-disregard provision would encourage people to stay on welfare as long as possible when the state should be doing all it can to get people off welfare. The more difficult it is for families to receive welfare, the greater will be their incentive to work for a living.

Community care services

Agency: Texas Department of Human Services (DHS)

Background: Community care services — those provided to low-income elderly, chronically ill, or disabled individuals in their homes or communities — include attendant services, nursing care, medications, respite care, and home modifications. Strategy A.1.1 of the DHS budget funds three basic categories of community care services:

- Medicaid entitlement programs, such as the Frail Elderly program and Primary Home Care programs;
- Medicaid-waiver programs, Community-Based Alternatives (CBA), and Community Living Assistance and Support Services (CLASS), which provide community services to Medicaid recipients who are eligible for nursing-facility or institutional care but who choose to remain at home or in the community and whose services are capped at appropriated budget amounts; and
- non-Medicaid-funded community care services for individuals not eligible for Medicaid.

Three of the programs have sizeable waiting lists. CBA now serves about 21,224 adult Medicaid clients eligible for nursing home care and, at current levels of funding, is expected to have a waiting list of 30,857 clients by fiscal 2001. CLASS serves about 1,049 Medicaid-eligible adults and children with developmental disabilities other than mental retardation and, at current funding levels, is expected to have a waiting list of 7,027 clients by fiscal 2001. Non-Medicaid community care services provide care to about 16,769 low-income individuals and, at current funding levels, is expected to have a waiting list of 5,788 clients in fiscal 2001.

Strategy A.1.1 is budgeted at about $1.464 billion in all funds for fiscal 1998-99. The amounts shown below represent proposed ***increases*** for community care services for fiscal 2000-01.

CSHB 1 . . . . $258.1 million

CSHB 1 would fund Strategy A.1.1 at a total of $1.722 billion in all funds for fiscal 2000-01, an increase in community care services of $29.1 million over the amount in HB 1 as filed, distributed as follows:

- $10 million in all funds ($4 million in general revenue) for CBA to serve an additional 585 clients in the biennium;
- $17.1 million in all funds ($6.6 million in general revenue) for CLASS to serve an additional 400 clients by fiscal 2001; and
- $2 million in federal Title XX funds for non-Medicaid community care to serve an additional 210 clients for the biennium.

Supporters say community care services are a more humane and less expensive way of meeting client needs than institutional care. The average monthly cost for a CBA client is $1,026, compared to $1,970 per month in a nursing home. The average monthly cost for a CLASS client is $2,374, compared to $4,328 for a client served in an intermediate-care setting. The average monthly cost for a non-Medicaid community care client is $370. Also, under the federal Americans with Disabilities Act, it is the civil right of disabled individuals to receive services in the most integrated community setting appropriate to their needs.

Wish list funding

The Article 11 wish list includes:

- $337.3 million in all funds ($130.9 million in general revenue) to fund CBA for additional 20,374 clients by fiscal 2001;
- $80 million in general revenue to fund an additional 8,069 clients each year in the non-Medicaid community care program;
- $95.6 million in all funds ($37.5 million in general revenue) to meet caseload increases and service demands in the Medicaid entitlement programs of Primary Home Care, Frail Elderly, and Day Activity Health services;
- $17.7 million all funds ($8.5 million in general revenue) to maintain CBA's current ratio of 223 cases per worker;
- $92.8 million in all funds ($35.9 million in general revenue) to pay for up to three prescription medications each month for individuals in the Frail Elderly program;
- $19.9 million in all funds ($8.3 million in general revenue) to provide presumptive eligibility in community care programs — that is, delivering needed services while the applicant's financial eligibility is pending; and
- $93.4 million in all funds ($41 million in general revenue) to cover increased provider costs due to a 3.4 percent rate of inflation.

HB 1 (filed version) . . . . $228.7 million

HB 1 would have funded Strategy A.1.1 at $1.692 billion in all funds for fiscal 2000-01. It would have increased funding for Medicaid entitlement programs to meet caseload growth and increased client needs and would have maintained CBA, CLASS, and non-Medicaid community services at fiscal 1999 funding levels.

Governor's proposal . . . . $390.3 million

In *Setting Priorities, Getting Results*, the governor proposed funding Strategy A.1.1 at about $1.854 billion in all funds, increasing funding for CBA and CLASS programs by a total of $390.3 million over fiscal 1998-99 levels. About $151 million of this increase would come from general revenue. Non-Medicaid community care services would be maintained at the fiscal 1999 funding levels. Part of the governor's increase also would pay for provider cost increases due to inflation.

Other funding proposals . . . . $ varied

DHS requested a total increase over fiscal 1998-99 funding levels of about $1.1 billion in all funds to serve additional clients, including all the people on waiting lists for non-Medicaid community care, and to pay for inflation-related provider rate increases. The request also would provide:

- $20 million in all funds to cover presumptive eligibility for CBA and Frail Elderly, and
- $92.9 million in all funds to provide up to three prescription medicines through the Frail Elderly program, which would allow a transfer from CBA to Frail Elderly individuals who need assistance only in buying medication and do not need the full range of services provided by CBA, freeing up slots for additional CBA clients.

Critics say some individuals always will need or prefer institutionalization because of severe or complex medical conditions, so expanding community services funding would only expand state government spending. The state never will have enough money to satisfy all demand for community services, and some financing must come from family and local community resources.

Increased funding for nursing facilities

Agency: Texas Department of Human Services (DHS)

Background: In the past several sessions, the Legislature has taken many strides to improve the regulation of nursing homes and the quality of care delivered to nursing-home residents. However, nursing-home representatives and many advocates for nursing-home residents say tougher oversight and penalties are not enough to improve care — nursing homes need to be paid more to deliver the high quality of care the state and Texas families demand. Others say the state needs to change the way it pays nursing homes from an average fixed amount based on a resident's condition to amounts that are more facility-specific and that correspond to the facility's actual labor and other overhead costs and to the special mix and quality of services provided.

Critics say nursing homes can improve the quality of care without major reimbursement increases. They say many nursing homes are making money at the expense of good resident services, and nursing homes need to improve quality of care within current funding levels before the state gives them more money.

Nursing-facility payments are budgeted in DHS Strategy A.1.4 at about $3.068 billion for fiscal 1998-99. The amounts shown below represent proposed ***increases*** in funding for nursing-facility payments for fiscal 2000-01.

CSHB 1 . . . . $196.1 million

CSHB 1 would fund Strategy A.1.4 at about $3.3 billion for fiscal 2000-01, an increase of $196.1 million over fiscal 1998-99 levels, to adjust for higher levels of client need and to allow for growth in hospice caseloads.

Rider 34 would allocate $360,000 of the funds in this strategy to conduct a survey of nursing-facility residents to assess how satisfied they are with their quality of care and quality of life.

Wish list funding

Article 11 would include provisions to increase nursing-facility payments by an additional $169.5 million in all funds ($65.5 million in general revenue) to reflect an inflation rate of 3.7 percent per year. It also would include $6 million to provide annual dental examinations, cleanings, and x-rays to nursing home residents, contingent upon enactment of HB 3636 by Naishtat.

HB 1 (filed version) . . . . $196 million

Increased funding for nursing facilities

HB 1 as filed would have funded Strategy A.1.4 at about $3.3 billion for fiscal 2000-01, an increase of $196 million in all funds ($76 million in general revenue), to maintain fiscal 1999 rates, adjust for higher client needs, and allow for hospice caseload growth.

Governor's proposal . . . . $281 million

In *Setting Priorities, Getting Results*, the governor proposed increasing nursing-facility payments by $281 million in all funds ($117.9 million in general revenue) for fiscal 2000-01 to pay for expected caseload growth, increases in client needs, and rate increases due to inflation. The governor's proposal would use the current nursing-home ratesetting methodology and is almost $85 million greater than the amounts in CSHB 1 and in HB 1 as filed.

Other funding proposals . . . . $ varied

Sen. Bill Ratliff has been considering options in designing alternative payment proposals that would improve nursing-home staffing, but no definite proposals have emerged.

Increased funding for new-generation medications

Agency: Texas Department of Mental Health and Mental Retardation (MHMR)

Background: New-generation medications are recently developed drugs designed to combat the symptoms and problems of severe mental illness, such as schizophrenia and manic-depression. These drugs generally do not cause the often disabling side effects and other limitations of their precursor drugs, such as Haldol and Thorazine, and they allow severely mentally ill individuals to build normal lives in the community.

HB 1713, enacted in 1993, directed MHMR to place on a clozapine treatment plan each patient in a state hospital for whom the treatment is medically feasible. This expanded the department's use of the drug. Since then, the application of new-generation medication treatment plans has expanded to cover demand more completely. MHMR anticipates spending $25.7 million in fiscal 1999 on new-generation medications for about 14,000 Texans. MHMR estimates that about 34,000 additional Texans could benefit from the drugs.

Most funding for new-generation medications is located in MHMR Strategy A.1.3, Community Mental Health Treatment, although some also is allocated to clients through Strategies B.1.1, State Hospital Services, and, in CSHB 1, through Goal D, State Schools.

The amounts shown below represent proposed ***increases*** in funding for new-generation medications over the funding provided in fiscal 1998-99.

CSHB 1 . . . . $63.5 million

CSHB 1 would increase the funding proposed in HB 1 as filed by $33 million in general revenue, and Article 12 would appropriate $30.5 million in tobacco-settlement funds, bringing the total increase in state spending for new generation medications to $63.5 million for fiscal 2000-01. This level of funding would serve 10,845 additional clients and would increase total spending on new-generation medications to about $114.8 million for the biennium.

Supporters say approval of these funds not only would help rescue individuals and their families from the nightmare of mental illness but would lower the state's cost of mental-health care and other criminal and social services. The average monthly cost of buying such medications is about $244 per month per client, far less than the average monthly cost of hospitalizing a severely mentally ill client at $7,899 per month. Helping individuals establish normal and productive lives minimizes their use of prisons, public and private hospitals, welfare, and services for the homeless.

Increased funding for new-generation medications

Wish list funding

Article 11 includes provisions that would appropriate an additional $27.3 million in all funds ($10.6 million in general revenue) for support services for clients who receive new-generation medications.

HB 1 (filed version) . . . . $30.5 million

Article 12 of HB 1 as filed would have increased funding over fiscal 1998-99 levels by $30.5 million from tobacco-settlement receipts to buy new-generation medications for an additional 5,200 clients annually.

Governor's proposal . . . . $63.2 million

In *Setting Priorities, Getting Results*, the governor proposed increasing funding for Strategy A.1.3 by $63.2 million for fiscal 2000-01 from tobacco-settlement receipts to fund the purchase of new-generation medications. The funding would be sufficient to buy medications for about 12,600 of MHMR's neediest mentally ill clients.

Other funding proposals . . . . $ varied

MHMR requested an additional $108.5 million in all funds ($99.4 million in general revenue) over HB 1 appropriations to serve an additional 17,300 clients per year and an additional $43.7 million for support services to help clients on new-generation medications reintegrate into the community. Without such support services, clients could become confused, frustrated, and despondent in trying to build a normal life and would be at risk of stopping the medication in favor of hospitalization by the state.

Critics say new-generation medications can be overprescribed and abused like other new drugs, such as Prozac. MHMR providers should be required to follow specific protocols when prescribing and monitoring the use of these medications.

Community mental health and mental retardation services

Agency: Texas Department of Mental Health and Mental Retardation (MHMR)

Background: MHMR provides a wide variety of community services — services offered outside an institutional setting — to clients with mental illness or mental retardation. For fiscal 2000-01, MHMR has requested about $290.1 million over HB 1 proposed funding levels to maintain or expand current services to meet existing caseloads, waiting list demand, and rate increases for providers, and to fund new community mental health and mental retardation services for children.

MHMR's budget for community services is located in Goal A, Community MH Services, and Goal C, Community MR Services. Goal A funding also includes increases in funding for new-generation medications (see subsequent budget issues in this report).

The Home and Community Based Services (HCS) program provides therapeutic and family-support services deemed necessary to maintain an individual with mental retardation at home or in a small-group home as an alternative to institutional placement. The individual or family must meet Medicaid eligibility requirements, including sufficient need to warrant institutionalization. As a Medicaid waiver program, however, HCS is not an entitlement program, and enrollment is capped at budgeted funding levels. HCS has a waiting list of about 9,900 individuals who qualify for program services but for whom there is insufficient program funding.

The Intermediate Care Facilities/Mental Retardation (ICF/MR) program, funded by Medicaid, provides group-home living environments for mentally retarded individuals.

The In-Home and Family Support Services (IHFS) program provides services similar to HCS for individuals with mental illness or retardation who do not meet Medicaid eligibility requirements. This program has a waiting list of more than 1,700 mentally retarded individuals and an undetermined number of individuals with mental illness. MHMR also provides employment-support services for mentally retarded clients, for which there is a waiting list of 580 individuals.

Community services advocates say almost everyone would prefer living at home or in the community over the impersonal and subordinating environment of an institution. Community services not only are more humane but generally are cheaper than state-school care. In fiscal 1998, clients served in state schools cost the state an average $4,019 per month, and clients served in state mental hospitals cost an average $7,899 per month. In comparison, average monthly costs in the HCS program run $3,901 per client, and the IHFS program awards grants averaging about $2,000 per client. Also, under the federal Americans with Disabilities Act, it is the civil right of disabled individuals to receive services in the most integrated community setting appropriate to their needs.

Community mental health and mental retardation services

Opponents of expanding community services say some individuals need institutionalization because they are too severely mentally retarded or have other medical or disabling conditions that prevent them from living in their families' homes or in the community. State schools' funding cannot be decreased because of increases in community services. The state never will have enough money to satisfy all demand for community services, and some financing must come from family and local community resources.

CSHB 1 . . . . $2.345 billion

CSHB 1 would increase funding for community services in Goals A and C over the amounts in HB 1 as follows:

- $47.9 million in all funds ($18.5 million in general revenue) to fund caseload growth in HCS;
- $10.4 million in all funds ($4 million in general revenue) to serve an additional 110 clients now on the HCS waiting list;
- almost $4 million in general revenue for IHFS services for mentally retarded individuals;
- $3.2 million in federal funds for homeless people, jail diversion, and intensive supports of individuals with severe mental illness and chemical dependency; and
- $2 million in general revenue for supported employment for an additional 163 mentally retarded clients per year.

Wish list funding

Article 11 provisions would include an additional:

- $64.4 million in all funds ($24.9 million in general revenue) to serve an additional 690 HCS residential clients;
- $41.5 million in all funds ($16 million in general revenue) for rate adjustments of 2.5 percent for HCS and ICF/MR providers due to inflation;
- $33.5 million in general revenue to expand children's mental health services;
- $20.3 million in all funds ($16.5 million in general revenue) for family-support services for mentally retarded children and their families;
- $6.1 million in general revenue for additional funding for supported employment; and
- $2.1 million in general revenue for additional IHFS services.

HB 1 (filed version) . . . . $2.246 billion

Community mental health and mental retardation services

HB 1 would have funded MHMR Goals A and C at a level about $40 million higher than fiscal 1998-99 levels. It would have provided increases of $3.2 million in all funds for community mental-health services and $31.4 million in all funds for community residential and nonresidential services. The bill also would have decreased funding for non-Medicaid residential facilities and community mental-health hospitals.

Governor's proposal . . . . $2.377 billion

The governor's budget proposal in *Setting Priorities, Getting Results* would increase HCS and ICF/MR funding by $91.4 million in all funds to meet caseload growth and inflation costs and to serve an additional 5,440 HCS clients and an average of 7,624 ICF/MR beds per month. Most of the difference between the governor's proposal and HB 1 as filed is due to methods of financing the increased costs of new-generation medications and the transition of state workers to community-center employment.

Other funding proposals . . . . $2.689 billion

MHMR requested a total of $2.689 billion for fiscal 2000-01 for Goals A and C. It asked for $86.3 million in all funds ($33.8 million in general revenue) to maintain service levels to predicted HCS and ICF/MR caseload and cost growth. The department also requested additional funds to serve individuals now on waiting lists:

- $78.4 million in all funds ($29.7 million in general revenue) to add 800 HCS clients per year;
- $6 million in general revenue to provide services to 715 persons with mental illness and to 873 persons with mental retardation for IHFS services; and
- $8.1 million in general revenue to provide employment-support services to 400 clients in fiscal 2000 and 735 clients in fiscal 2001.

MHMR also requested $16 million in general revenue to provide community services to individuals with severe mental illness who are homeless or in jails and $53.8 million for services to children with mental illness or mental retardation to prevent institutionalization or problems with the law. MHMR also requested $41.5 million over HB 1 funding levels to provide rate increases to providers to meet costs associated with inflation.

The department also requested about $152 million for new-generation medications and related support services that would be funded predominantly in Goal A.

Funding for state schools

Agency: Texas Department of Mental Health and Mental Retardation (MHMR)

Background: MHMR administers the operation of 11 institutions for the severely mentally retarded and disabled, called state schools. The class-action lawsuit *Lelsz v. Kavanagh*, filed in November 1974, sought to correct several chronic problems in these schools, including client abuse and neglect, inadequate client training and habilitation, inappropriate institutionalization, and lack of sufficient community services. A settlement agreement approved by the federal district court in July 1983 required various reforms and improvements in the operation of state schools and in the placement of qualified mentally retarded individuals in community homes. The improvements were monitored by an expert consultant, Linda O'Neall, Ph.D., appointed by the court. Over the years, these measures included closing the Travis State School in Austin and the Fort Worth State School. Federal oversight of the *Lelsz* settlement agreement was dismissed in 1996.

In meeting the increasing costs associated with court-ordered improvements, state budget writers contained MHMR spending by adopting the principle of "the dollar following the clients." That is, as state school enrollments declined with the community placement of former state school residents, funding for state schools generally decreased and went into community-service increases.

Opponents of expanding community placements and services say some individuals need institutionalization because they are too severely mentally retarded or have other medical or disabling conditions that prevent them from living in their families' homes or in the community. State schools must remain open, have enough beds, and be funded adequately to carry out their mission for these types of clients. Parents and clients must retain the option of choosing state-school placement reasonably close to home over community services.

Advocates of community placement say almost everyone would prefer living at home or in the community over the impersonal and subordinating environment of an institution. Community services not only are more humane but generally are cheaper than state-school care. Also, under the federal Americans with Disabilities Act, it is the civil right of disabled individuals to receive services in the most integrated community setting appropriate to their needs.

State-school funding is found in MHMR Goal D, MR Specialized Services.

CSHB 1 . . . . $609.7 million

CSHB 1 would increase funding for Goal D by $6.4 million in all funds over the funding in HB 1 as filed, bringing state school funding to fiscal 1998-99 levels and adding about $1 million for new-generation medication treatments.

Funding for state schools

The bill also would include five related riders:

- Rider 26 would prohibit MHMR from transferring funds out of Goal B (state-hospital funding) or Goal D (state-school funding) to fund other strategies.
- Riders 30 and 40 would dictate state-school funding levels. Rider 30 would require MHMR to fund all state schools equitably, at a level that would maintain compliance with federal standards and that would be based on the number and needs of the schools' residents. Rider 40 would require MHMR to fund state schools based on the number of residents at each school at the beginning of the fiscal year and not reflect a census decline until that decline actually occurs.
- Riders 32 and 41 would require MHMR to offer the option of state-school placement, in addition to other types of residential services, to individuals seeking services.

Supporters say state schools need more funding to meet the current needs of their residents. Budget decreases in advance of an actual decline in school enrollment leave school administrators with insufficient funds to meet the needs of their existing enrollment. Riders 32 and 41 would make sure that parents are not dissuaded from seeking school placement for their mentally retarded children. Rider 26 would make sure that the agency's general authority to transfer funds between strategies does not result in decreased institutional funding.

Wish list funding

Article 11 provisions include $3 million in all funds to expand dual-diagnosis services at the San Angelo State School and to develop appropriate placement and services for 80 adults with mental retardation and a history of problems in the justice system.

HB 1 (filed version) . . . . $603.3 million

HB 1 would have funded Goal D with a biennial decrease of about $5.4 million in all funds from fiscal 1998-99 levels, largely because enrollment was projected to decline from 5,525 in fiscal 1998 to 5,307 in fiscal 2001.

Governor's proposal . . . . $609.2 million

In *Setting Priorities, Getting Results*, the governor proposed funding state schools under Goal D at fiscal 1999 levels, for an anticipated enrollment of about 5,457.

Other funding proposals . . . . $ varied

MHMR requested $735 million in all funds for the biennium for Goal D.

Funding for state schools

Critics of CSHB 1 funding levels say state school enrollments have been dropping because demand has been dropping, not because MHMR has been persuading parents not to place their children in those schools. Riders prohibiting the department from transferring funds out of state-school strategies to other strategies would render the agency unable to meet the increasing demand for community services and could result in unfair institutionalization of some clients because community services were unavailable.

Child protective services

Agency: Texas Department of Protective and Regulatory Services (PRS)

Background: Child protective services (CPS) are designed to protect children from harm by their parents or by persons responsible for their care. CPS caseworkers field and investigate reports of child abuse and neglect. If preserving the family is not possible or a safe home environment cannot be established and maintained, CPS may petition the court to remove children from the home and place them temporarily or permanently with substitute families or caregivers.

In his October 1998 report, *A Petition in Behalf of the Forsaken Children of Texas to the Governor and the 76th Legislature*, State District Judge F. Scott McCown of Austin found that even though the child population has been increasing in Texas, state resources devoted to CPS investigations have been declining, resulting in proportionately fewer investigations that are conducted at a lower level of quality. The judge attributed many of CPS's problems to high workloads, low pay, and high turnover rates for caseworkers and inadequate staff supervision.

SB 472 by Ratliff, enacted in March 1999, made emergency appropriations for fiscal 1998-99, including almost $9 million ($2.8 million in general revenue and $6.1 million in federal funds) to increase CPS services, staffing, and staff supervision. The emergency funding authorized PRS to increase staffing by 220 employees.

CPS funding resides in seven strategies of the PRS budget: A.1.1, CPS Statewide Intake; A.1.2, Child and Family Services; A.1.3, CPS Purchased Services; A.1.4, Intensified Family Preservation; A.1.5, Foster Care/Adoption Payments; A.1.6, At-Risk Prevention Services; and A.1.7, the Hope Center.

CSHB 1 . . . . $1.044 billion

CSHB 1 would increase funding over HB 1 as filed by about $22.5 million in all funds for Strategies A.1.1 through A.1.7, with the following provisions:

- $13 million in all funds ($2.7 million in general revenue) to reduce CPS caseloads and supervisory ratios, to continue expansions begun in SB 472;
- $2.1 million in all funds ($443,057 in general revenue) to continue funding staff increases originally funded by SB 472;
- $901,040 in all funds ($225,260 in general revenue) to provide post-adoption residential services to an additional 30 children who may have medical or emotional needs that are best served by temporary institutional care;
- $3.1 million in all funds to expand a mentoring service for at-risk children, similar to the operations of a Big Brothers/Big Sisters program; and
- $3.3 million in Temporary Assistance to Needy Families funds to continue the Second Chance Teen Parent pilot program to meet federal welfare requirements.

Wish list funding

Article 11 provisions also would address CPS expansions with these additional funds:

- $10 million in all funds ($2.1 million in general revenue) to increase staff positions and reduce caseloads and supervisory ratios;
- $1.5 million in all funds ($322,069 in general revenue) for additional staff to improve CPS assessments;
- $7.5 million in all funds ($1.5 million in general revenue) to upgrade salaries for existing CPS caseworkers and those employed through SB 472;
- $589,769 in all funds ($124,385 in general revenue) to upgrade salaries for staff hired after August 31, 1999;
- $27.2 million in general revenue to serve more families with children living at home or in substitute care with such services as assessment, therapy, and protective day care;
- $4.8 million in all funds ($1.2 million in general revenue) to provide 6,642 children each year with respite services;
- several automation upgrade-related appropriations totaling about $28 million in all funds;
- a rider to increase Foster Care/Adoption payments by a 9.75 percent cost-of-living increase for a total increase of about $38.6 million in all funds;
- an increase of $1.4 million for Tertiary Prevention of Child Abuse Programs; and
- a provision directing PRS to revise its foster-care rate methodology.

HB 1 (filed version) . . . . $1.022 billion

HB 1 would have included increases over fiscal 1998-99 spending of $48.6 million in all funds for caseload growth in foster care and adoption assistance and $15.9 million in all funds to continue fiscal 1999 service and staffing levels in other CPS services. It also would have included an all-funds decrease of $1.3 million in the Second Chance Teen Parent program.

Governor’s proposal . . . . $1.1 billion

The governor’s proposal in *Setting Priorities, Getting Results* would increase CPS funding over fiscal 1998-99 levels as follows:

- $44.8 million to fund an additional 380 employees to reduce average caseloads per worker and the ratio of workers per supervisor, to upgrade salaries for CPS specialists by moving from four salary groups to two, and to fund improvements to assessments and post-investigation services;

- $56.2 million to meet client growth in foster care and adoption assistance, to fund a statewide system of respite care for foster families, and to fund extended lengths of stay in residential treatment for children with high levels of special needs;
- $40.9 million to increase at-risk prevention and early intervention services, including $3 million for the At-Risk Mentoring program, $3.3 million for the Second Chance Teen Parent program, and $6.9 million for at-risk youth programs.

Other funding proposals . . . . $ varied

PRS requested about $123.4 million in all funds over the amounts in HB 1 as filed, primarily to fund improvements in CPS assessments, services, salaries, and staffing (about 383 additional employees) and for CPS-related automation support and staff.

Judge McCown and others say the proposed increase of 380 caseworkers should not be used as an absolute benchmark for improvement because it would be only a very modest increase from 1995 staffing levels. The funding increases would improve the program only moderately and would not create a state-of-the-art program because the backlog of unaddressed or insufficiently addressed cases is so large. Texas needs to make a stronger and possibly long-term commitment to increasing and improving CPS to meet population demand. In fiscal 1998, CPS caseworkers had an average weighted caseload of 27.5 cases per worker, more than twice the workload recommended by the Child Welfare League of America.

Critics say the Legislature should wait and see what kinds of improvements PRS makes with the emergency appropriations before giving them more money for fiscal 2000-01. PRS can do a better job with the level of funding it already has.

Public Education Overview

Public education, the largest single function funded by the state, accounts for about 42 percent of all general revenue spending. Nearly all public education funding is funneled through the Texas Education Agency (TEA). Other public education agencies funded include the State Board for Educator Certification, the School for the Deaf, and the School for the Blind and Visually Impaired. Other significant budget items in the public education portion of Article 3 fund the Teacher Retirement System (TRS) and appropriate funds earned through the Telecommunications Infrastructure Fund (TIF).

For fiscal 2000-01, CSHB 1 proposes total funding of $30.3 billion for public education. This would represent an increase in all funds of $3.6 billion or 13.4 percent over 1998-99 spending levels. Proposed general revenue-related spending would total almost $25 billion, an increase of 15 percent. CSHB 1 funding proposals assume that school districts would raise about $23 billion in local property taxes over the biennium.

Public Education Spending Comparisons
(millions of dollars)

Type of Funds	Expended/ Budgeted 1998-99	Recommended CSHB 1	Biennial Change	Percent Change
General revenue-related	$21,723.3	$24,981.4	$3,258.1	15.0%
Federal funds	$ 4,060.2	$ 4,139.6	$ 79.4	2.0%
All funds	$26,745.1	$30,340.4	$3,595.3	13.4%

Source: Legislative Budget Board, Summary of CSHB 1, March 31, 1999.

Background

By far the largest line item for public education is school finance, funded through the Foundation School Program (FSP). The state's FSP funding, $21.5 billion for fiscal 2000-01 in CSHB 1, accounts for about 45 percent of all school funding. Federal funds pay for 9 percent, and school districts generate the rest through property taxes.

Funding for public schools is driven primarily by five factors: property values; enrollment growth; court-imposed equity standards; staff salaries; and facility needs.

Property values. The comptroller estimates that property values in Texas generally will go up over the coming biennium, providing an additional $1.6 billion to fund public schools. Over the past few years, statewide property values have risen by at least 3 percent each year. For 1997, statewide taxable values rose 7 percent over 1996 values. The Comptroller's Office predicts that statewide values will grow nearly 6 percent for 1998 and nearly 4 percent for 1999.

Enrollment growth. TEA data show that more than 3.7 million students were enrolled in Texas public schools for the 1998-99 school year. LBB has estimated that enrollment will grow by 70,000 students in 2000 and by 84,000 in 2001 — equivalent to adding another school district the size of the Austin or Fort Worth ISD each year.

Equity. Years of school-finance litigation and four decisions by the Texas Supreme Court have left the state with a school-finance system trying to maintain basic standards of equity. Among the basic elements of the system that the court found constitutional in *Edgewood IV* in 1995 were:

- 85 percent of students were in an equalized system;
- there was a maximum $600 gap in funding per student between the wealthiest and poorest districts at the highest levels of tax effort; and
- schools must have substantially equal access to similar revenues per pupil at similar levels of tax effort.

Based on these criteria, HB 1 as filed would have added $1.1 billion to the FSP to maintain equity in the system.

Salaries. Staff salaries, particularly teacher salaries, comprise more than 60 percent of the expenses of local school districts. Teacher salaries are based on a state-mandated minimum salary schedule that increases for every year of service up to 20 years. As the teaching workforce becomes more experienced in a district, costs will rise. Many school districts also add local supplements to the state's minimum salary schedule. State minimum salaries increase automatically when state funding for the FSP increases. However, many teachers receive more than the statewide minimum base, and they may not necessarily see a salary increase when the base rises.

Facilities. Growing enrollments also require additional classrooms. School facilities generally are financed through bonds approved by local taxpayers. In 1997, the Legislature created the Instructional Facilities Allotment (IFA), which provides a guaranteed yield for tax effort for new facilities, allowing poorer districts to generate the same revenue per penny of tax effort as wealthier districts generate for new debt.

Budget Highlights

CSHB 1 would increase spending for public education by about 13 percent. The largest increases would be for TEA.

CSHB 1 would provide $158 million for textbooks and increases to the technology allotment and more than $27 million in additional funding for various public education initiatives. The bulk of that funding would be an additional $18 million for the Texas Reading Initiative, created and funded by the 75th Legislature. The additional funding would allow the program to be funded at the 1997 appropriation level of $25 million per year.

The Article 11 wish list in CSHB 1 includes more than $259 million in items to fund various programs and contingencies. Major items in Article 11 not discussed elsewhere in this report include:

- $18 million for the Texas Advanced Placement Incentive Program;
- $10.7 million to fund Regional Day Schools for the Deaf;
- $8 million for the AVANCE family support and education program;
- $11.6 million for the Windham School District, which serves prison inmates, to fund education of inmates with a high school diploma or GED; and
- $29.2 million to fund the commissioner’s long-range plan for technology out of general revenue, replacing its current financing from the TIF.

The School for the Blind and Visually Impaired and the School for the Deaf, located in Austin, are designed to serve as a short-term placements to enable these students to learn the skills that would enable them to return to their regular school districts and pursue a regular education program. The primary budget drivers for these two schools are teacher salaries — required by statute to be on par with salaries in the Austin ISD — staff salaries for administrators and residential staff, and growing needs for services as districts increase referrals to these schools, particularly for summer programs. CSHB 1 would increase funding to these schools to $60.9 million, a 2 percent increase.

TIF funding is derived from an assessment on telecommunications utilities. The TIF Board administers the fund and awards grants to fund technology services in public education. CSHB 1 would appropriate about $417 million in all funds to the board for fiscal 2000-01 to award grants. This would represent an increase of $33 million or about 9 percent over the current biennium.

The pages that follow discuss these significant budget issues for public education:

- school finance, teacher compensation, and property tax relief;
- increasing the IFA;
- increasing funds available to alleviate property value declines;
- funding the student success initiative to end social promotion;
- funding after-school initiatives;
- increasing funding for alternative education programs;
- increasing funding for the Alliance school program; and
- adequately funding TRS-Care, the health insurance component of TRS.

School finance, teacher compensation, and property-tax relief

Agency: Texas Education Agency (TEA)

Background: Responsibility for determining the financing of public schools is shared between the House Appropriations Committee and the House Public Education Committee, which has jurisdiction over public school finance under the House Rules for the 76th Legislature. Accordingly, while the Appropriations Committee may recommend how much money should be available for financing public schools, the Public Education Committee will propose to the Legislature how that money should be spent.

Three factors determine the amount of spending on education: enrollment, property values, and equity. (See the Article 3 overview.) Enrollment growth dictates how much money is required to fund schools and keep roughly the same funding per student. However, because schools are funded by both local tax revenues and state dollars, the amount of money that districts are estimated to receive through property taxes also affects the amount that the state must contribute. The state also must determine how much money is necessary to keep the school-finance system within the guidelines established by the Texas Supreme Court in the *Edgewood IV* decision. Balancing these three factors, the state can determine how much money it must add to the school-finance system, then determine whether and how to spend any additional money.

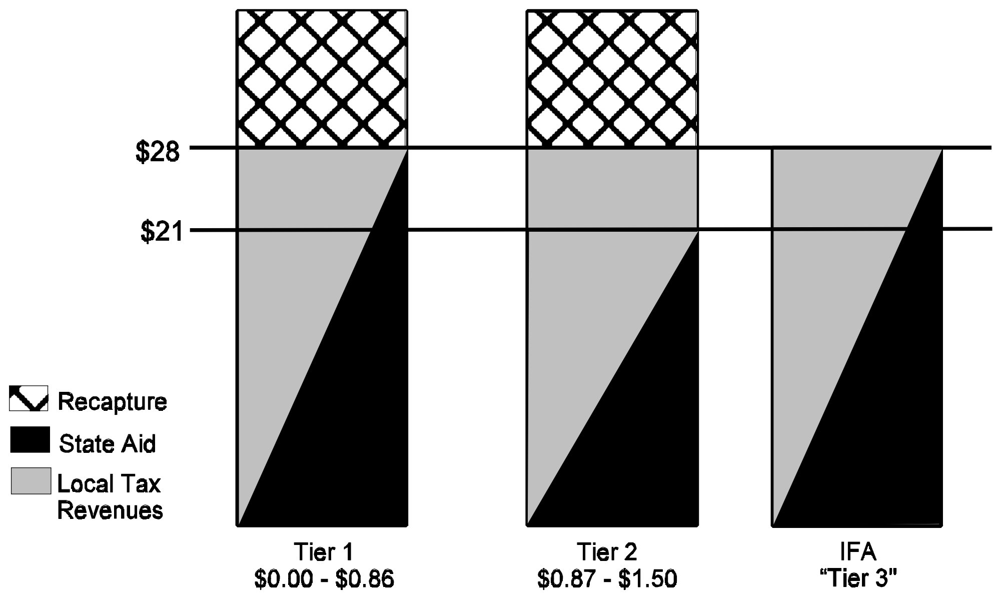
With reports of a potential budget surplus, many groups have proposed spending additional money on public education. However, three funding areas have garnered most of the support and attention in this debate: adjusting the school-finance formulas; increasing teacher compensation and benefits; and providing property-tax relief.

Depending on how legislation is crafted, money allocated for one purpose also may serve other purposes. For example, additional teacher compensation could be provided though the current school-finance formulas, or property-tax relief could be achieved by providing additional state money to offset local tax revenues for various needs from teacher compensation to equity funding.

Adjusting school-finance formulas. The current school-finance formulas create a three-tiered approach to funding (see chart on next page). Tier 1 is designed to fund the "basic program." It guarantees a yield of $28 per student per penny of tax effort up to $0.86, or $2,396 per student. Because property taxes are based on each $100 of valuation, $28 per student in funding translates to $280,000 per student in property wealth. If a district cannot raise $28 per student from its local property tax base, the state funds the remainder. If a district can raise more than $28 per student, that amount is subject to recapture by the state.

Tier 2, often called the "enrichment" tier, covers tax rates between $0.87 and $1.50 per $100 of value and provides a guaranteed yield of $21 per student per penny of tax

The Current School Finance System



As the amount of revenue from local taxes increases, the amount of state aid decreases.
Source: Texas Education Agency.

effort. Districts that raise less than $21 per student receive state funds to make up the difference, and districts that raise more than $28 per student are subject to recapture of those funds. Districts that raise between $21 and $28 may keep the amount they raise.

Tax rates above $1.50 may be used only for debt service, not for maintenance and operations. Under HB 4 by Craddick, enacted in 1997, taxes generated above that cap are not guaranteed a yield and are not subject to recapture.

While not considered part of the Foundation School Program (FSP), the Instructional Facilities Allotment (IFA) generally is called a third tier of funding. The IFA provides a guaranteed yield of $28 per student per penny of tax effort for construction of new facilities. A significant difference in calculating the IFA and the FSP is that guaranteed yield for the IFA is based on average daily attendance for the district, while Tier 1 and 2 funding is based on a weighted average daily attendance, which includes multiplying factors for special programs such as special education and bilingual education.

The 75th Legislature appropriated $200 million to fund the IFA during fiscal 1998-99. For additional projects to be funded, the state would have to appropriate additional funds and continue to fund the projects already approved until those debts are paid off. (See the issue brief on IFA later in this section.)

One suggested change to the school-finance formulas is increasing the guaranteed yield for Tier 2. Among the factors the Supreme Court used to uphold the constitutionality of the school-finance system in *Edgewood IV* was that 85 percent of students were in an equalized system. To maintain that percentage, according to LBB estimates, the guaranteed yield for Tier 2 would have to be raised to $23.10 per student per penny of tax effort. That increase would cost about $1.1 billion for fiscal 2000-01.

Another proposal would raise the level at which the state began recapture. Currently that level is at a property value of $280,000 per student. By increasing that amount to $300,000 or $310,000, several districts that previously have not been subject to recapture but are growing rapidly might avoid recapture, and some districts that have been just over the $280,000 threshold could retain more of the money they collect. The cost of this proposal varies depending on the amount proposed, on whether it applies to both Tier 1 and Tier 2, and on whether the Tier 1 guaranteed yield would be increased to match that level. If the Tier 1 level were not increased, the equity gap between rich and poor districts likely would increase.

Other proposals include increasing the tax-rate level for Tier 1 funding above $0.86, thus increasing funding to districts with property values between $210,000 and $280,000 per student, and increasing the $1.50 cap on the Tier 2 guaranteed yield. Cost estimates for these proposals vary according to the exact levels suggested.

Teacher compensation and benefits. Teacher compensation is the single largest budget item for school districts, comprising, on average, more than 60 percent of a district's operations budget. Teacher salaries are based on a state-mandated minimum salary schedule, established in Chapter 28 of the Education Code, that provides for minimum salary increases based on the number of years of service up to 20 years. The minimum salary schedule is based on funding for the FSP and must be increased when money is added to the FSP. That same formula also increases the number of days of service required when the minimum salary goes up.

Many school districts pay teachers a supplement above the minimum salary schedule. Such supplements, however, are not uniform and are not always based on the salary schedule, so if the minimum salary goes up, a teacher who is earning above that amount may not receive that increase without district approval. Because of the wide variety of districts, every district may have a slightly different teacher compensation plan. Some districts include differential pay for teachers in certain fields, while others carry out salary increases beyond the 20 years mandated in state law. Some districts award bonuses or differentials for additional certificates, degrees, or course work.

The Teacher Retirement System (TRS) administers retirement benefits for teachers. The current structure of TRS requires members to contribute 6.4 percent to the system and provides a 2 percent retirement multiplier. By comparison, the Employees Retirement System for state employees requires members to contribute 6.0 percent and provides a

2.25 percent multiplier. Proposals introduced in this session would increase the multiplier, decrease the required member contribution, or both, for TRS.

Property-tax relief. In 1997, HB 4 by Craddick and a companion constitutional amendment approved by Texas voters provided $1 billion in continuing property-tax relief by increasing the standard residential homestead exemption from $5,000 of the value of the property to $15,000. According to estimates, the new exemption amount saved the average Texas homeowner $140 in 1998.

Proposals considered this session may include providing additional property-tax relief to both residential and commercial property taxpayers. Under certain circumstances, providing money directly to districts can result in property-tax relief. Because school districts may raise taxes only when necessary to cover expenses, if the state provides additional money to districts, the amount of taxes a district might have to raise without additional state funding can be offset. If the state provides enough money, many districts might be able to lower their tax rates.

CSHB 1 . . . . $3 billion

CSHB 1 would create a separate line item (TEA Strategy A.2.2) dedicated to school finance, teacher compensation and benefits, and property-tax relief, funded at $3 billion for fiscal 2000-01. That amount reflects $2.05 billion shifted from FSP funding (Strategy A.2.1) in HB 1 as filed plus an additional $950 million not in HB 1 as filed.

The $2.05 billion shifted from the FSP included approximately $1.5 billion originally included for enrollment growth and equity and about $500 million expected to be returned from school districts through the normal “settle-up” process, whereby school districts that were overpaid return state funds and those underpaid receive funds, based on actual numbers of students served, as determined at the end of each school year.

Supporters say this approach is the best way to give the Legislature a framework to develop proposals for teacher salary increases, property-tax relief, or other school-finance proposals. Using this framework, the House Public Education Committee, with its jurisdiction over school finance, can determine how to apportion the available amounts as it sends proposals to the House. If the Legislature decides not to use all of the money allotted for these purposes, some of it could be redirected to other needs.

HB 1 (filed version) . . . . $2.05 billion

HB 1 as filed would have included $2.05 billion in the FSP that CSHB 1 shifted and placed into the line item for school finance, teacher compensation and benefits, and property-tax relief.

School finance, teacher compensation, and property-tax relief

Governor's proposal . . . . $3 billion

The governor's budget report, *Setting Priorities, Getting Results*, proposed using $3 billion for property-tax relief and school improvement. That proposal called for sending $2 billion to the districts earmarked for property-tax relief, of which $1.1 billion would be used to raise the Tier 2 guaranteed yield in the FSP to $23.10 per student per penny of tax effort to maintain equity in the system. The remaining $1 billion would be distributed to school districts to finance increases in teacher salaries and other school improvements.

Other funding proposals . . . . $ varied

Using the blueprint provided by CSHB 1, other funding proposals would include either increasing the total amount appropriated to Strategy A.2.2 or specifying appropriations for the proposals that the Legislature wished to fund.

Supporters of increasing the overall funding for these needs argue that the state should direct any additional money toward public education. They say that average salaries for Texas teachers are nearly $6,000 below the national average. The amount included in CSHB 1 would not necessarily provide a significant increase in teacher salaries, especially if any money were directed toward property-tax relief.

Supporters of specifying how additional money should be allocated contend that the wide-ranging — and uncertain — impact of funding in CSHB 1 for school finance, teacher compensation, and property-tax relief removes from the appropriations process any consideration of how these priorities compare to other state funding needs. While the various proposals eventually will come before the Legislature, there may not be the opportunity that now exists in the appropriations process to weigh the benefits of a proposal that is weighted heavily in favor of teacher compensation or property-tax relief compared to other funding needs.

The Senate is considering various proposals to provide additional funding to districts and teachers. Under SB 4 by Bivins, the state would provide about $1.35 billion to increase the Tier 2 guaranteed yield to $23.80 and would increase the equalized wealth level, where recapture begins, to $300,000. The bill also would provide a $150 million increase to the IFA and would increase the guaranteed yield in that program to $31.65. SB 4, along with SJR 38 by Ratliff, would increase teacher take-home pay by increasing the state contribution to TRS from 6 percent to 12.4 percent, eliminating the teacher's contribution. Voters would have to approve a constitutional amendment to do this because Art. 16, sec. 67 now caps the state's contribution at 10 percent. SB 4 also would increase the TRS multiplier from 2.0 to 2.1. Overall, SB 4 would provide about $2 billion in property-tax relief.

Increasing the Instructional Facilities Allotment

Agency: Texas Education Agency (TEA)

Background: As student enrollment increases, the need increases for new instructional facilities across the state. Most school facilities are funded by bonds approved by the voters of the local school district. The payments on those bonds are funded by property tax revenues.

Under the school finance system enacted in 1993 through SB 7 by Ratliff, the state provides a guaranteed yield on tax effort in school districts. The guaranteed yield allows any district, regardless of its wealth, to be certain it will receive $28 per student per penny of tax effort for the first $0.86 of tax effort and $21 per student per penny of tax effort from $0.86 up to $1.50. (Tax rates are based on each $100 of property value.) School districts may not set tax rates above $1.50 for maintenance and operations, but a district may tax above $1.50 for debt service on facilities. Taxes levied over the $1.50 cap do not generate a guaranteed yield through the Foundation School Program.

The Instructional Facilities Allotment (IFA), enacted in 1997 as Chapter 46 of the Education Code, provides for a guaranteed yield of $28 per student per penny of tax effort for construction of new facilities. The 75th Legislature appropriated $200 million to fund the IFA in fiscal 1998-99. According to LBB, that amount leveraged funding for the construction of more than $3 billion worth of new facilities in 230 school districts by ensuring that the districts would have a guaranteed tax yield to pay off those bonds. The funding appropriated for these various projects is a continuous requirement until the bonds are retired, usually 20 years.

CSHB 1 . . . . $396 million

CSHB 1 would provide $150 million of general revenue in addition to the $246 million included in HB 1 as filed for the IFA (TEA Strategy A.2.3). According to the LBB, this additional funding would contribute to the construction of more than $2.5 billion worth of new instructional facilities.

Supporters say additional state funding for facilities is one of the items that all school districts need most. Poorer districts need help building facilities because of their difficulty generating revenue from tax collections, and many suburban districts need help because of their explosive growth. By separating the IFA from other funding mechanisms, districts above the $1.50 cap can receive assistance, and those under the cap can receive more through the IFA than they would be entitled to receive under the Foundation School Program.

A new disbursement schedule would remedy the problems that arose during fiscal 1998-99 regarding the timing of the allotments, which led to the need for the $46 million in additional funding.

Increasing the Instructional Facilities Allotment

HB 1 (filed version) . . . . $246 million

HB 1 as filed would have maintained the $200 million appropriated for bond payments for fiscal 1998-99 and added $46 million to cover the payments on those bonds during fiscal 2000-01. The additional funds would have been required to maintain the payments at the same level.

Governor's proposal . . . . $446 million

The governor's proposed budget, as presented in *Setting Priorities, Getting Results*, includes an additional $200 million for funding construction of new facilities above the $246 million included in HB 1 as filed.

Other funding proposals . . . . $ varied

TEA requested $180 million in new funds for the IFA above the $246 million included in HB 1 as filed.

Supporters say increasing the amount of new money for the IFA above the amount in CSHB 1 is needed to fund the substantial demand for new facilities. Funding in CSHB 1 is not sufficient to cover the statewide demand. In addition, if other legislation raises the guaranteed yield or wealth limits for other school funding formulas, the guaranteed yield for the IFA should be raised and funded proportionately.

Opponents say IFA funding is a continuing obligation imposed on future legislatures that will require funding for 20 years or longer. The new funding added in CSHB 1 also would set a dangerous precedent that could pressure future legislatures not only to fund previously obligated bonds, but also to continually add to the amounts available to fund new construction. If future legislatures continue to fund the IFA at an additional $200 million each biennium, by the tenth year of the program the cost to the state would rise to $1 billion each biennium. Also, the IFA does not help districts whose property wealth per student is above $280,000, regardless of their need to build new facilities or the amount of taxes they already collect.

Other opponents say additional funding for the IFA could be directed instead to help school districts pay for facilities built before the creation of the IFA, called "old debt." If the state were to provide assistance for old debt at a rate equal to the guaranteed yield level of the IFA, many districts could reduce their property tax rates or use the savings for other purposes, such as teacher salaries.

Declining taxable property values due to oil prices

Agency: Texas Education Agency (TEA)

Background: Property value calculations under the current school-finance system pose a problem for districts that may suffer declines in taxable property value from one year to the next. The system determines the amount of state funding to which a district is entitled based on the prior year's property value, but districts collect their local share of school funding from local tax revenues based on the current year's property appraisal. For most districts, those with an increase in property values, the system creates a slight windfall. Districts that experience declines in property values, however, may have to raise tax rates to make up for the shortfall of state funding. Education Code, secs. 41.002(b) and 42.252(e) allows the commissioner of education to appropriate additional funds to districts whose property values decline more than 4 percent. The General Appropriations Act for fiscal 1998-99 authorized the commissioner to distribute up to $26 million of excess Foundation School Program (FSP) funds each fiscal year to districts experiencing property-value declines. Those funds are available for distribution only if the FSP has excess funds. It also provided $21 million in general revenue for the biennium to be distributed to districts for property-value declines.

CSHB 1 . . . . $166 million

TEA Rider 10 in CSHB 1 would allow the commissioner to distribute as much as $166 million in general revenue during fiscal 2000-01 to districts experiencing rapid property-value declines. That amount would be $145 million more than the amount included in HB 1 as filed. CSHB 1 also would retain the authority of the commissioner to appropriate as much as $26 million more to districts each fiscal year from excess FSP funds if the $166 million were not sufficient to cover districts' property-value declines.

Supporters say this funding is needed to cover projected losses in many school districts due to low oil prices. Many districts rely on minerals such as oil for a significant portion of their property tax revenues, and their property-value estimates are based on mineral values that fluctuate on global markets. The funding proposed in CSHB 1 would be used only if property values actually decline. If oil prices rise and the values assessed by these districts do not fall below those on which their funding is based, this appropriation would lapse to general revenue and cost the state nothing. The $145 million increase is based on the comptroller's estimate of the total losses that districts might experience due to oil-value declines.

HB 1 (filed version) . . . . $21 million

HB 1 would have authorized the commissioner to distribute up to $21 million for the biennium to districts experiencing property-value declines. If that funding were not sufficient to cover property-value declines, the commissioner still could have distributed up to $26 million of excess FSP funds to districts each fiscal year.

Other funding proposals . . . . $ varied

Supporters of increasing the amount for declining-value districts to more than $166 million suggest that the comptroller's estimate may not cover the full amount of property-value declines. They say that unless the amount is higher, some districts that experience declines, particularly in the second year of the biennium, could be unable to receive enough state funding to make up for property-value declines.

Opponents of increasing funding above CSHB 1 levels say that there must be some cut-off level for funding and that the amounts now estimated to be available should be sufficient to cover districts for both years of the coming biennium.

Other opponents say that this funding uncertainty could be eliminated if school funding were based on districts' current property values rather than on the prior year's values. It is unfair that the state does not require districts that benefit from the lag in property-value determinations to return that money to the state, but it does help districts that suffer from declines.

Ending social promotion

Agency: Texas Education Agency (TEA)

Background: SB 1 by Bivins, passed by the Senate on February 18, would provide for early reading intervention in public schools with the goal of ensuring that all Texas students could read at grade level by the third grade. It would require students, beginning with children entering kindergarten in the 1999-2000 school year, to pass the reading portion of the third-grade Texas Assessment of Academic Skills (TAAS) test before being promoted. Students failing that test could be promoted only upon unanimous approval of a grade placement committee made up of the child's parent, the teacher, and a school administrator.

SB 472 by Ratliff, the emergency appropriations bill enacted in March, appropriated $18 million to fund reading-instruction training for kindergarten teachers during the summer of 1999. The goal is to prepare those teachers to teach entering kindergartners in the fall of 1999 using the latest instructional techniques.

Under SB 1, as passed by the Senate, unless the commissioner of education determined that enough funds had been appropriated to fund the requirements of the bill, those requirements would not be binding on school districts. If enough funds were appropriated, SB 1 would require teacher training for first and second grade teachers during fiscal 2000-01 and development of assessments to be used for third graders who fail the TAAS test the first time they take it.

CSHB 1 . . . . $173.2 million

CSHB 1 would include TEA Rider 80, a contingency rider to fund SB 1, if enacted, at $173.2 million for fiscal 2000-01.

Supporters say ensuring that every child can read at grade level by the third grade is essential to ensuring that the state develops an educated workforce. Including a contingency rider in CSHB 1 would not guarantee approval of this program but would establish funding if the Legislature decides to enact the program.

HB 1 (filed version) $0

HB 1 as filed included no funding to cover costs associated with enactment of SB 1.

Governor's proposal . . . . $172 million

In *Setting Priorities, Getting Results*, the governor proposed funding of $172 million for fiscal 2000-01 for his initiative to end social promotion.

Other funding proposals . . . . $ varied

Other proposals being considered to help eliminate social promotion include the immediate implementation of the TAAS test-passage requirements in all grades and mandatory full-day kindergarten. These proposals, if added to the bill and enacted, could increase the cost of the initiative significantly.

If SB 1 is enacted and funded for fiscal 2000-01, funding for the program could increase significantly in future years. Depending on the number of students failing the third grade TAAS test in 2003, the costs associated with administering the test multiple times, remedial instruction, and extended-year programs (summer school) would need to be funded, and costs could balloon beyond current projections.

After-school initiatives

Agency: Texas Education Agency (TEA)

Background: TEA Strategy B.3.2 funds various programs for at-risk students, including counseling services and pregnancy education. Funding for these support programs for fiscal 1998-99 exceeded $70 million.

CSHB 1 . . . . $25 million

CSHB 1 would appropriate $25 million in general revenue for an after-school initiative, TEA Strategy B.3.2 and Rider 66. The commissioner of education could distribute the funds through competitive grants to districts. The funds would be targeted to serve children of middle-school age in districts that correspond to high juvenile-crime areas. The districts would have to show that these programs serve primarily at-risk students and include an academic-based curriculum, a citizenship component, and plans for parental involvement. Districts could contract with private organizations to deliver all or part of the programs. No more than 15 percent of the money could be used for administration or for research-and-development programs.

Supporters say after-school initiatives targeted to at-risk children of middle-school age in high juvenile-crime areas are the best way to prevent involvement in gang-related activities and to strengthen bonds with the school. While many districts already have after-school programs, these funds would allow other schools to implement such programs. Districts would be prohibited from supplanting current after-school funds with this new funding. If this program is successful in reducing the onset of juvenile criminal activity, it could be expanded later to other areas of the state.

HB 1 (filed version) $0

HB 1 as introduced did not include funding for a new after-school initiative.

Governor's proposal . . . . $25 million

In *Setting Priorities, Getting Results*, the governor proposed spending $25 million for an after-school initiative substantially similar to the proposal in CSHB 1.

Other funding proposals . . . . $ 0

Others maintain that schools and communities can develop after-school initiatives at fiscal 1998-99 funding levels. The Texas Department of Protective and Regulatory Services already funds certain after-school programs. The state should consider coordinating such programs to prevent duplication of services in certain areas and a lack of services in other areas.

Alternative education programs

Agency: Texas Education Agency (TEA)

Background: The Safe Schools Act (Education Code, chapter 37) outlines the circumstances under which students may be removed from the classroom and placed in a school-based alternative education program (AEP) or in an AEP operated by the juvenile justice system, called a JJAEP. The act requires every Texas school district to adopt a student code of conduct establishing conduct standards and specifying the circumstances under which a student may be removed from a classroom, campus, or AEP.

Every school district must create an AEP, either on or off campus, for students removed from the regular campus. AEPs must offer basic instruction in English language arts, mathematics, science, history and self-discipline. Students are placed in an AEP if they engage in conduct punishable as a felony or commit certain offenses on school property or while attending a school-sponsored event. These offenses include selling or using drugs or alcohol and retaliating against a school official. A teacher may remove a student from class if the teacher has documented repeated disruptive behavior or if the student's behavior is so unruly, disruptive, or abusive that it interferes with a teacher's ability to teach or other students' ability to learn. The student may not be returned to the classroom without the teacher's consent. Within three days of the student's removal from a classroom, the principal must schedule a hearing with the student, the student's parent or guardian, and the teacher to determine whether to place a student in an AEP. Students may be expelled if, after being placed in an AEP, they continue to engage in serious or persistent misbehavior that violates the district's code of conduct.

Students must be expelled if they commit certain felonies, including possession of firearms, murder, and indecency with a child. Before expulsion, the school board must hold a hearing at which the student is represented by a parent or another adult. Hearing procedures must guarantee the student's due process rights under the federal constitution. The 22 Texas counties with populations of more than 125,000 must work with school districts to establish JJAEPs for students expelled from school and found by a court to have engaged in delinquent conduct.

For accountability and funding purposes, students placed in AEPs are counted as remaining in their home campus as long as they do not stay in the AEP for more than 90 days. Students expelled to a JJAEP are not counted in the accountability or funding numbers of their home campus. TEA estimates the average length of placement in AEPs is 39 days, and the average length of stay in a JJAEP is 132 days.

CSHB 1 . . . . $36 million

CSHB 1 would maintain AEP funding at the fiscal 1998-99 level of $18 million per year (TEA Strategy B.3.2 and Rider 15). The funds are distributed to districts on the basis of average daily attendance (ADA) figures for students served by AEPs.

Alternative education programs

Supporters say current funding for AEP students is adequate because districts already receive funding for these students through the regular program and through weights assigned to those students, such as for special education or bilingual education. The funding for AEP placement is additional funding for those students for each day they are in an AEP program. Because students placed in JJAEPs are deducted from a district's ADA count, the district does not receive funding for those students.

Wish list funding

An item in the Article 11 "wish list" would provide an extra $64 million to fund TEA's full request for AEPs (see below).

HB 1 (filed version) . . . . $36 million

HB 1 as filed included no increase over fiscal 1998-99 funding for AEPs.

Other funding proposals . . . . $100 million

TEA requested additional funding of $64 million for fiscal 2000-01 for AEPs as included in the Article 11 wish list.

Supporters say this funding is necessary to continue to provide quality instruction to AEP students. Current funding levels were appropriate for the start-up phase of the program, but now that the program is fully implemented, it should be fully funded.

The argument that because AEP students already receive regular program funding they do not need additional funding is flawed, because the AEP program requires removal from the classroom. Assuming there are 24 students in a regular classroom and one is removed to an AEP, the cost of maintaining that classroom remains the same, but there is the added cost of creating and staffing the AEP classroom. Conservative estimates gathered by TEA project as many as 100,000 AEP placements per year in the coming biennium. Using the current average length of stay, funding those placements at $2,300 per day — TEA's estimate of the cost of AEP placement above and beyond the cost of the regular education program — would require about $50 million per year.

The purpose of this funding is not to increase the number of students in AEP programs but to ensure that all students in those programs receive the same amount of funding that they could receive if they were still in the regular classroom. With the possibility of increasing the high-stakes accountability measures such as the Texas Assessment of Academic Skills (TAAS) test, it is essential that all students, including those in AEPs, receive quality instruction in the core academic areas to ensure that they can perform at grade level on the required tests, supporters say.

Increased funding for Alliance school programs

Agency: Texas Education Agency (TEA)

Background: Compensatory education funds support many programs designed to help at-risk students. These funds are based on the number of students that qualify for the federal free and reduced lunch program. The commissioner of education sets aside a portion of these funds to support various programs, including the Texas Assessment of Academic Skills (TAAS) test, programs for gifted and talented students, pregnancy education, counseling services, communities in schools, extended-year programs, and juvenile-justice alternative education programs. LBB estimates that more than $306 million will be available for compensatory education set-asides in fiscal 2000-01.

The Alliance school program is funded through the investment capital fund set-aside of compensatory education funds. Created in 1993, the program now has 118 Alliance schools. Their programs include after-school activities, additional staff development, and efforts to increase parental involvement in schools. Alliance schools received $8 million during fiscal 1998-99 from compensatory education fund set-asides.

CSHB 1 . . . . $11 million

CSHB 1 would direct an additional $3 million in general revenue funding to Alliance schools (TEA Strategy B.3.2 and Rider 33).

Supporters say Alliance schools have had a dramatic impact on student success in schools that have implemented the program. The number of students who pass the TAAS test in Alliance schools has increased 8.5 percent over the previous year, compared to 4.5 percent in schools across the state. Alliance schools thrive by including parents as decision-makers in all aspects of the educational process.

Wish list funding

An item in Article 11 would increase total funding for the Alliance school program to $25 million for fiscal 2000-01.

Supporters say the state should expand this successful program to as many schools as possible to promote the level of student success noted at current Alliance schools. Schools participate in the Alliance program on their own initiative, and most serve primarily economically disadvantaged students. Increasing the total funding to $25 million would nearly triple the number of Alliance schools in Texas.

HB 1 (filed version) . . . . $8 million

HB 1 as filed would have maintained fiscal 1998-99 funding levels for the program.

TRS health-care insurance

Agency: Teacher Retirement System (TRS)

Background: TRS operates a group insurance program for retired public school employees, often called TRS-Care. According to TRS, when the program was established in 1985, projections assumed that the fund could run out of money in 10 years. TRS-Care now serves more than 100,000 retirees and nearly 20,000 dependents. Current projections indicate a deficit of $76 million to $115 million in TRS-Care for fiscal 2001. During the 75th Legislature, TRS-Care was projected to be depleted by December 2000. The Legislature directed no additional funds to the program, although HB 2644 by Telford changed TRS governing statutes and programs and implemented changes to increase TRS-Care's flexibility and to reduce costs. By fiscal 2008, the deficit is projected to reach more than $2 billion.

The House Joint Interim Committee on TRS-Care recommended continuing the program and asked the 76th Legislature to examine various options for restructuring TRS-Care. The plans presented offer 10-year projections of the total cost of the TRS-Care system ranging from $4.6 billion to $10.4 billion. Maintaining the status quo and providing additional general revenue to alleviate shortfalls would result in a total plan cost of $5.3 billion through fiscal 2009, with $3.6 billion in funding from the state.

CSHB 1 . . . . $242.3 million

CSHB 1 would increase funding to TRS Health (Strategy A.2.1) by $94.3 million over fiscal 1998-99 levels. The total would include $18.1 million for a state contribution of 0.5 percent of payroll growth and $76.2 million applied to fiscal 2001 (Rider 4).

Supporters say unless other legislation is enacted, the only option available for continuing TRS-Care through the next biennium is to supplement the fund with an additional $76.2 million. That amount would cover projected costs under established parameters. If costs increase beyond those projections, TRS may need emergency funding in fiscal 2001. By that time, however, the 77th Legislature will be in session and should be able to determine if additional money is needed and available. In the meantime, other cost-containment procedures may be implemented, either by legislation or at TRS, that could prevent costs from rising beyond the amount included in CSHB 1.

HB 1 (filed version) . . . . $244.2 million

HB 1 as filed would have increased TRS-Care funding by $96.2 million of general revenue over fiscal 1998-99 levels. About $20 million would have provided for a 0.5 percent state contribution rate, assuming payroll growth of 8 percent in fiscal 2000 and 2.75 percent in fiscal 2001. The remaining $76.2 million would have been applied to cover the projected deficit in fiscal 2001.

Governor's proposal . . . . $249.5 million

The governor's budget proposal in *Setting Priorities, Getting Results* recommended an increase of $81.2 million in general revenue to maintain the solvency of the TRS-Care program through fiscal 2001, in addition to increases for payroll growth.

Other funding proposals . . . . $320.6 million

TRS estimated a funding shortfall of $115.4 million for fiscal 2000-01, $39.2 million higher than the funding proposed in HB 1 as filed, due to increasing costs for prescription drugs. Another $37.1 million would provide a 10 percent contingency reserve level in the TRS-Care trust fund, similar to the reserve level maintained by Employees Retirement System group insurance programs for state employees.

Supporters say a higher amount is needed to cover projected increases in health-care costs, particularly for prescription drugs. All previous estimates have been based on cost increases of 8 percent per year, but recent data show that costs for prescription drugs may rise 13 percent per year or faster. This additional cost is especially heavy for the TRS-Care plan because it primarily covers retirees, who have greater needs for prescription drugs than do people covered by a general health-insurance plan. If this funding is not included in appropriations for fiscal 2000-01, TRS-Care runs the risk of becoming insolvent. If there is enough time for the 77th Legislature to act and if there is enough money available to make an emergency appropriation, the fund could remain solvent. A better plan, however, would be to provide up-front funding for the amount that TRS projects is needed, including a standard contingency reserve amount. If a surplus is available at the end of fiscal 2000-01, that amount could be used to offset the projected $350 million that may be needed to keep the fund solvent through fiscal 2002-03.

Higher Education Overview

Public higher education institutions funded by the state include 35 universities, 50 community colleges, three technical colleges, and three lower-division institutions. Funding also goes to the private Baylor College of Medicine, to nine public health-related institutions, and to eight institutions in the Texas A&M System that conduct research and other programs in agriculture, engineering, transportation, and science.

Amounts of state funding provided for four-year institutions vary widely. Some rely heavily on external support, while others are supported almost totally by state resources. Some 80 percent of the state funding appropriated to public universities is allocated through the Texas Higher Education Coordinating Board using two funding formulas and two supplements for those formulas.

Public community colleges and technical colleges receive funds through state formulas based on contact (or classroom) hours. Community colleges also are supported by local property taxes. Health-related institutions receive funding through direct requests for appropriations. Baylor College of Medicine receives funding equivalent to the cost of public medical-school education.

Two major constitutionally authorized funds provide money for new construction, major repair or rehabilitation, land acquisition, capital equipment, and library materials. The Permanent University Fund supports 24 institutions and agencies, including the University of Texas at Austin, Texas A&M University at College Station, the UT general academic institutions, the health-related institutions, and six of the eight A&M agencies. The Higher Education Fund supports 32 other institutions.

CSHB 1 would add about $763 million in all funds for higher education for fiscal 2000-01, a 6.2 percent increase over fiscal 1998-99, for a total of nearly $13 billion. General revenue-related funding would rise by about $726 million or 6.5 percent.

Higher Education Spending Comparisons
(millions of dollars)

Type of Funds	Expended/ Budgeted 1998-99	Recommended CSHB 1	Biennial Change	Percent Change
General revenue-related	$11,190.7	$11,916.4	$725.7	6.5%
Federal funds	$ 203.8	$ 204.7	$ 0.9	0.4%
All funds	$12,225.3	$12,987.7	$762.5	6.2%

Source: Legislative Budget Board, Summary of CSHB 1, March 31, 1999.

Higher Education Overview

Background

About 940,000 students are enrolled in Texas' public and independent higher education institutions, according to the Texas Higher Education Coordinating Board. As of fall 1998, about 421,000 students were enrolled in public community colleges, 398,300 in public four-year institutions, 15,400 in health-related institutions of higher education, and 8,700 in technical colleges.

Much of the debate on higher education funding in Texas centers on whether the budget is sufficient to prepare an educated workforce for the 21st century economy and to keep Texas institutions competitive with university systems in California, Michigan, Illinois, and other comparable states.

The state's commitment to higher education funding has not matched the inflation rate over the past several decades. Ten years ago, general revenue accounted for 40 percent of the operating budgets of Texas public universities. Today, general revenue accounts for 27 percent.

Another major debate hinges on efforts to maintain a racially, ethnically, and economically diverse student body. Demographic trends show that within the next 30 years, African-Americans and Hispanics will make up more than half of the Texas workforce, up from about one-third today. However, these two groups attend and graduate from universities at lower rates than Anglos. Some experts predict that Texas will wind up with a less educated, less competitive workforce unless public universities try harder to recruit and retain minority students. At present, Anglos comprise about 57 percent of students at Texas colleges and universities, with African-Americans at 10 percent and Hispanics at about 23 percent.

Funding level. As the student population gradually approaches the 1 million mark, higher education in Texas remains moderately priced by nationwide standards. Tuition and fees for a full academic year at a Texas public university average $2,500. In Texas, 88 percent of students are enrolled in public institutions, compared to an average of 78 percent nationwide.

Grants, loans, and state and federal support mean that few students actually pay the true costs of higher education out of their own pockets. However, nearly half of students entering college in Texas do not graduate within six years, often because of financial constraints. Tuition and fees may be more reasonable in Texas than in many other states, but the costs of food, transportation, housing, and day care have been rising steadily.

Chancellors of the major university systems asked the Legislature to increase spending for higher education by $1.2 billion in general revenue for fiscal 2000-01. They argued that to invest more money in higher education in Texas is to invest in the seed corn of a sound economy, guaranteeing that jobs created in Texas will go to Texans.

Nationwide studies indicate that people with bachelor's degrees, on average, earn about $1 million more over their lifetimes than do people with only high school diplomas. Texas is below the national average in the number of young adults who are college graduates, in college degrees per capita, and in the percentage of 19-year-olds enrolled in colleges and universities.

Diversity. Federal courts have ruled that UT-Austin's School of Law no longer may consider race and ethnic background as a factor in determining admissions. An attorney general's opinion said this ruling had the effect of prohibiting consideration of race in decisions on admissions, financial aid, and special programs for recruitment and retention of students at any Texas public higher education institution. A second attorney general's opinion is being sought. Meanwhile, Texas is one of few states in the nation with such broad constraints on affirmative-action programs.

Some argue that higher education institutions should give no special consideration to race or ethnic background in such decisions. Others, however, say that low rates of college participation among a growing African-American and Hispanic population eventually will make Texas less competitive economically. They argue that Texas is likely to lose new jobs, especially in high technology, to states and nations where workers are better trained and educated.

Strategies for promoting diversity within current legal limits include increased funding for financial aid and scholarships for all economically disadvantaged students and developing programs to reach out to students who are the first in their families to seek college degrees. Recruitment and retention strategies include developmental education programs to help all poorly prepared students with math, reading, and writing skills, as well as extra counseling and advising in the first two years of college.

Budget Highlights

CSHB 1 would add several provisions to HB 1 as filed. These issues are discussed in the pages following the overview:

- $33.3 million for 14 general academic institutions that would lose money due unforeseen effects of state funding formulas;
- $30.4 million to help community colleges cope with unexpected and dramatic increases in enrollment;
- $82 million, or $2 million in extra money per institution, for a new category of consolidated special items;
- $100 million for scholarships for students from low-income families; and

- $650,000 for a developmental (remedial) education pilot project that would link funding for participating institutions to their success in improving basic math, reading, and writing skills.

CSHB 1 includes several riders related to recruitment, retention, and basic-skills education. The riders would direct the Coordinating Board to study and report on the annual percentage of economically disadvantaged freshmen retained in college, accountability in developmental (basic-skills) education programs, and the quality of teacher education programs in Texas.

Texas Southern University. State and federal investigations have documented serious accounting and management problems at Texas Southern University (TSU). Lawmakers have discussed merging TSU with another university system or replacing the current TSU board of regents with a transition team. Early this year, the State Auditor's Office issued a report expressing concern about TSU's inability to deal with persistent problems in student financial aid, human resources, finance, and accounting. A rider in the fiscal 1998-99 General Appropriations Act required TSU to demonstrate progress toward improvement. In a new report issued on March 31, the auditor said TSU has put an appropriate plan in place for overhauling accounting and management procedures. The auditor said that while TSU has made substantial progress, concerns remain about financial problems at the school. CSHB 1 would continue to provide funding for TSU but would require the board of regents to continue to work with outside experts in the problem areas and to provide regular progress reports through June 2000. If no progress is documented, the Legislative Audit Committee would be instructed to recommend merging TSU into another university system.

Science and technology. The governor's budget proposal, outlined in *Setting Priorities, Getting Results*, recommended spending an additional $30 million for advanced research and technology to encourage new basic research and to support collaboration with private industry in science and technology. Article 11 of CSHB 1 contains a provision embodying the governor's proposal.

Tobacco funding. Article 12 of CSHB 1 contains a proposal to appropriate $1.8 billion in tobacco-settlement funds for various health programs, nine health-related institutions of higher education, and the Baylor College of Medicine. The measure would create a $400 million Permanent Health Fund for Higher Education, a separate fund outside the treasury, to be administered by the UT System board of regents for the benefit of medical research, health education, and treatment programs. Article 12 also would establish a separate permanent endowment trust fund for the health-related institutions for research and programs to benefit public health. Some $46 million would go to a Higher Education Coordinating Board trusteed fund to provide grants to academic institutions with nursing or allied health programs. The governor proposed appropriating $25 million in tobacco funds for a Border Health Initiative involving the Texas Tech University Health Sciences Center and the University of Texas-El Paso.

"Hold harmless" money for formula declines

Agency: Four-year institutions of higher education

Background: About 80 percent of the general revenue appropriated to public academic institutions is allocated through formulas. About 80 percent of formula funding is linked to the amount of instruction an institution provides (semester credit hours), with additional formula money for physical plant and facilities.

In 1997, the 75th Legislature replaced 12 funding formulas with two formulas and two supplements for those formulas and provided transition funding to offset unintended consequences of changes to the old system. Under the new system, junior- and senior-level courses generate more money than do lower-level courses. Some universities have projected losses in formula funding because of the new system.

Texas A&M University, for example, projected a $28.8 million drop in formula funding because the number of students in freshman and sophomore courses was expected to increase, while fewer students were expected to enroll in upper-division courses. Texas A&M's potential loss also would result from a slight decline in the number of credit hours and from discontinuing formula funding hours generated by doctoral students who exceeded the statutory cap on the number of hours they can take while paying in-state tuition.

The amounts shown below represent proposed ***increases*** in total funding for general academic institutions affected by the formula changes.

CSHB 1 . . . . $33.3 million

CSHB 1 would provide $33.3 million for fiscal 2000-01 to 14 general academic institutions that otherwise would experience drops in their formula appropriations from fiscal 1998-99 due to changes in the funding formulas, as well as to some institutions that have lost enrollment. The institutions would receive this funding through their "hold harmless" strategies.

Rider 39 would authorize the Higher Education Coordinating Board, in conjunction with the Formula Advisory Committees, to review the impact of short-term fluctuations in enrollment formula funding and to report to the 77th Legislature.

Supporters of providing "hold harmless" funding to the 14 institutions affected by the formula changes point out that a university's fixed costs do not decrease with enrollment declines that may be only temporary. The institutions need time to adjust to the new formula system and should not be penalized while these adjustments take place.

Opponents argue that the formula system was overhauled last session and should be given time to work. Funding for some institutions is falling because formula transition money was discontinued and because enrollment is falling for various reasons. Rapidly growing campuses need the money more than campuses with declining enrollment. The study called for in Rider 39 should be completed before the Legislature adds money to mitigate the effects of the formulas. If more money is available for higher education, it should be allocated through the formulas.

Wish list funding

Article 11 of CSHB 1 contains a provision that would express the intent of the Legislature to continue formula transition funding through fiscal 2005, then discontinue it.

Enrollment growth at two-year institutions

Agency: Two-year public institutions of higher education

Background: Enrollment in Texas' community and technical colleges has grown steadily over the past 10 years. Today, more Texas students attend two-year colleges (421,000) than attend four-year institutions (398,300). Community and technical colleges are an important educational resource for working and minority students. Community college enrollment of African-American and Hispanic students grew by nearly 20 percent, or by 25,580 students, between 1993 and 1997.

At many of these institutions, recent substantial increases in enrollment have outstripped the forecasts on which state funding was based. Overall enrollment was expected to grow by about 2.5 percent during fiscal 1998-99, but spring 1999 enrollment statistics showed an actual increase of 4.3 percent. South Texas Community College, for example, reported an increase of 88 percent in contact hours (hours of classroom teaching) since the previous biennium.

The amounts shown below represent proposed ***increases*** in the fiscal 2000-01 budget for community and technical colleges to cover higher-than-expected enrollment growth that occurred from fiscal 1996-97 to fiscal 1998-99.

CSHB 1 . . . . $30.4 million

CSHB 1 would provide $30.4 million in additional general revenue to pay for recent rapid enrollment growth at community and technical colleges based on spring 1999 enrollment figures. The institutions would receive this funding through their institutional enhancement strategies.

In addition, Strategy C.4.5 for the Higher Education Coordinating Board would provide $10 million more for community colleges that may experience future dramatic growth in enrollment. Rider 26 would limit this additional funding to colleges that experience growth of more than 10 percent in total contact hours.

Supporters say the additional money in CSHB 1 would reimburse community and technical colleges for their unanticipated enrollment growth. It makes sense for the state to provide more money for schools that experienced growth that was not expected when the forecasts were developed.

Opponents say these institutions could obtain additional money through their local tax bases, a resource that four-year institutions do not have.

Enrollment growth at two-year institutions

Wish list funding

An item in Article 11 of CSHB 1 would provide another $10 million for fiscal 1998-99 enrollment growth in community and technical colleges through Strategy C.4.7.

HB 1 (filed version) . . . . $34.9 million

HB 1 as filed would have provided an additional $34.9 million in general revenue for two-year institutions to cover rapid enrollment growth.

Governor's proposal . . . . $45.5 million

The governor's budget proposal as outlined in *Setting Priorities, Getting Results* would provide an additional $45.4 million for enrollment growth at public community and junior colleges.

Other funding proposals

Some institutions suggested revising Rider 26. The rider would limit the $10 million in additional funding for future growth to colleges that experience growth in contact hours of more than 10 percent. Under this rider, a college that experienced future enrollment growth of 9.8 percent would receive no funding, while a college that experienced growth of 10.2 percent would be funded for the entire amount of growth. Some institutions argue it would be fairer to lower the limit so that no college would receive funding for growth of 5 percent or less. All colleges would receive funding for any growth above 5 percent.

New method of funding special items

Agency: Four-year institutions of higher education

Background: In addition to their basic budgets, general academic institutions seek funding for a wide variety of special items, which are listed individually in the appropriations bill.

The amounts shown below represents an ***increase*** in funding due to a new way of presenting special-item funding in the appropriations bill.

CSHB 1 . . . . $82 million

CSHB 1 would add $82 million for special items for higher education through the new Institutional Enhancement strategy and would change the way the appropriations bill presents special items. It would provide for each of the four-year general academic institutions, for two-year institutions of the Lamar University system, and for technical colleges an extra $2 million for a new, consolidated category of special items that would be in addition to funding for other special items listed individually. These individual items would continue to be funded at current levels.

The new, consolidated category would include items related to educating students and conducting general research. Scholarships, program development items, capital items, plus items that could be funded under the formulas — including academic and research support, general institutional support, student services, and libraries — would be placed in an institutional enhancement category. An additional $1 million per year would be spent on these items or on any other enhancement or development initiatives of the institution's choice.

The second group of special items would continue to be listed for each institution in the bill item by item and would be considered individually on their merits. This group of items would not be appropriate for funding through the formulas and would include public service items, specific research items (in contrast to general support for research), student nurse stipends, funding for separate campuses, and accreditation program items. A key example would be funding to improve management information systems and fiscal operations at Texas Southern University. Others would include the McDonald Observatory for the University of Texas at Austin and the Gulf Coast Hazardous Substance Research Center for Lamar University-Beaumont.

Supporters of the proposed change say the current method of funding special items forces smaller institutions to compete with large, politically powerful institutions for appropriations. By giving each institution $2 million to spend at its discretion, this proposal would level the playing field and take some of the politics out of special-item funding. The proposal would give institutions more flexibility and more local control. Institutions find it hard to plan when they must wait to find out which special items will be funded and which will not. Also, institutions must return to the Legislature before making any changes in the way they use special-item funding.

Supporters also say a major purpose of this change would be to ensure that all institutions benefit from an increase in funding for higher education not related to the new funding formulas. This would help mitigate some of the unintended consequences of formula changes. No institution would lose money under this proposal.

Critics argue that large universities have more needs, more students, and more special-item requirements than small ones have. Giving each institution a flat $2 million without regard to size would discriminate against large institutions. Adding only $2 million for important special items would be a drop in the bucket for institutions with large budgets. If extra funding is available for higher education, it should be distributed on the basis of enrollment and credit hours, which reflect the actual need for revenue.

The funding formulas were overhauled only recently and they should be given time to work. Lawmakers should resist appropriating money outside the formula system.

Other opponents say it is important to let the institutions come before the Legislature to request special funding for special needs. This proposal could be a first step toward eliminating the practice of special-item funding, eventually folding these items into the formulas themselves.

Scholarships for students from lower-income families

Agency: Texas Higher Education Coordinating Board for all academic institutions

Background: Paying for higher education requires the combined efforts of students, their families, private donors, and local, state, and federal government agencies. In 1986, student tuition and fees accounted for 14 percent of all university revenue in Texas, while state general revenue comprised 55 percent. A decade later, the portion paid by students had risen to 21 percent, and the state share had fallen to 44 percent. Tuition and fees at state-supported institutions of higher learning tripled over that period.

Roughly 40 percent of Texas students receive some kind of needs-based financial aid, usually loans. The state provides roughly $122 million in grants and scholarships per biennium through a variety of programs. In fiscal 1998, state funding provided $64.8 million in grants and scholarships.

The amount shown below represents an ***increase*** in funding for state financial aid through the new Strategy C.1.19, Student Financial Aid, under the Higher Education Coordinating Board budget.

CSHB 1 . . . . $100 million

CSHB 1 would add $100 million in general revenue for fiscal 2000-01 for scholarships. Two bills direct the Coordinating Board to use this money for new scholarship programs — SB 37 by Ellis, which has passed the Senate, and HB 713 by Cuellar, which awaits action in the House Calendars Committee. Both would target students from lower-income families. Requirements for scholarship recipients would include completing college preparatory courses while in high school, with certain exceptions.

Supporters say it is in the best interest of Texas to provide financial aid to help produce the kind of educated workforce the state needs to attract industry and to make sure that jobs created in Texas go to Texans. Nearly 50 percent of students enrolling in Texas colleges and universities are not able to graduate within six years because of financial needs.

Supporters of racial and ethnic diversity in higher education agree that a program to help all economically disadvantaged Texans would be a fair and legal way also to recruit more African-American and Hispanic students and help them stay in college. It also would benefit the community college system, since many of its students come from lower-income families.

Studies show that taking college preparatory courses is a good predictor of success in higher education. Basing financial aid on such requirements as a good high school grade-point average (GPA) or high rank in class may have the unintended effect of encouraging students to duck harder courses. This program would send the right message to students on preparing for college.

Critics say scholarships should be based on merit. GPAs and test scores are good predictors of motivation and future success in higher education. Family income should not be a criterion in awarding scholarships. The state should direct its resources in this area to promising, prepared students who can make the most of those resources, rather than to students who may be more likely to drop out.

Other critics argue that $100 million is not enough for the proposed scholarships. The vast majority of financial aid is in the form of loans. Too many Texas students leave universities burdened by thousands of dollars of debt. The Texas Commission on a Representative Student Body recommended that the state spend $500 million for scholarships. The Coordinating Board estimates higher education students' unmet financial need at $637 million.

Wish list funding

An item in Article 11 of CSHB 1 would provide an additional $20 million through Strategy C.1.26 for the Texas Rising Star Scholarship Program to provide scholarship matching grants for Texas community college districts, to be administered by the Coordinating Board. Funding would be contingent upon enactment of HB 3583 by J. Jones, which would create the scholarship program.

Developmental education pilot project

Agency: Volunteering institutions of higher education

Background: Developmental education refers to teaching basic skills in reading, writing, and math to students whose high school educations have left them unprepared for college. The state spent $172 million on developmental education in fiscal 1998-99.

These programs, sometimes called remedial education, have been available in the past, but observers have questioned whether or not they work. Questions also have arisen about whether developmental education money is being spent strictly on programs to teach basic skills or whether some of the money is being diverted by the institutions to other purposes.

The amount shown below represents an ***increase*** in funding for developmental education above the $150 million recommended for total developmental education spending for fiscal 2000-01.

CSHB 1 . . . . $650,000

CSHB 1 would direct the Higher Education Coordinating Board to administer a new $650,000 pilot project on developmental education that would base funding on success in improving student skills. This would be in addition to the $150 million in developmental education funding from all sources in CSHB 1. The pilot project would designate $500,000 in general revenue through Strategy C.4.8 for community and technical colleges and $150,000 through Strategy C.4.7 for general academic institutions. The board would choose participating institutions from among those who volunteer. Participants would receive money based on the number of students who successfully complete developmental programs — the more students who succeeded, the more money the institution would receive. Institutions not volunteering still would receive developmental education funding under the current system. Rider 14 would require that money for this project be spent only on developmental programs, tracked separately in accounting systems. The rider would state that it is the Legislature's intent that all public higher education institutions fully address needs for developmental education. Riders 30 and 31 outline details of the program.

Supporters say courses in basic skills are a key way to retain students in college. If Texas is to prosper, it must do more to make sure that more Texas students finish their college degrees. New jobs being created in areas like high technology require higher levels of education. Educational level is linked to lifetime earnings, and it is no accident that Texas, with college graduation rates below the national average, also lags behind the national average in per-capita income. By providing more money for two-year colleges, where many less-prepared students begin their academic careers, this project would recognize the different roles of four-year and two-year institutions.

Developmental education pilot project

Opponents argue that universities already have adequate developmental programs in place and already have an incentive to retain students, because under current funding formulas, the institutions receive more money for upper-division courses. The question is whether students who are not prepared for college should go to college. Asking colleges to teach basic skills that students should learn in public school is the wrong approach because it uses resources that should go to students who are more prepared. The mission of four-year universities should not be diluted to help less qualified students.

Other critics suggest it would be a mistake to earmark developmental funding, because that would tie the hands of the institutions, while accounting procedures to track the funds would add layers of red tape.

Article 4 Overview

The Texas court system includes two high courts, 14 intermediate appellate courts, 396 state district courts, and 2,140 county, city, and justice-of-the-peace courts. Of those courts, the state funds the salaries of all 494 appellate and district judges and provides courtrooms for the three appellate courts in Austin. The state also pays the salaries of 149 district and county attorneys. The state provides no funding to local courts.

Other state-funded judiciary functions include the Office of Court Administration, Texas Judicial Council, State Law Library, Office of the State Prosecuting Attorney, State Commission on Judicial Conduct, Court Reporter's Certification Board, and Public Integrity Unit of the Travis County District Attorney's Office.

For fiscal 2000-01, CSHB 1 proposes total funding of $335.9 million for the judiciary, less than 1 percent of total state appropriations. This would represent an increase in all funds of $14 million or 4.4 percent over fiscal 1998-99. Proposed general revenue-related spending totals $293.2 million, an increase of 3.2 percent.

Article 4 Spending Comparisons
(millions of dollars)

Type of Funds	Expended/ Budgeted 1998-99	Recommended CSHB 1	Biennial Change	Percent Change
General revenue-related	$284.0	$293.2	$ 9.2	3.2%
All funds	$321.9	$335.9	$14.0	4.4%

Source: Legislative Budget Board, Summary of CSHB 1, March 31, 1999.

Background

The state is entirely responsible for funding the Supreme Court and the Court of Criminal Appeals and funds most of the functions of the 14 courts of appeals. The 13 appellate courts outside of Austin also receive some funding from the counties in which they are located. Such county supplements are not uniform, however, resulting in different funding needs for the various appellate courts.

Most judicial functions for trial courts are funded at the local level, including the cost of all court personnel (other than state-funded judges) and the courts' capital and operating expenses.

Court budgets are not based on the number of cases, but on the number of judges and staff. Therefore, a continuing issue for courts is showing the number of cases disposed in relation to the number filed, per court and per judge. In general, the number of cases filed increases every year, with criminal case filings rising faster than civil case filings in most parts of the state. The Supreme Court and Court of Criminal Appeals have some discretion over which cases they hear, but appellate courts must dispose of every case filed. As dockets have grown and the number of judges has remained constant, appellate judges have attempted to increase output to avoid creating a backlog of cases. The Office of Court Administration is responsible for tracking these data for all Texas courts.

Budget Highlights

The largest increase in funding in Article 4 is for information technology, totaling $7.3 million for fiscal 2000-01. Another $4.2 million is budgeted for increases in appellate court funding. An item in the Article 11 wish list would include funding for staff to eliminate case backlogs.

The State Law Library requested $1 million in additional general-revenue funds for staff salaries, technology upgrades, library materials, and extended library hours. CSHB 1 would appropriate an additional $180,000 to the library for new materials and technology.

Numerous bills filed this session propose adding more than 30 new district courts collectively. In 1997, Gov. Bush vetoed SB 20 by Ratliff, which would have created 15 new district courts. According to the LBB, it would cost the state approximately $127,081 per year to fund each new district court.

Significant budget issues for Article 4 discussed in the following pages include:

- additional block grant funding for appellate courts;
- needs for additional staff to eliminate backlogs in certain appellate courts; and
- funding the recommendations of the Judicial Committee on Information Technology.

Block grant funding for appellate courts

Agency: Supreme Court, Court of Criminal Appeals, Courts of Appeals

Background: The 75th Legislature authorized supplemental funding for appellate courts through block grants. Rather than decide through the appropriations process which needs of which courts would be funded, the General Appropriations Act for fiscal 1998-99 authorized $300,000 per year for the Supreme Court and the Court of Criminal Appeals. The 14 courts of appeals received $125,000 for each court and $7,500 for each judge, with a cap of $200,000. The courts were allowed to use these funds at their discretion.

The House Appropriations Committee's Interim Subcommittee on Funding Texas Courts found that the appellate courts were generally happy with the block grant approach. The only court reporting a problem was the 5th Court of Appeals in Dallas. That court, with 13 judges, could not receive the full amount of funding the formula would have provided because of the total cap.

CSHB 1 . . . . $4.2 million

CSHB 1 would increase block grant funding to all appellate courts by $867,332 for fiscal 2000-01. It would increase block grants to the Supreme Court and the Court of Criminal Appeals by $100,000 per year, to a total of $400,000 per year. The fiscal 1998-99 block grants for the 14 courts of appeals would be increased by $25,000 per court, to $150,000, and to $1,000 per judge, to $8,500. CSHB 1 also would remove the $200,000 cap for block grant funding.

Supporters say block grants are an appropriate method of funding this branch of government. Under the block grant approach, the judiciary need not ask the Legislature to authorize each purchase of capital equipment or every salary increase. Instead, the courts can use the funds at their own discretion for whatever needs they feel deserve the highest priority.

HB 1 (filed version) . . . . $3.4 million

The filed version of HB 1 would have retained fiscal 1998-99 funding for block grants.

Governor's proposal . . . . $3.4 million

The governor's budget proposal in *Setting Priorities, Getting Results* included no additional block grant funding for courts of appeals. It did include an increase of $191,666 to the 1st and 14th Courts of Appeals, both in Houston, for a shared court manager's office, which could be funded partially out of additional block grant revenue under CSHB 1.

Other funding proposals . . . . $6.9 million

The courts had asked for $3.5 million in exceptional items, not including $2 million for a three-court strike force, in addition to the base funding in HB 1 as filed. Nearly all of the requests for exceptional items were to fund staff salary increases and new staff positions.

Critics say block grant funding is a one-size-fits-all approach that may not cover the needs of each court. The 14 courts of appeals are diverse in number of judges and geographical location. Operating costs also can vary widely, depending on the support of local governments and the demand for attorneys in the area. Block funding may give some courts too much money and others too little to support their needs.

Appellate court case backlogs

Agency: 1st, 5th, and 14th Courts of Appeals

Background: A significant backlog of cases has developed over the past few years at the 5th Court of Appeals in Dallas and at the 1st and 14th courts in Houston. According to the 1998 Annual Report of the Texas Judicial System, these three courts had 6,213 cases pending on their dockets at the end of fiscal 1998. Of those cases, 2,337 had been pending for more than a year. The other 11 courts of appeals had 5,362 cases pending, with 916 pending for more than a year. The number of cases pending does not necessarily represent the backlog of cases, because some pending cases may have been filed very recently. However, none of the three courts disposed of more cases than were filed during fiscal 1998.

The Rules of Appellate Procedure authorize the Supreme Court to transfer cases among courts and to assign visiting and retired judges to hear appellate cases. In fiscal 1998, 479 cases were transferred out of these three courts and 42 cases were transferred in.

CSHB 1 . . . . $0

CSHB 1 would not include funding for additional staff to reduce case backlogs in these three courts. Supreme Court Rider 3, however, would direct the court to equalize the dockets of the 14 courts of appeals. Equalization would require less than a 10 percent variance in cases per judge among all 14 courts.

Supporters say that while the three courts need this funding to reduce case backlogs, additional consideration is needed as to what would be appropriate performance over the biennium to continue this program. By placing the request in the Article 11 "wish list," supporters hope that the courts can present proposals for appropriate performance measures.

Wish list funding

CSHB 1 includes a wish-list item for $1,980,000 to fund the staff requested by these three courts to reduce case backlogs.

Supporters say that the funding requested would reduce the backlog of cases at these courts for the least amount of money. Visiting and retired judges are available to hear cases, especially on three-judge panels with elected court members. The problem is that these judges do not have the staff needed to review the case files and draft the opinions, which are the most time-consuming parts of any appellate court decision-making process. Providing court staff to assist these judges could help them be more productive. The use of new staff for visiting judges also would help free up the time of current staff now assigned to those judges, allowing the elected judges to dispose of more cases per year.

Appellate court case backlogs

HB 1 (filed version) $0

HB 1 would have maintained fiscal 1998-99 funding levels for the 1st, 5th, and 14th Courts of Appeals.

Governor's proposal . . . . $1.4 million

The governor's proposed budget in *Setting Priorities, Getting Results* included $1,370,000 to fund additional attorneys and staff at the 1st, 5th, and 14th Courts of Appeals to reduce case backlogs.

Other funding proposals . . . . $2 million

The three courts of appeals had requested $660,000 each for the biennium to fund attorneys and staff for an appellate-court "strike force." According to the three courts, this funding, along with the use of visiting and retired judges and the new transfer rules adopted by the Supreme Court, could eliminate the backlog of cases at their courts within five years.

Opponents say funding an appellate-court strike force is unnecessary. With better case management and use of visiting and retired judges, the courts could reduce these backlogs without additional funding. For example, the 2nd Court of Appeals in Fort Worth has worked diligently over the past few years to reduce its case backlog and has succeeded in disposing of more cases than were filed. Moreover, while the 1st, 5th, and 14th courts have said they would employ these additional staff only until they have disposed of their backlogged cases, once the project ended in five years, these courts might be likely to claim that they could not do without these additional staff to cover their regular caseload.

Judicial Committee on Information Technology

Agency: Office of Court Administration (OCA)

Background: The Texas Commission on Judicial Efficiency, created in 1995, recommended the creation and funding of a single committee that would plan and implement information technology needs for all Texas courts. SB 1417 by Ellis, enacted in 1997, established the Judicial Committee on Information Technology (JCIT) and created a time payment fee designed to fund some costs of the JCIT.

The time payment fee is assessed against anyone who wishes to pay a fine due to a court over time. The local court collects a fee of $25 regardless of the amount of the fine. Half of the fee is deposited in the state's general revenue fund and the remainder goes to the county or city where the fee was assessed. The Comptroller's Office has estimated that the time payment fee will generate $13.7 million for the state during fiscal 2000-01.

CSHB 1 . . . . $7.3 million

CSHB 1 would appropriate $7.3 million of general revenue for fiscal 2000-01 to OCA for the JCIT. The funding would not include any additional FTEs. This would represent a $5.7 million increase over 1998-99 funding levels.

Supporters say this funding would be adequate to fund the needs of the JCIT for fiscal 2000-01. Using contracted employees to perform staff functions can be more cost-effective for these types of services, which may not be needed year-round.

HB 1 (filed version) $0

The filed version of HB 1 did not include funding for the JCIT for fiscal 2000-01. HB 1 would have decreased the appropriation to OCA by $1.6 million from general revenue appropriated for the JCIT in fiscal 1998-99. That amount was included in the larger request submitted by OCA for the JCIT.

Governor's proposal . . . . $4.2 million

In *Setting Priorities, Getting Results*, the governor proposed including nearly $4.2 million to fund a staff of 13.5 FTEs and capital equipment and operations to implement JCIT projects.

Other funding proposals . . . . $ varied

OCA's initial request for JCIT funding totaled $17.2 million and included funding for 31 FTEs, based on the JCIT's 1999 annual report detailing the information technology needs of Texas courts. The agency later revised that request to $10 million adding no new FTEs. The needed positions would be covered through contracted services.

Supporters say technology has been proven to improve the efficiency of Texas courts, and the JCIT should be funded fully to direct the implementation of that technology. Pilot programs around the state and the experience of larger counties have increased fine collections, reduced the cost of housing suspects awaiting arraignment, and allowed judges to manage their court dockets better. As an example of significant needs for technology, the state needs to be able to determine if a juvenile suspect has an outstanding warrant or deferred adjudication in another district. Technology also could benefit appellate courts by allowing electronic filing, which saves storage space.

At the least, the JCIT should be funded at a level equal to the revenue collected by the time payment fee, estimated at $13.7 million for the coming biennium. While the time payment fee is not dedicated to the JCIT, it was included in SB 1417 specifically to fund technology needs.

Opponents say the request is inflated. When asked, OCA was able to reduce its initial request by more than $7 million. Before committing significant resources to court technology, these programs should be implemented in pilot projects to determine their effectiveness and cost savings. Also, because most courts receive some or all of their funding at the local level, they should pursue local funds in addition to help from the state. The JCIT has set out parameters for implementing technology in courts. Within these parameters, individual courts can implement their own systems and still be assured of interconnectivity with other courts.

Article 5 Overview

Under CSHB 1, funding for the state's criminal justice and public safety agencies, found in Article 5, would account for 8 percent of the fiscal 2000-01 budget and 11 percent of general revenue-related spending. About 86 percent of Article 5 funding would come from general revenue-related monies.

The Texas Department of Criminal Justice (TDCJ), which operates the adult correctional system, would receive about 69 percent of the general revenue-related spending in Article 5. Together, the Texas Youth Commission (TYC) and the Texas Juvenile Probation Commission (TJPC), responsible for juvenile offenders, would receive about 9 percent of the funding. Other Article 5 agencies include the Department of Public Safety, the Alcoholic Beverage Commission, the Commission on Jail Standards, the Adjutant General's Department, the Criminal Justice Policy Council (CJPC), and three boards that license and regulate criminal-justice professionals.

CSHB 1 proposes spending a total of $6.5 billion in general revenue-related funds for fiscal 2000-01 for Article 5, an increase of about $444 million or 7.3 percent over fiscal 1998-99. About half of the increase in general revenue-related spending would be for costs related to increased numbers of adult and juvenile offenders in state facilities.

Article 5 Spending Comparisons
(millions of dollars)

Type of Funds	Expended/ Budgeted 1998-99	Recommended CSHB 1	Biennial Change	Percent Change
General revenue-related	$6,055.4	$6,499.0	$443.6	7.3%
Federal funds	$ 240.2	$ 255.8	$ 15.6	6.5%
All funds	$7,331.6	$7,549.1	$217.5	3.0%

Source: Legislative Budget Board, Summary of CSHB 1, March 31, 1999.

Background

Criminal justice as a state government function has experienced rapid growth in expenditures and employment over the past decade. In fiscal 1988-89, public-safety and criminal-justice spending accounted for about 5 percent of the budget; in fiscal 1994-95, about 10 percent; and in fiscal 1998-99, about 8 percent. CSHB 1 would keep the portion of the budget dedicated to criminal justice steady at about 8 percent.

Growth in adult correctional demand. Growth in criminal-justice spending has been driven primarily by increases in the number of adult offenders incarcerated in state facilities. Many factors contribute to the demand for correctional beds, including the crime rate, types of criminal sentences prescribed by the Legislature and imposed by the courts, rates of parole and probation, and rates of revocation of parole and probation. In addition, the state has a statutory duty to accept state offenders from county jails within 45 days after all processing is completed for their transfer to state facilities. In a September 1997 report, the CJPC stated that current growth in demand for prison beds has resulted not so much from increases in population or crime rates as from tougher parole-release and parole-revocation policies instituted by the Board of Pardons and Paroles.

From 1989 to January 1999, adult correctional capacity (mainly in prisons, state jails, and transfer facilities) increased 262 percent. As of March 1999, the state's total adult correctional capacity was about 149,000, according to CJPC. There is no overcrowding in state correctional facilities and no backlog of state inmates awaiting transfer to state facilities, CJPC reported. Prison-capacity needs could change depending on the outcome of proposed legislation. Proposals to increase time served in prison, abolish parole, or create new criminal offenses could increase demand for correctional beds.

Capacity decisions also could be affected by court rulings in the long-standing *Ruiz* lawsuit over prison conditions. Some say the state could increase the number of prison beds available if federal district court control over Texas prisons were terminated. The terms of the final judgment in *Ruiz*, signed in 1992, limited the population of some individual prison units and established other restrictions on inmate housing. Others argue that Texas prisons are being used to the fullest extent allowed by law and by sound correctional judgment and that state prisons have no empty beds that can be used constitutionally to house inmates. In March 1999, U.S. District Judge William Wayne Justice denied the state's motion to terminate the lawsuit's final judgment and found the system unconstitutional with regard to the conditions in administrative segregation, the use of force, and a failure to provide for inmate safety. The state has announced its intention to appeal the ruling.

TDCJ is under sunset review and will be abolished September 1, 1999, unless the Legislature continues the agency.

Growth in juvenile-offender populations. The capacity of state facilities for juvenile offenders also has grown over the past decade. In 1995, Texas had space in TYC facilities for 1,686 juveniles. By 1998, TYC capacity had reached almost 4,000 beds, with another 1,293 juveniles in residential contract care, halfway houses, and day treatment programs. According to CJPC, this growth is due to tougher policies for punishing and supervising juvenile offenders. CJPC estimated in January 1999 that demand for TYC beds will outstrip supply by 124 youths in fiscal 2000, by 245 youths in fiscal 2001, by 354 youths in fiscal 2002, and by 462 youths in 2003.

Between 3 percent and 4 percent of juveniles referred to the juvenile justice system in 1997 were sent to TYC. The rest were handled on the local level by juvenile probation departments or juvenile courts. In 1997, 467 juveniles were certified to stand trial as adults. In 1995, the Legislature adopted a progressive-sanctions model that provides guidelines for making decisions about juvenile offenders. The model recommends sanctions based on the severity of the offense and prior history of the juvenile. The guidelines provide for seven levels of sanctions that are incrementally more severe. All Texas counties have adopted the model, but they are not bound by its guidelines.

In 1995, the 74th Legislature authorized $37.5 million in general-obligation bonds for counties to build secure post-adjudication facilities for juvenile offenders. As of January 1999, 10 facilities were operating 620 beds and another nine facilities had 494 beds underway.

Budget Highlights

CSHB 1 would increase general revenue and general revenue-dedicated spending for Article 5 by $443.6 million, with 47 percent of that increase going to TDCJ. About $228 million of the Article 5 increase would be for costs related to increased populations of adult and juvenile offenders.

TDCJ. CSHB 1 would appropriate $4.7 billion in all funds to TDCJ for fiscal 2000-01. The agency's general revenue and general revenue-dedicated appropriation would be $4.5 billion, a 5 percent increase over fiscal 1998-99 expended and budgeted amounts. The proposed increases are primarily to operate previously authorized facilities that opened in fiscal 1998-99 and will open in fiscal 2000-01 and for costs to handle a larger number of offenders. CSHB 1 also includes increases to TDCJ of $14.8 million in general revenue and $9.8 million to be carried forward from fiscal 1998-99 for the third phase of the agency's revamping of its computer systems. About $2.2 million would be spent to upgrade and maintain the Board of Pardons and Paroles information system. Funding to supervise misdemeanor offenders who have been placed on probation would increase by $3.9 million. CSHB 1 also would reappropriate to TDCJ $41.2 million in general-obligation bond funds for repairs, renovations, and payment of judgments from construction claims. These bonds had been appropriated to the agency in previous biennia.

CSHB 1 proposes no new spending for adult prison construction. CJPC reported in January 1999 that, assuming a continuation of present trends in parole approval and revocation rates and crime rates, the 76th Legislature does not face a crisis in prison capacity. This is due in part to approval by the 75th Legislature of $64 million for two new high-security units expected to become operational in late 1999 and in part to authority given to TDCJ in November 1997 to meet unexpected demand for prison space by using existing appropriations to build 4,120 beds, to change some existing housing arrangements, and to contract as needed for additional beds. In March 1999, TDCJ received a $27.6 million emergency appropriation as part of SB 472 by Ratliff to help pay for expenditures made to meet this unanticipated demand. The new beds authorized in late 1997 should be operational in early 2000. CJPC projects that with these changes and the ability to contract for beds as needed, the state should be able to meet demand for prison space for the next five years.

A provision in the Article 11 wish list would authorize spending $15.6 million to contract for a 500-bed intermediate-sanction facility for offenders who violate parole and mandatory release conditions.

TYC and TJPC. In addition to increases to TYC for increased operating costs due to a larger population, CSHB 1 would give TYC $3.8 million for additional staff in youth correctional facilities. The bill also proposes spending $35.3 million, with $9.5 million coming from general-obligation bonds and the rest from federal funds, to expand TYC's capacity by 392 beds. In addition, CSHB 1 would send $16.6 million in additional funds to Texas counties to pay for placing juveniles in secure local facilities.

An Article 11 provision would give TJPC $1.2 million for 13 new employees to handle the agency's expanded duties and $657,000 to TYC to increase preservice training for new employees.

Other Article 5 issues. Other highlights of Article 5 include an increase of $2 million for the Texas Department of Public Safety's fugitive apprehension unit and a reduction of 13 employees for the Texas Alcoholic Beverage Commission.

The pages that follow examine these criminal justice and public safety issues:

- increased funding for adult correctional managed health care;
- a pay raise for adult correctional and parole officers;
- funding for the Harris County Boot Camp;
- increasing TYC capacity;
- reducing the staff-to-youth ratio in juvenile correctional facilities;
- a pay raise for juvenile correctional officers;
- new funds for juvenile offender placements;
- funding for juvenile justice alternative education programs;
- a pay raise for Schedule C law enforcement officers; and
- expanding uses of the Crime Victims Compensation Fund.

Increased funds for correctional managed health care

Agency: Texas Department of Criminal Justice (TDCJ)

Background: In 1993, the 73rd Legislature created the Correctional Managed Health Care Advisory Committee and charged it with developing a managed health-care system for prison inmates. Under the system, TDCJ contracts through the committee with the University of Texas Medical Branch at Galveston (UTMB) and the Texas Tech University Health Sciences Center (TTUHSC) to provide a statewide managed health-care network. UTMB's contract covers about 80 percent of the prison inmates and TTUHSC's contract, about 20 percent.

In fiscal 1993, TDCJ paid the universities $5.99 per inmate per day for health care. Costs per inmate per day (the capitation rate) dropped each year from 1994 through 1996, then rose in 1997 and 1998. There is debate over the base level of per-capita expenditures for 1997 and 1998, with estimates ranging from $5.30 to $5.36. A rate of $5.25 was budgeted for 1999. Psychiatric care (TDCJ Strategy C.1.3) is not provided as part of these capitated rates but is paid to the universities through a type of fee-for-service arrangement.

Over the four years of the managed health-care contracts, revenue for the universities has exceeded expenses by $51 million, according to the advisory committee. In 1996, $12 million of the excess was returned to the general revenue account and $12 million was used to offset the fiscal 1998 appropriation for managed health care, leaving the universities with $27.3 million, or 2.9 percent, in net earnings over the four years.

The universities report that they used their $27.3 million in net earnings to establish a $10 million catastrophic reserve, to repair and renovate correctional health-care facilities, to buy capital equipment, to fund educational programs for staff and correctional research, to establish a reserve for accrued compensable absences, and to allocate funds for an electronic medical-records system.

The need for a catastrophic reserve has been debated throughout the appropriations process. LBB's January 1999 Staff Performance Report recommends that the Legislature consider determining whether catastrophic reserves are necessary in contracts between health-related institutions and state agencies and, if they are necessary, whether they should be held in the state treasury or in the health-care providers' accounts. The state auditor's January 1998 report on TDCJ's managed health-care program stated that the lack of analysis of the appropriate amount of a reserve fund results in uncertainty about how much the state should pay for inmate care.

Under the Texas Sunset Act, the Correctional Managed Health Care Advisory Committee is scheduled to be abolished September 1, 1999, unless continued by the Legislature.

Increased funds for correctional managed health care

The proposals discussed below represent ***increases*** over HB 1 as filed. The original bill, based on a capitation rate of $5.30, would have allowed for growth in the prison population. LBB reduced the proposed appropriation by the $10 million catastrophic reserve that the universities had established, resulting in an increase in HB 1 as filed of $31.9 million over fiscal 1998-99 levels, for a total of $516.7 million for correctional managed health care for the biennium.

CSHB 1 . . . . $32.8 million

CSHB 1 would fund correctional managed health care (TDCJ Strategy C.1.4) at $32.8 million above the amount in HB 1 as filed. Part of this increase would be financed with $5.5 million set aside by the universities for accrued compensation balances and with $3.6 million they set aside for an electronic medical-records system. The remaining $23.7 million would come from general revenue. Overall funding would include:

- $5.2 million for increased expenses of dealing with the aging prison population;
- $5.5 million for increased costs of treating inmates with HIV;
- $20.1 million to vaccinate for hepatitis B all inmates on hand and all those entering prison; and
- $2.0 million for increased costs of psychotropic medications.

Supporters say this proposal would be a prudent approach to meeting the needs of the managed health-care system. Increases are needed because of a growing elderly population, increasing costs to care for HIV-positive inmates, the threat of hepatitis B, and increased costs for new psychotropic drugs. Other factors in rising costs include the overall upward trend in health-care costs, the universities' allocation to managed health care of their full indirect costs of the program, the $100-a-month pay raise given to state employees by the 75th Legislature, and increased employee-benefit costs.

CSHB 1 would help fund the increase with $9.1 million that the universities have set aside inappropriately or unnecessarily. Spending decisions about millions of dollars in excess funds that the universities have made from the managed health-care contracts rightfully belong with the Legislature. The universities' proposals for an accrued compensation fund or an electronic medical-records system should be discussed with the Legislature and handled through the appropriations process. CSHB 1 would use $5.5 million that the universities had earmarked for accumulated compensable time, such as vacation time, of their roughly 4,000 managed health-care employees. Having a reserve this large assumes that the universities would have to pay all vacation-time balances at the same time. While that practice may be common for universities, it is not common for state agencies and is unnecessary for the managed health-care providers.

CSHB 1 would help pay the costs for a growing population of aging prison inmates. The portion of inmates age 55 and older, considered elderly because they generally have health problems similar to those of free-world persons 10 years older, is growing. In 1994, 2.6 percent of the prison population was 55 or older. By the end of fiscal 1998 it was 3.7 percent, and by the end of fiscal 2000-01 it should be about 5.3 percent. Health care for these elderly inmates costs about $9 per day in addition to the base rate.

The costs of providing health care to the growing number of inmates who are HIV-positive also are growing. From September 1997 to February 1999, the number of HIV-positive inmates increased by 21 percent, and from 1997 to 1998, the average cost of HIV drugs per offender rose about 125 percent. Health-care costs for these inmates are about $37 per day in addition to the base per-capita rate.

CSHB 1 would fund these cost increases at a lower level than requested by health-care officials by taking into account that the costs for these inmates will occur progressively throughout the biennium as inmates age and are admitted to prison.

CSHB 1 would allow TDCJ to provide hepatitis B vaccinations for all of the on-hand population and for all who enter prison during the biennium. Hepatitis B is a growing problem in the prison system and threatens the general public if offenders released from prison spread this disease to the rest of society. The U.S. Centers for Disease Control and Prevention has recommended hepatitis B vaccines for all offenders.

CSHB 1 also would increase funding for psychotropic medications so there would be additional funding if a doctor prescribed one of the new generation of drugs, which are generally more expensive than older medications.

The universities do not need a catastrophic reserve because TDCJ and the state ultimately are responsible for paying for inmate health care. If the universities had unexpected expenses or a catastrophe and needed additional funds, they could turn to TDCJ, which could use the standard process for handling budget emergencies. For example, budget execution authority could be used, TDCJ could use its authority in the proposed new Rider 54 to spend money in fiscal 2000 that it had been appropriated for fiscal 2001, or the Legislature could provide an emergency appropriation next session.

HB 1 (filed version) $0

HB 1 as filed would have taken into account the growth in offender population only and would have appropriated $516.7 million for correctional managed health care for the biennium, an increase of $31.9 million over fiscal 1998-99 funding.

Governor’s proposal $0

The governor’s budget report, *Setting Priorities, Getting Results,* recommends the same spending as in HB 1 as filed.

Other funding proposals . . . . $65.4 million

The Correctional Managed Health Care Advisory Committee proposed an increase of $65.4 million in addition to the amount in HB 1 as filed. The increase would fund:

- $12.7 million for costs of the aging prison population;
- $15.5 million for hepatitis B vaccinations;
- $24.2 million for HIV care;
- $3.0 million for psychotropic medications; and
- $10 million to maintain the catastrophic reserve.

Supporters say that while inmate managed care achieved savings in the early years, rising costs and other factors have resulted in the need for more funds for managed care this biennium. The calculations used to figure the fiscal 1997 and 1998 base amount for managed health care failed to account for all managed health-care expenditures in previous years. This made the base calculations artificially low and makes the need for additional funds more critical. With less money, rising costs, and a growing population, it could be difficult to provide the same level of care for inmates during fiscal 2000-01.

It is appropriate and prudent for the universities to maintain a catastrophic reserve, which helps protect the local, usually rural, hospitals and providers with which the universities contract to provide some inmate care. The universities do not place these local providers at risk but assume responsibility for all costs, even if they are more than expected. The reserve could be important if, for example, the standard of care for a disease changes. The state, through the rural hospital, could be obligated to meet that standard of care even though the cost was higher than was anticipated when the hospital contracted with the universities. With a reserve fund, the universities could meet the increased cost. The universities saw the need for a reserve fund in fiscal 1998 when they lost $2.1 million through the managed health-care contract. An actuarial analysis showed that the reserves should be even higher to manage the risks properly. It could be cumbersome and time-consuming for the universities and TDCJ to obtain additional appropriations outside of the general appropriations bill. Also, without a reserve for unexpected expenses, it could be difficult to negotiate the best rate for contracts with local providers.

The universities should be required to handle accrued employee compensatory time the same way as other higher education institutions handle it, whether by setting aside funds or by other means. It could be unwise to use the funds the universities have earmarked for an electronic medical-records system to finance the increased spending proposed by CSHB 1. The electronic records system is necessary to replace the current hard-copy file system to enable the universities to compile and analyze health-care data.

Pay raise for correctional and parole officers

Agency: Texas Department of Criminal Justice (TDCJ)

CSHB 1 . . . . $0

HB 1 (filed version) $0

Governor's proposal . . . . $53.7 million

The governor's budget document, *Setting Priorities, Getting Results*, recommended $53.7 million for a pay raise for correctional and parole officers, essentially the same as TDCJ's proposal.

Other funding proposals . . . . $54.1 million

TDCJ proposed a $54.1 million pay increase for correctional officers, other uniformed personnel who interact with inmates, parole officers, and parole case managers and caseworkers.

Supporters say this proposal would address problems TDCJ is encountering with recruiting and retaining correctional and parole officers who are paid well below the national averages for their jobs. It would raise pay for about 33,000 employees, with most getting an increase of about 3.4 percent.

This proposal would help the agency recruit correctional and parole officers. TDCJ often competes with local law enforcement and private industry for these employees, and recruiting has been especially difficult with a healthy economy. Some prison units are about 100 officers short of a full staff. In the past 12 months, TDCJ has had to hire 300 to 700 correctional officers per month to keep pace with growth in the offender population and employee turnover.

Without better pay, the turnover rate for correctional officers could continue to rise as officers find it easy to obtain jobs with better pay and working conditions. The turnover rate has risen from about 13 percent in 1995 to 17 percent in 1998. The loss of a correctional or parole officer is costly to the state because these officers receive expensive specialized training costing thousands of dollars.

The majority of those receiving raises, 71 percent, would be front-line correctional officers who have been with the department for at least 20 months and have not become supervisors. This proposal would raise these officers' pay by $816 a year to an annual salary of $26,340. These officers have the most contact with Texas' approximately 140,000 prison inmates and state jail offenders, and they have difficult jobs involving a significant amount of risk and hardship. Correctional officers can be assaulted by inmates, have urine and feces thrown at them by inmates, be subjected to abusive language, have to perform strip searches on inmates, and have to work at night and on weekends. The rate of assaults on staff more than doubled from 1993 to 1998.

Thirty-seven states pay their correctional officers more than Texas pays, and Texas ranks well below the national average, according to the 1998 Corrections Yearbook. The national average annual salary for an entry-level correctional officer is $21,246, while Texas pays $17,724. The national average maximum annual salary for a nonsupervisory officer is $34,004, while Texas' maximum salary is $25,524, according to the yearbook. Even when adjusted for different costs of living, Texas salaries are far below the national average.

This proposal also would include raises for parole officers and others who work with parolees. These jobs also often involve a significant amount of risk when officers visit offenders' neighborhoods and homes. The proposal would raise the salary for parole officers II, the largest classification of parole officers, by $953 per year to $28,985. Parole officers' salaries also rank well below national averages.

Other proposals include giving officers a $100-per-month increase at a total cost of about $79.2 million for fiscal 2000-01 or a $200-per-month increase that would cost about $158.4 million.

Funding for Harris County boot camp

Agency: Texas Department of Criminal Justice (TDCJ)

Background: The Harris County community supervision (probation) department operates a 384-bed boot camp. The county donated the land for the camp, which opened in 1991. The camp was built and operated originally with formula-allocated TDCJ funds given to Harris County for community corrections programs. From 1993 to 1999, Harris County operated the camp with these funds and with money from court-ordered fines paid by the state as part of a settlement of a lawsuit concerning crowding in the Harris County jail. Settlement of the suit required the state to pay for improvements in the Harris County jail and probation department to divert offenders from TDCJ because of the state's role in the county's jail overcrowding.

About 1,322 offenders are sent through the boot camp per year, according to the Criminal Justice Policy Council (CJPC). The camp uses military-style discipline, physical activity, life skills training, educational classes, education on substance abuse, and attitudinal reorientation.

CSHB 1 . . . . $13 million

CSHB 1 would provide $13 million to TDCJ through Rider 58 for Strategy A.1.2 to make a grant to the Harris County Community Supervision and Corrections Department to operate the Harris County boot camp.

Supporters say spending money on the Harris County boot camp makes good fiscal sense because it saves the state money by diverting offenders from TDCJ. Beginning in 1999, Harris County will run out of funds from the overcrowding lawsuit that have been used to operate the camp. According to CJPC's March 1999 report to the House Appropriations and Senate Finance committees, if the camp closes, approximately 688 offenders per biennium who otherwise would have gone to the boot camp would be sent instead to state jails and prisons. The total cost to the state for housing these offenders would be $8.7 million for the biennium.

Spending money to keep the Harris County boot camp open would be appropriate because one of TDCJ's budget strategies is to divert offenders to community-based programs and away from incarceration in TDCJ. The agency now spends about $54 million per year on diversion programs and another $45 million per year to fund community programs to encourage alternatives to incarceration. Historically, because Harris County had money from the overcrowding lawsuit to run the boot camp, it has not competed seriously for the diversion grants. As a result, it has received only about 1 percent of the funds, even though it has about 17 percent of the state's felony probationers. If specific funding for the boot camp is not provided, Harris County could begin to compete with other counties for those grant funds, and other counties could begin to receive less.

Funding for Harris County boot camp

The camp diverts from TDCJ not only Harris County offenders but offenders from throughout the state. Of the roughly 9,375 camp graduates, about 324 came from 46 counties other than Harris. In addition, the camp is an effective way to deal with offenders. About 61 percent of the camp graduates have no revocation or new sentence involving incarceration from a Harris County court within three years of graduation, according to one study.

HB 1 (filed version) $0

Other funding proposals . . . . $ varied

Opponents of state funding for the camp say the state's commitment to funding the Harris County boot camp was supposed to be temporary. Funding a boot camp for one county could set an unwise precedent and elicit demands by other counties for similar funding. At a minimum, the state should require Harris County to put in matching funds to operate the camp.

Increasing Texas Youth Commission capacity

Agency: Texas Youth Commission (TYC)

Background: In January 1998, projections showed that demand for space to house juvenile offenders committed to TYC by the courts was increasing more rapidly than anticipated. At that time, the Criminal Justice Policy Council (CJPC) projected that demand would outstrip capacity by 249 beds in 1998 and by 203 in 1999.

In February 1998, the state's executive and legislative leadership authorized TYC to use funds left over from an emergency appropriation, along with federal funds, to contract with local juvenile probation departments or private facilities for new capacity. With this authority and the October 1999 projected opening of a new 330-bed facility, TYC reports that it should meet its needs for fiscal 1998-99. TYC will spend about $3.4 million in general revenue in addition to federal grant funds to contract for this unanticipated demand.

In 1998, TYC had about 5,300 juveniles under its care, with almost 4,000 in state facilities and the rest in contract care, halfway houses, or other programs. This was an increase of 158 percent from the 1993 population. From 1995 to 1998, TYC added 2,196 beds in its institutions.

CSHB 1 . . . . $35.3 million

CSHB 1 would appropriate $9.5 million in general-obligation bonds and $25.8 million in federal funds to increase TYC's capacity by 392 beds (TYC Strategy A.1.3).

TYC would use federal funds plus $3.1 million in general-obligation bonds to expand its McLennan County facility by 320 single-cell beds. TYC would build 48 beds for emotionally disturbed youths and a new education building at the Corsicana Residential Treatment Center with $3.4 million in general-obligation bonds. It would build a 24-bed dormitory and 30 administrative segregation beds at the Gainesville State School with $3 million in general-obligation bonds. Administrative segregation beds are used for disciplinary and other problems and would not count toward TYC's capacity.

Supporters say TYC needs additional capacity to meet the demand for beds for delinquent juveniles and to address the changing nature of the TYC population. The CJPC now estimates that demand for TYC space will outstrip supply by 124 beds in fiscal 2000, by 245 in fiscal 2001, and by about 462 in fiscal 2003. TYC's population is growing because a tougher juvenile justice system is sending more youths to TYC, imposing longer minimum sentences, and returning more youths to TYC because their probation or parole has been revoked.

The progressive-sanctions guidelines developed in 1995 to aid juvenile courts in making decisions about juvenile offenders recommend that the most serious and violent offenders be committed to TYC. The state should meet its commitment to house these offenders. Demand likely would continue to increase even if commitments to TYC are limited by statute because, while certain juveniles may be sent to TYC when the progressive-sanctions guidelines recommend they stay at the local level, other juveniles for whom the guidelines recommend commitment are not sent to TYC.

Since 1995, TYC has built mostly dormitories. Now it is time to build single cells to handle an increasing number of violent and assaultive youths. Assaults per 100 juveniles increased from 204 in 1995 to 305 in 1998, an increase of 50 percent. From 1991 to 1998, the percentage of youths among TYC's population who were adjudicated for violent offenses grew from 20 percent to 26 percent.

CSHB 1 wisely would fund the bulk of this construction with federal Violent Offender Incarceration grants, which can be used only for construction or contract care. It makes good fiscal sense to use state general-obligation bond funds for the rest of the construction, since correctional facilities are long-term capital investments.

HB 1 (filed version) $0

Governor's proposal . . . . $35.3 million

In *Setting Priorities, Getting Results,* the governor proposed the same construction and funding plan as in CSHB 1.

Other funding proposals . . . . $ varied

Opponents of the expansion program say the state should stop its emphasis on bricks and mortar to handle juvenile offenders. With nearly half of TYC youths being reincarcerated after three years, the state should stop putting its money into TYC and give funds to local juvenile-probation department programs that keep youths close to their families and communities and can emphasize rehabilitation.

Space in TYC always will lag behind demand. The more beds are built, the more youths the courts will send to fill them. At least some of the increases in TYC population are due to courts stepping outside the progressive-sanctions guidelines and sending to TYC juveniles who should be handled at the local level. Instead of increasing state correctional capacity, it could be better to limit the types of juveniles who could be committed to TYC to those who have committed the most serious offenses.

Other opponents of expansion argue that bonds are a costly way to finance construction, generally doubling building costs. Operating expenses for the facilities are another hidden cost of building more beds.

Reducing staff-to-youth ratio in juvenile correctional facilities

Agency: Texas Youth Commission (TYC)

CSHB 1 . . . . $3.8 million

CSHB 1 proposes spending $3.8 million to hire 100 new juvenile-corrections officers (TYC Strategy A.1.1, Correctional Programs).

Supporters say more juvenile corrections officers are needed to improve the staff-to-youth ratio in some TYC facilities. These officers should be used primarily to oversee open dormitories during the night and early-morning shifts. CSHB 1 would make it possible to lower the ratio on these shifts from the current rate of 1-to-16 or 1-to-20 to a ratio of 1-to-12 in seven facilities and would allow a partial reduction in the ratio in two other facilities.

The increase in staff is necessary to ensure adequate security and safety in open dormitories used to house about 65 percent of the TYC population. These dormitories, many of which house 24 juveniles in one room, have become more dangerous for staff and youths because TYC is housing an increasing number of violent and assaultive juveniles. From 1995 to 1998, the rate of assaults on staff or students increased 50 percent. The number of adult staff is important in keeping order because TYC staff carry only radios and no weapons. CSHB 1 could help reduce the TYC assault rate, reduce the destruction of TYC property, and prevent events like the 1998 riot in an open dormitory at a TYC facility and the 1998 escape of 11 youths, who later were apprehended.

HB 1 (filed version) $0

Governor's proposal . . . . $3.1 million

In *Setting Priorities, Getting Results,* the governor proposed funding for 81 new employees to staff dormitories at six facilities with open-bay dorms. This would reduce the staff-to-youth ratio in the dorms at these facilities from 1-to-16 to 1-to-12 on the night and early-morning shifts. Supporters say this proposal would address security problems in the highest-risk facilities.

Other funding proposals . . . . $14 million

TYC proposed spending $14 million for 362 new employees to lower staff-to-youth ratios and to increase some security personnel. An increase of 132 employees would be used to reduce the staff-to-youth ratio during overnight and early-morning shifts from the current 1-to-16 or 1-to-20 level to 1-to-12 in all facilities. Another 105 employees would be dedicated to control centers in the facilities that now are staffed sometimes by moving an employee from overseeing a dorm. Thirty-nine persons would staff the security units where youths with disciplinary and other problems are housed. The remaining 86 new employees would beef up outside security on each campus, so there would be three staff members on duty where now there may be only one or two. The additional staff also would be available to help in moving youths around and during meals, visitation, classes, and emergencies.

Pay raise for juvenile corrections officers in state facilities

Agency: Texas Youth Commission (TYC)

CSHB 1 . . . . $0

Wish list funding

Article 11 contains a request for $8.2 million to raise the pay of juvenile corrections officers.

Supporters say this proposal would help make juvenile corrections officers' pay more competitive with salaries offered by the adult correctional system, which would help TYC recruit and retain officers.

TYC often competes with the Texas Department of Criminal Justice (TDCJ), local law enforcement agencies, and private industry for employees, and recruiting has been especially difficult with a healthy economy. Although starting salaries for TDCJ and TYC correctional officers are comparable, within 20 months a TDCJ officer can be making $2,127 a month, about $511 per month more than a TYC officer's pay after that time. This proposal would raise the annual salaries of juvenile corrections officers who have been on the job for six months from $19,392 to $22,548, a raise of $263 per month. This would be a significant step in closing the gap with adult correctional officers and would allow TYC to use a multistep process to evaluate new officers and give them raises as their experience and skills grew.

Without better pay, the turnover rate for juvenile corrections officers could continue to rise as officers find it easy to obtain jobs with better pay and working conditions. Juvenile corrections officers had a turnover rate of almost 40 percent in 1998 and about 32 percent in 1997. About 40 percent of these officers cite low pay as their primary reason for leaving TYC. Retaining experienced juvenile corrections officers is vital to ensure that TYC facilities have adequate security and that juveniles are supervised properly. The loss of a juvenile corrections officer is costly to the state because these officers receive expensive specialized training.

A pay raise would help recognize the difficult and risky jobs of juvenile corrections officers. Assault rates on staff and students rose 49 percent from 1995 to 1998.

HB 1 (filed version) $0

Governor's proposal . . . . $14.5 million

The governor's budget document, *Setting Priorities, Getting Results*, proposed spending $14.5 million to increase juvenile corrections officers' pay, including salaries after 20 months that would be comparable with those of adult correctional officers and increases for some case managers and others to address salary “compression” issues.

Other funding proposals . . . . $17 million

Another proposal would spend $17 million to bring juvenile corrections officers’ pay after 20 months up to the TDCJ level of $2,127 per month and to increase pay for some treatment and rehabilitation staff.

Supporters say parity with TDCJ should be the goal of a pay raise for juvenile corrections officers. This proposal also would allow pay increases for some treatment and rehabilitation staff so that salaries for that group of professionals could be slightly higher than those of the correctional officers. Keeping salaries for the two groups from being compressed would help the agency recruit and keep the professional staff, who are vital in treating and rehabilitating the juveniles.

New funds for juvenile offender placements

Agency: Texas Juvenile Probation Commission (TJPC)

Background: The 1995 revisions to the juvenile justice law established progressive sanctions guidelines for local juvenile probation departments and courts to follow when making decisions about juvenile offenders. The model, based on the severity of the offense and the prior history of the juvenile, has seven levels of sanctions that are incrementally more severe. Levels 1 through 4 recommend that juveniles be placed on community supervision (probation) and remain in their homes. Level 5 recommends probation and placement in a post-adjudication secure correctional facility. Level 6 recommends commitment to the Texas Youth Commission (TYC), and Level 7 recommends TYC commitment or transfer to the adult criminal justice system for certain juveniles 14 and older who commit specific offenses. Although all counties have adopted the model, they are not bound by its guidelines.

Juveniles placed on probation and removed from their homes can be placed in secure or nonsecure facilities. Secure placement facilities include post-adjudication facilities registered with TJPC. Nonsecure placements include placements in foster homes and treatment centers.

In fiscal 1998-99, the state spent \$51.2 million to fund placements for 7,700 juveniles. The state gave local probation departments \$16.7 million for secure placements of 2,232 juveniles and \$34.5 million for nonsecure placements of 5,468 juveniles.

The proposals discussed here would be ***in addition to*** the approximately \$51 million in HB 1 as filed, the same amount as spent for placements (Strategy A.2.1) in fiscal 1998-99.

CSHB 1 . . . . \$16.6 million

CSHB 1 would spend \$16.6 million through TJPC Rider 8 to fund new secure, post-adjudication placements of juvenile offenders in local juvenile facilities (Strategy A.2.1). These funds would be in addition to the approximately \$51 million in the agency's budget, the same amount as in fiscal 1998-99, for secure and nonsecure placements. The additional placement money could be spent only on juveniles adjudicated for Level 5 offenses or higher, for a felony deadly-weapons offense or other felony offense that involved a deadly weapon, or for a felony sex offense that requires the juvenile to register with law enforcement authorities. TJPC would reimburse county juvenile probation departments for the placements, rather than give counties the placement monies up front.

Supporters say this proposal would help meet counties' needs for state help in paying for the placements of juvenile offenders outside their homes by funding 1,086 secure six-month placements. This could help slow the growth in juvenile commitments to TYC by keeping some offenders at the local level who otherwise would have been sent to TYC. The juveniles targeted by CSHB 1 have committed serious offenses and need an appropriately tough sanction short of going to TYC. If local juvenile probation departments do not have adequate funding for secure placements, courts or the departments could make inappropriate decisions about handling these juveniles. For example, a juvenile could be sent to TYC, where the state would pick up the tab, even though it might be more appropriate to keep the youth in the local area, or juveniles who might need some type of secure placement short of commitment to TYC could be returned to their homes. CSHB 1 would ensure that TJPC has some oversight of the new placement funds and could monitor whether they are used appropriately, because the bill requires the agency to reimburse counties for the placements rather than send the counties the funds up front.

Wish list funding

Article 11 contains $14.9 million for the biennium for additional nonsecure post-adjudication placements of 964 offenders at sanction Levels 2 through 5.

HB 1 (filed version) $0

HB 1 as filed proposed spending about $51 million for juvenile offender placements, the same amount as spent in fiscal 1998-99.

Other funding proposals . . . . $31.8 million

TJPC proposed spending $31.8 million above the fiscal 1998-99 level for secure and nonsecure placements of juvenile offenders in local communities. The agency proposed using $16.8 million to increase the average length of stay of juveniles in secure placements and another $14.9 million to extend stays in nonsecure placements.

The agency offered two options for spending the money. One would extend the length of stay for the same number of juvenile placements that the state now funds, 7,700. The other would keep the same average lengths of stay for the 7,700 placements the state now funds but pay for longer average stays for an additional 2,050 placements.

Funding for juvenile justice alternative education programs

Agency: Texas Juvenile Probation Commission (TJPC)

Background: The Safe Schools Act (Education Code, chapter 37) outlines the circumstances under which students may be removed from the classroom and placed in a school-based alternative education program (AEP) or in an AEP operated by the juvenile justice system, usually called a JJAEP. The act requires every Texas school district to adopt a student code of conduct establishing conduct standards, specifying the circumstances under which a student may be removed from a classroom, campus, or AEP, and outlining the responsibilities of each county juvenile board concerning the establishment and operation of a county AEP. For more information on AEPs, see "Alternative education programs" under Article 3.

The 22 Texas counties with populations of more than 125,000 are required to work with school districts to establish JJAEPs for certain students who are expelled from school for serious on-campus or school-related offenses listed in Education Code, sec. 37.007. These students often are called "mandatory" students. Schools have discretion about expelling and referring additional "discretionary" students. "Other" students may attend a JJAEP as ordered by a juvenile court, by choice, or under other circumstances.

The JJAEP must provide an academic program focusing on English language arts, mathematics, science, history, and self-discipline. The program must operate at least seven hours a day, 180 days a year. Counties and school districts have some flexibility in arranging the terms of a JJAEP. The school district may provide personnel and services or may contract with an independent third party to assume full responsibility for operating the JJAEP.

The state, through TJPC, pays the counties that are required to have JJAEPs a rate of $53 per "mandatory" student for each attendance day. Funding for "discretionary" and "other" students is arranged between school districts and JJAEPs. For the 1997-98 school year, about 4,161 students were in the JJAEPs in the 22 mandated counties. About three-fourths of the JJAEP students in the 22 counties are "discretionary" or "other." The average length of stay in a JJAEP for the 1997-98 school year was 132 days. In addition to the large counties required to have JJAEPs, another nine counties operate programs with partial funding from TJPC. About another 10 counties operate JJAEPs, some with partial state funds from other sources.

For fiscal 1998-99, TJPC was appropriated $20 million for the JJAEP program. TJPC is required to divide $2 million per year of the appropriation among the 22 counties mandated to have a JJAEP, set aside $500,000 for grants to mandated and nonmandated counties, and reimburse mandated counties $53 per student per day of attendance for those mandated to be sent to a JJAEP. TJPC also can fund summer school or extended-year programs if funds are available. Projections indicate that about $8.5 million of the program's fiscal 1998-99 funds will remain unspent.

CSHB 1 . . . . $20 million

Funding for juvenile justice alternative education programs

CSHB 1 would appropriate $20 million to TJPC for JJAEPs (Strategy A.2.3). Texas Education Agency (TEA) Rider 46 would require TEA to transfer the $20 million to TJPC for the JJAEP program from the compensatory education set-aside from the Foundation School Fund.

TJPC Rider 11 would require TJPC to allocate $2 million in each year of fiscal 2000-01 to the 22 mandated counties on the basis of the juvenile-age population. It would require TJPC to set aside an additional $500,000 in a reserve fund for each fiscal year for grants to mandated and nonmandated counties. TJPC would have to distribute the remaining funds to the mandated counties at a rate of $59 per student per day of attendance in JJAEPs for mandatory students.

Counties with populations of at least 72,000 but less than 125,000 would be eligible to participate in the JJAEP program and to be reimbursed at the rate of $59 per student per day. If surplus funds were available, TJPC could fund additional services for mandated counties such as summer school or extended-year programs.

Supporters say CSHB 1 would reimburse counties for mandatory JJAEP students at a rate that is closer to the cost of operating a facility and would allow additional counties that choose to run a JJAEP to receive the $59-per-day reimbursement rate.

Although it is difficult to estimate the average cost of a JJAEP because of the wide range of programs, a rate of $59 per day is closer to the average cost than $53 per day, the rate used in fiscal 1998-99. TJPC would have adequate funding for this increase within the $20 million appropriation. In fiscal 1998-99, some funds went unspent. CSHB 1 would take a prudent approach to allowing other counties to be reimbursed at the per-student rate by authorizing this only for counties with populations between 72,000 and 125,000. Nonmandatory counties and counties below 72,000 could apply for the $500,000 in grants that TJPC is required to award and could use that money for yearly start-up or other costs. A reimbursement system based on specific weights, such as how far a student is transferred, could be unfair to counties that may have many students to transport in a smaller area.

HB 1 (filed version) . . . . $20 million

HB 1 as filed would have appropriated $20 million for the JJAEP program, to be allocated to mandatory counties for mandatory students at a rate of $53 per student per day of JJAEP attendance.

Governor’s proposal . . . . $8.8 million

Funding for juvenile justice alternative education programs

The governor's budget report, *Setting Priorities, Getting Results*, recommended $8.8 million in JJAEP funding to cover a 20 percent increase over current populations.

Other funding proposals . . . . $ varied

Some argue that some of the appropriation should be set aside specifically to help nonmandatory counties with school year start-up costs, just as the $2 million is distributed to the mandatory counties on the basis of population. Others say that a model for JJAEPs should be developed and funding should be based on that model. Some argue that it would be better to reimburse counties on the basis of weights assigned to students, such as how far a student has to be transported or whether a student needs bilingual instruction.

Pay raise for Schedule C law enforcement officers

Agency: Texas Department of Public Safety (DPS), Texas Parks and Wildlife Department (TPWD), Texas Alcoholic Beverage Commission (TABC), Texas Department of Criminal Justice (TDCJ)

CSHB 1 . . . . $36.6 million

Article 9, sec. 180 of CSHB 1 would increase salaries of Schedule C employees, all commissioned peace officers at four state agencies, by $36.6 million for fiscal 2000-01, excluding benefits. Benefits would cost another $5 million for the biennium. About $30.8 million would be for DPS salaries, $3.3 million for TPWD, $1.8 million for TABC, and $0.7 million for TDCJ. The money for DPS would come from Operators and Chauffeurs Account 99, a general-revenue dedicated account. Funds for TPWD would come from Game Fish and Water Safety Account 9, also general-revenue dedicated. The increases for TABC and TDCJ would come from general revenue.

Supporters say the state should raise salaries for Schedule C commissioned officers to address problems with recruitment, retention, and promotion. CSHB 1 would address these problems by raising the base pay of front-line commissioned officers such as DPS troopers and by creating an advancement structure for supervisors. CSHB 1 is based on fair, reasoned recommendations by the State Auditor's Office, which found that the state lags 6 percent to 21 percent behind the market in compensating law enforcement officers. The auditor recommended changes to establish competitiveness and to address problems created by a lack of significant difference between the salaries of front-line officers and supervisors.

Recruitment, retention, and promotion problems are especially serious for front-line DPS troopers and the sergeants, lieutenants, and captains who supervise them. A study during the interim between the 75th and 76th Legislatures showed wide disparities between DPS officers' pay and that of local law enforcement officers. The survey found that state law enforcement officer salaries were lower than the average salaries paid by 31 jurisdictions and significantly lower than average salaries paid by eight urban cities and counties. For example, an entry-level DPS trooper earns $10,000 less than the equivalent position with the City of Garland, and a DPS sergeant earns $20,000 less than an equivalent position with the City of Austin.

These pay disparities cause problems in recruiting and retaining officers who could go to many other law enforcement agencies and make more money. The state invests a significant amount of money in training and outfitting an officer — about $11,500 to $15,000 in academy training costs alone, by one estimate — making the loss of an officer that much more costly to the state.

Pay raise for Schedule C law enforcement officers

CSHB 1 also would address the lack of a significant difference among the salaries of troopers, sergeants, and lieutenants, often called salary "compression." This compression means that a promotion from senior trooper to supervisory sergeant would bring an increase of only $171 a month. In most cases, this would not be enough to persuade troopers to take a promotion that likely could involve a transfer to another area and could mean uprooting their families and taking on additional responsibilities. It is especially difficult to entice troopers to apply for promotions if it means they would have to move to a rural area.

State law enforcement officers, especially DPS officers, deserve these raises because of the unique job they do to ensure public safety and because of the risk their jobs entail. DPS troopers are on call 24 hours a day and are responsible for all public safety emergencies in their area. DPS signaled the importance of this pay raise to the agency by not pursuing about $50 million in other needed items so that any additional funds given to the agency could be directed toward a pay raise.

Raises should go to all the positions on Schedule C because all are commissioned law enforcement officers who have similar duties and take similar risks. TABC, TPWD, and TDCJ face recruitment and retention problems similar to those of DPS because their law enforcement officers also can be lured away easily to other agencies. In addition, law enforcement officers at each agency receive specialized, expensive training that makes it expensive to lose one of them. Schedule C was created on the basis of a studied decision to pair these similar jobs, and it would be unwise to give a raise to only part of the Schedule C officers. It would be appropriate to handle Schedule C law enforcement officers separately from other state employees because historically this group has been handled separately. This proposal would refine the salary decisions made when Schedule C was created and would address unforeseen problems that arose after its creation.

Wish list funding

Article 11 of CSHB 1 contains three provisions that would require DPS to use its appropriated funds to offer pay incentive programs for commissioned peace officers who meet specific qualifications. DPS would be required to offer a pay incentive of not less than $250 per month to commissioned peace officers in the traffic law enforcement division who accept positions at 50 designated hardship stations with high employee turnover. DPS also would have to implement a pilot program to pay incentives of not less than $250 per month for officers in the traffic law enforcement division in rural areas who are certified to provide adult or pediatric emergency medical services. In addition, the department would have to pay incentives for officers holding four-year college degrees.

Pay raise for Schedule C law enforcement officers

HB 1 (filed version) $0

Governor's proposal . . . . $48.2 million

In his budget document, *Setting Priorities, Getting Results*, the governor proposed the same $48.2 million in salary adjustments as DPS proposed.

Other funding proposals . . . . $48.2 million

DPS and the Department of Public Safety Officers Association proposed a $48.2 million pay increase for fiscal 2000-01.

Supporters say this proposal would raise the base pay for law enforcement officers slightly more than the proposal in CSHB 1 to ensure that their salaries would be competitive with those of local law enforcement agencies. Also, this proposal would do a better job of resolving the compression issue by establishing larger differences between supervisory ranks.

Others say that while these proposals would give most Schedule C officers raises of between 5 percent and 12 percent, the State Auditor's Office recommended a minimum pay raise of 3.9 percent for all state employee classified salaries. It would be unfair to single out one group of state employees for such a large salary increase when decisions on raises for other state employees have not been made. Teachers, child-abuse caseworkers, administrative employees, and other employees deserve pay raises as well. Many state employees are underpaid for the valuable jobs they do, and many agencies have their employees lured away by other offers.

Expanding uses of Crime Victims Compensation Fund

Agency: Texas Department of Criminal Justice (TDCJ), Office of the Attorney General (OAG), Texas Department of Human Services (DHS)

Background: The Crime Victims Compensation Act, enacted in 1979, established a compensation fund to reimburse victims of violent crimes for certain expenses that are not recoverable from other sources, such as insurance, workers' compensation, Social Security, Medicaid, or Medicare. Other persons besides crime victims are eligible to receive payments from the fund, including dependants, immediate family members, certain household members, and persons who legally assume the obligation or voluntarily pay certain expenses for the victim. Reimbursement is allowed for such expenses as medical, counseling, funeral, child care, and participation or attendance in certain judicial proceedings related to the crime, but not for property damage. Money in the fund comes primarily from court fees paid by criminal offenders. The attorney general administers the fund.

In 1997, voters amended the Texas Constitution to allow money in the Crime Victims Compensation Fund (CVCF) and the compensation to crime victims auxiliary fund to be used only for delivering or funding victim-related compensation, services, or assistance. In addition, the money could be used to help victims of mass violence if other money appropriated for emergency assistance is depleted. The 75th Legislature, in SB 987 by Moncrief et al., authorized the Legislature to appropriate money in the CVCF to state agencies that deliver or fund victim-related services or assistance and allowed the fund to be used for grants or contracts supporting victim-related services.

The OAG estimates that in fiscal 2000, the fund will have an unexpended balance from fiscal 1999 of $194.6 million. Revenue for fiscal 2000-01 will be approximately $129 million, and payments from the fund for compensation claims are estimated at $67.7 million for the biennium.

CSHB 1 . . . . $113.3 million

CSHB 1 would appropriate $113.3 million from the CVCF to three state agencies for programs relating to crime victims. About $74 million of the appropriation from the CVCF was included in HB 1 as filed. Another $11.4 million is new spending from the CVCF added by CSHB 1. The rest of the appropriation, $27.9 million, was included in HB 1 as filed but financed by sources other than the CVCF. CSHB 1 would use the CVCF as a method of finance to fund this $27.9 million.

CSHB 1 would appropriate from the CVCF:

- $71.4 million for the OAG:

Expanding uses of Crime Victims Compensation Fund

- $67.7 million for reimbursements for the crime victims' compensation program;
- $3 million for the Court Appointed Special Advocates (CASA) program ($1 million to swap out funding in HB 1 as filed and $2 million in additional spending); and
- $714,366 for the Crime Victims Institute;

- $31.4 million for TDCJ:

  - $2.5 million for the Battering Intervention/Prevention Program ($1 million to swap out funding in HB 1 as filed and $1.5 million in additional spending);
  - $4.9 million for the agency's victims services ($2.8 million to swap out funding in HB 1 as filed and $2.1 million in additional spending); and
  - $24.0 million in new CVCF funding for restitution centers;

- $9.4 million for DHS for family violence services ($3.6 million to swap out funding in HB 1 as filed and $5.8 million in additional spending); and
- about $1 million for employee benefits.

Supporters say CSHB 1 would give the attorney general the necessary funds to pay compensation claims to victims and then use the CVCF for worthwhile programs that meet the constitutional and statutory requirements that money in the fund go to victim-related compensation, services, or assistance. CSHB 1 is a prudent approach to expanding uses of the CVCF and would use the fund only for programs that clearly help victims. Since this is the first session the Legislature has authority to fund victims services or assistance from the CVCF, it is best to proceed cautiously and study other proposals for spending the fund to ensure that any appropriations would meet the statutory and constitutional restrictions. For example, some proposals to expand appropriations beyond those in CSHB 1 would give money to victim's groups that may have a political agenda.

Appropriations to the CASA program (OAG Strategy C.1.3) would help the program expand beyond the current 95 counties where it operates. This would allow CASA to recruit, train, and supervise additional volunteers to advocate for abused and neglected children. CSHB 1 also would fund, as authorized by statute, the Crime Victims Institute (Strategy C.1.2), a research organization that focuses on crime victims.

CSHB 1 would provide increased funding, through TDCJ, to expand the Battering Intervention and Prevention Program (TDCJ Strategy A.1.2) run by local nonprofit groups. Criminal defendants and probationers can be ordered to attend these counseling and education programs aimed at reducing family violence. CSHB1 also would swap out general revenue funding for restitution centers with CVCF (Strategy A.1.2). The dozen or so restitution centers in the state are run by local probation departments and allow probationers to work at a free-world job and earn restitution money while living at the center. CSHB 1 would fund TDCJ's victims services division (Strategy F.1.1) so it could continue programs that provide prison-related services to crime victims, such as notifying victims when an inmate is released. In addition, the agency would be able to expand its successful victim-offender mediation program.

CSHB 1 also would increase appropriations to DHS to fund Strategy C.1.1, Family Violence Services, which funds organizations that provide emergency shelter and support services to family violence victims and education and prevention programs.

Wish list funding

A provision in the Article 11 wish list would appropriate $6 million from the CVCF to the OAG to contract with children's advocacy centers, contingent upon enactment of HB 2208 by Goodman et al. or similar legislation. This provision would reduce fiscal 2000-01 appropriations to the Department of Protective and Regulatory Services by $749,516 in general revenue and $2.2 million in federal funds.

HB 1 (filed version) . . . . $74 million

HB 1 as filed would have spent about $73 million from the CVCF — about $67.7 million for the attorney general's crime victim compensation program, $1 million for the CASA program, $714,366 for the Crime Victims Institute, and $3.6 million for DHS family violence centers.

Other funding proposals . . . . $ varied

Supporters of spending additional funds from the CVCF say CSHB 1 does not go far enough in funding worthwhile programs for crime victims. Other programs that could be funded through the CVCF include prosecutor victim assistance coordinators and law enforcement victim liaisons; judicial training and resources to assist victims; children's advocacy centers; the attorney general's sexual assault-prevention and crisis-services program; legal assistance for crime victims; the development of statewide programs and training for sexual assault-prevention programs; and other grants to victims-assistance programs and organizations.

Others argue that some of CSHB 1's uses of CVCF are too far afield from the requirement that the fund be used to help victims. For example, CSHB 1 would give $24 million to TDCJ for restitution centers, which do not clearly meet the mandate that the fund be used to deliver or fund victim-related compensation, services, or assistance.

Article 6 Overview

Article 6 contains Texas' 10 natural resource agencies: the Texas Natural Resource Conservation Commission (TNRCC), Texas Parks and Wildlife Department (TPWD), General Land Office (GLO), Texas Railroad Commission (TRC), Texas Water Development Board (TWDB), Texas Department of Agriculture (TDA), Texas Low-Level Radioactive Waste Disposal Authority (LLRWA), Texas Animal Health Commission (TAHC), Soil and Water Conservation Board (SWCB), and Texas river compact commissions. These agencies are entrusted with protecting, managing, and developing Texas' agricultural, wildlife, environmental, water, and oil and gas resources, as well as state parks and lands.

The natural resource agencies are funded primarily by general revenue and general revenue-dedicated funds. Some, like TNRCC and LLRWA, are funded mainly by fees, while TDA is supported almost entirely by general revenue. Federal funds account for between 10 and 25 percent of the budgets of the TNRCC, TPWD, TWDB, TRC, TAHC, and SWCB.

CSHB 1 proposes all-funds spending of $1.7 billion for fiscal 2000-01 — about 2 percent of the total state budget — for Article 6 agencies. This would be slightly less than budgeted for fiscal 1998-99. General revenue-related funds would total $1.4 billion, a 1.2 percent decrease from the fiscal 1998-99.

Article 6 Spending Comparisons
(millions of dollars)

Type of Funds	Expended/ Budgeted 1998-99	Recommended CSHB 1	Biennial Change	Percent Change
General revenue	$ 433.3	$ 426.2	$ (7.1)	(1.6)%
General revenue dedicated	$ 954.1	$ 944.9	$ (9.2)	(1.0)%
Federal funds	$ 208.2	$ 205.2	$ (3.0)	(1.4)%
All funds	$1,708.6	$1,698.5	$(10.1)	(0.6)%

Source: Legislative Budget Board, Summary of CSHB 1, March 31, 1999.

Budget Highlights

CSHB 1 would decrease funding slightly for most Article 6 agencies. The largest portion of the overall decrease would come from phasing out LLRWA. Other issues regarding Article 6 agencies and programs are summarized below.

Funding regional water planning. The Article 11 wish list includes $13.9 million for fiscal 2000-01 for TWDB to provide additional financial assistance to regional water-planning groups. SB 1 by Brown et al., the omnibus water bill enacted in 1997, directed these groups to develop regional water plans and directed TWDB to provide financial assistance. TWDB says that to keep the state's water plan on track, it needs to fund 100 percent of the regional groups' planning costs, leaving them to pay 100 percent of their administrative costs. The governor's proposed budget also includes $13.9 million in general revenue to fund the regional planning groups.

Limiting beach erosion. Rider 19 in GLO's budget, contingent upon enactment of HB 2560 by Gray et al. or a similar bill, would appropriate $23 million, of which $12.6 million would be general revenue, for fiscal 2000-01 to fund coastal erosion planning and response.

Brush control. Article 11 includes a provision for $9.2 million of general revenue for SWCB for brush control. Of that amount, $200,000 would be used to operate and administer the Fort Hood Brush Management Project. Brush-control feasibility studies in the Frio, Nueces, Pedernales, Wichita, Canadian, and Middle Concho river basins and the Edwards Aquifer would cost $1.4 million. The board would use the remaining funds on a pilot project in the North Concho River watershed. Funds would be distributed on a cost-share basis to landowners and agricultural producers who are developing and implementing individual brush-control plans with the help of the soil and water conservation district. If the pilot program works and additional funding is provided, brush-control programs could be started in the other seven watersheds.

Galveston Bay and Corpus Christi estuaries. Article 11 includes $5 million in general revenue and $1 million in federal funds for fiscal 2000-01 to fund implementation of the Galveston Bay and Corpus Christi estuary programs. Under the Clean Water Act, Texas has entered into agreements with the U.S. Environmental Protection Agency (EPA) to establish these two programs, and local, state, and federal officials have completed plans for protecting and restoring the estuaries.

State participation bonds. CSHB 1 includes an amendment to Rider 4 for TWDB that would allow the board to issue an additional $50 million in state participation bonds. The board could not issue state participation bonds that would require general revenue to be used for debt service on the bonds. The 75th Legislature appropriated general revenue to pay debt service on $50 million in state participation bonds sold during fiscal 1998-99, and this proposal would modify Rider 4 to do the same during the coming biennium.

Stormwater discharge permits. Rider 26, a contingency rider in TNRCC's budget, upon enactment of HB 1283 by Counts would appropriate $2.3 million for fiscal 2000-01 from additional revenues collected from the waste-treatment inspection fee to the National Pollutant Discharge Elimination System (NPDES) stormwater permitting program. Additional fee revenue is expected to be available because certain fee exemptions for cities are due to expire. The rider also would authorize 12 FTEs for fiscal 2000 and 35 for fiscal 2001. In September 1998, EPA delegated administration of the NPDES program to TNRCC. The state must phase in new requirements under the program, including the permitting of stormwater discharges.

Promoting Texas agricultural products. Agriculture Commissioner Susan Combs proposed $2 million in new spending for the "Go Texas" program in fiscal 2000-01 to promote Texas agricultural products. CSHB 1 would allow TDA, contingent upon enactment of SB 705 by Ogden or similar legislation, to fund the "Go Texas" program with $1 million out of existing appropriations, except for funds set aside for restoration work at Fair Park in Dallas. Article 11 would include an additional $1 million in new general revenue for this program contingent on the enactment of legislation establishing the "Go Texas" program. The funds would be combined with money from agricultural producers for a unified marketing effort.

Other Article 6 issues. The pages that follow address these issues involving Article 6 agencies:

- phasing out LLRWA;
- funding for TNRCC to monitor nonpoint-source pollution in Texas lakes and streams; and
- increasing TPWD's share of revenues from the sales tax on sporting goods.

Phasing out the Low-Level Radioactive Waste Disposal Authority

Agency: Texas Low-Level Radioactive Waste Disposal Authority (LLRWA)

Background: In 1980, the federal government directed states to dispose of the low-level radioactive waste generated within their borders, other than that generated by government facilities. Texas created LLRWA in 1981 to select, finance, build, operate, and ultimately decommission a disposal site for low-level radioactive waste produced in Texas. LLRWA is funded by planning and implementation fees paid by Texas waste generators.

Federal law encourages states to form interstate compacts to create shared disposal sites. States in these compacts may refuse waste from other states. In September 1998, Congress approved the Texas Low-Level Radioactive Waste Disposal Compact, which includes the host state of Texas plus Maine and Vermont. The compact requires Texas to operate a facility to manage and dispose of low-level waste generated by the states in the compact.

After a lengthy search for a site, complicated by legal challenges, LLRWA chose a site near Sierra Blanca in Hudspeth County. Construction was scheduled to begin in 2000, pending approval of a disposal license by the Texas Natural Resource Conservation Commission (TNRCC). In October 1998, TNRCC rejected the license application, concurring with administrative law judges that it did not provide enough information on a possible fault beneath the proposed site or on possible socioeconomic impacts.

CSHB 1 . . . . $1.1 million

CSHB 1 would phase out LLRWA, appropriating $570,774 each year of fiscal 2000-01 for that purpose, reducing revenues to the agency by 85 percent from fiscal 1998-99.

Supporters of phasing out LLRWA say a private company could build and operate a facility in a manner that would protect public health and safety. A private operator would be subject to state and federal licensing and regulatory requirements that would guarantee public health and safety. Before receiving a license, the private operator would have to meet substantial requirements for financial assurance to cover its liability. The private sector generally can pay higher salaries, attract more qualified employees, and operate a site more efficiently than a state bureaucracy can. The LLRWA has not been able to establish a site after more than 18 years of effort, and a private company could move much faster.

CSHB 1 includes a rider, contingent on enactment of HB 1910 by Chisum or a similar bill, that would define LLRWA’s role. The rider would appropriate to LLRWA the estimated costs of implementing HB 1910 or a similar bill and the number of FTEs needed, less employee benefits, appropriations, and FTEs already granted in CSHB 1.

The rider would authorize LLRWA to transfer its appropriation to administrative oversight, temporary storage of low-level waste, and payments to the host county. It would establish key measures of the agency's progress in selecting a site and waste-management technology. The rider also would appropriate unexpended balances from fiscal 2000 to fiscal 2001.

Supporters of maintaining the agency say that the disposal and storage of the state's low-level radioactive waste should not be privatized. A state disposal or storage facility would be subject to legislative oversight and the Open Records Act and would be held far more accountable for public health and safety than would a private entity. Even if a private contractor operated the site, the state probably would remain liable for both the waste and the site itself. Also, it would be easier for a site run or overseen by the state to negotiate with Maine and Vermont, the other states in the interstate compact agreement.

HB 1910 as filed would change the agency's name to the Low-Level Radioactive Waste Management Authority. The agency would hold the low-level radioactive waste license (either for disposal or storage) but could allow a private company to build and operate the facility. The facility could be either a disposal site or an assured isolation facility where the waste is stored in vaults above the ground. To cover agency costs, the agency could charge a waste-acceptance fee to those depositing waste at a disposal or storage site.

LBB estimates that incremental appropriations for HB 1910 above the $1.1 million recommended for agency phase-out would be $2.1 million in fiscal 2000 and $1.5 million in fiscal 2001. FTEs would increase by 4.5 in fiscal 2000 and by 5 in fiscal 2001.

HB 1 (filed version) . . . . $1.1 million

Provisions for LLRWA in HB 1 as filed are identical to those in CSHB 1.

Governor's proposal $0

The governor's budget report, *Setting Priorities, Getting Results*, recommends no funding for LLRWA. The report notes that the governor will work with the Legislature to determine how best to meet the state's disposal needs and will determine appropriate funding mechanisms as legislation is enacted.

Agency: Texas Natural Resource Conservation Commission (TNRCC)

Increased funding for monitoring nonpoint-source pollution

Background: The federal Clean Water Act requires each state to assess and identify water bodies in the state to determine if they are impaired or threatened and to implement strategies to reduce specific pollutants. A key measurement used in these activities is the Total Maximum Daily Load (TMDL), a quantitative assessment of the amount of pollution (point- and nonpoint-source) a water body can assimilate and still maintain water-quality standards for its designated uses.

Pollution released into water from an identifiable source such as a factory is called *point-source* pollution. It is much harder to pinpoint the origin of *nonpoint-source* pollution, which includes runoff from various sources such as agricultural operations, urban runoff, and hazardous materials that citizens may pour down drains.

To meet the TMDL mandates of the Clean Water Act, TNRCC has committed to evaluate 147 impaired or threatened water bodies within the next 10 years. The primary objective of the TMDL program is to restore and maintain the beneficial uses (such as drinking water, recreation, and aquatic life) of impaired or threatened water bodies. To do this, TNRCC, the Soil and Water Conservation Board (SWCB), which is responsible for monitoring nonpoint-source runoff from agricultural and commercial forestry operations, and the stakeholders of each impaired or threatened water body must determine how much each pollutant must be reduced to restore the stream's water quality. Afterwards, specific implementation plans are developed to achieve the targeted pollution reduction for each of the sources. Neither TNRCC nor SWCB has a dedicated funding source for the TMDL program.

In the current biennium, TNRCC will spend about $4 million to administer the TMDL program and conduct TMDL-related projects. About $2.7 million of that total is nonrecurring state and federal funds, which will not be available after fiscal 1998-99. The amounts shown below represent proposed ***increases*** over current funding, taking into account the loss of $2.7 million in nonrecurring funds.

CSHB 1 . . . . $0

CSHB 1 would include funding of about $1.3 million for the TMDL program for fiscal 2000-01, a $2.7 million decrease from fiscal 1998-99 funding because of the loss of nonrecurring federal and state funds.

Wish list funding

Article 11 of CSHB 1 includes $11.1 million in general revenue to support TNRCC actions to comply with Clean Water Act mandates concerning TMDLs.

Increased funding for monitoring nonpoint-source pollution

Supporters say it is important for the state to comply with federal Clean Water Act mandates to avoid having the U.S. Environmental Protection Agency (EPA), rather than TNRCC, establish TMDLs in Texas. If an environmental group decided to sue the state or EPA for not properly enforcing the program in Texas, the courts might require EPA to take over the program if the state does not have an adequate program in place. Some other states already have lost control of their programs because of such lawsuits. With the loss of $2.7 million in nonrecurring state and federal funds, TNRCC will not be able to fund the core activities of the program or sustain current levels of effort without the additional $11 million in Article 11.

Texas cannot afford to ignore the growing pollutant loads in some of the state's water bodies, not only because of environmental considerations but also because it could become more and more difficult to issue permits in those locations, slowing economic development. The TMDL program is a starting point for addressing nonpoint-source pollution in the state. To clean up polluted bodies of water and protect public health, safety, and aquatic life, the state needs to understand why some streams and lakes cannot meet water-quality standards. The TMDL program allows the state to involve stakeholders (including cities), identify pollutant sources, and develop watershed-specific plans to restore water quality conditions in impaired and threatened water bodies across the state.

HB 1 (filed version) $0

Provisions for the TMDL program in HB 1 as filed are identical to those in CSHB 1.

Governor's proposal . . . . $11.1 million

The governor's budget proposal in *Setting Priorities, Getting Results* includes $11.1 million in additional general revenue for the TMDL program for fiscal 2000-01.

Other funding proposals $0

Critics of increasing funding for the TMDL program say it is unnecessary to speed up current plans to assess pollutant loads in state water bodies because no convincing scientific data exist to indicate the best way to assess, model, and reduce nonpoint-source pollution and to develop management practices for previously unregulated sources. Until the technology for assessing and modeling TMDLs improves, there is no reason to implement plans that will disrupt the operation of ranches, farms, cities, and businesses located near certain streams and lakes. The TMDL program, which has no way of generating income through fees or other means, is likely to become an even bigger drain on general revenue in the future. The state has too many other pressing water needs to spend money on experimental projects of questionable benefit.

Increasing TPWD's portion of the sales tax on sporting goods

Agency: Texas Parks and Wildlife Department (TPWD)

Background: Before fiscal 1995, state parks were funded in part through the state cigarette tax. In September 1995, this funding ended, and TPWD began receiving instead a portion of taxes collected from the sale, use, or storage of sporting goods. In fiscal 1998-99, the tax on sporting goods is expected to bring in about $130 million for the state. TPWD funding from the sporting-goods sales tax is capped at $32 million for the biennium.

Currently about half of TPWD's funding comes from general revenue-dedicated funds (including park fees and hunting and fishing license fees), 28 percent from general revenue, 13 percent from federal sources, and the rest from other funds.

The amounts shown below represent proposed amounts of the sporting-goods sales tax receipts to be dedicated to TPWD.

CSHB 1 . . . . $32 million

CSHB 1 would appropriate $32 million from the sporting-goods sales tax to TPWD for fiscal 2000-01, the same amount the department received for fiscal 1998-99.

Wish list funding

Article 11, contingent on enactment of HB 1692 by Kuempel or similar legislation that would eliminate the cap on sporting goods sales-tax revenue dedicated to TPWD, would include up to $70 million to TPWD for fiscal 2000-01 from the sales tax on sporting goods. Funding would be broken out as follows:

- $12 million and 125 FTEs to operate and maintain existing state parks (Strategy A.2.1) ;
- $6.5 million and 12 FTEs for capital programs (Strategy A.2.2);
- $2 million and 3 FTEs for outreach grants (Strategy B.1.1);
- $8 million for transfers to local government for local parks and conservation initiatives (Strategy B.1.2);
- $1 million and 10 FTEs for law enforcement related to environmental crimes (Strategy C.1.1);
- $2.5 million and 20 FTEs for the Landowner Incentive Program and technical assistance to landowners (Strategy C.2.1); and
- $3 million in salaries and benefits, contingent on adoption of a salary increase for all state employees.

Supporters of increasing TPWD's portion of the sales tax on sporting goods point out that, according to a recent report by the state auditor, available resources for

Increasing TPWD's portion of the sales tax on sporting goods

TPWD cover only 80 percent of the $51.5 million needed to run the state park system. Although TPWD has increased park revenue by 85 percent since 1991, new parks and facilities have been added, and park infrastructure is aging rapidly. Revenues cannot keep pace with the costs of maintaining the parks. Increasing TPWD's portion of the sporting-goods sales tax would guarantee the department a stable source of funding in the future. The sporting-goods sales tax money that TPWD receives is a major funding source for state parks and the only source of funding for local park grants.

TPWD needs additional sources of funding for day-to-day operation and maintenance of state parks. The small repairs and maintenance needed daily are essential to keep the parks in good working order. These funds, for example, could be used to replace worn-out equipment like backhoes and tractors and to paint visitor facilities.

These funds also are necessary to expand the local park grant program to provide for open space locally and to make grants to local governments to provide recreation, conservation, and educational opportunities to underserved youth. They also would be used to enhance ongoing efforts to fight environmental crimes, expand conservation of natural, cultural, and historic resources, and expand the Landowner Incentive Program to encourage habitat management and wildlife conservation.

HB 1 (filed version) . . . . $32 million

HB 1 as filed would have appropriated $32 million of the sporting-goods sales tax to TPWD for fiscal 2000-01.

Governor's proposal . . . . $32 million

The governor's proposed budget as presented in *Setting Priorities, Getting Results* would not change the current allocation of sporting- goods sales tax revenue to TPWD.

Other funding proposals . . . . $ varied

Opponents of increasing TPWD's portion of the sporting-goods sales tax say it is never a good idea to dedicate part of the sales tax — the major source of state tax revenue — for a specific purpose. Dedicating even more of it to TPWD would reduce the Legislature's future budget flexibility. The Legislature and the department should work out another source of funding and not dedicate additional sales tax revenue.

Other critics favor weaning the TPWD off the sales tax on sporting goods, which covers a wide variety of equipment that is not related directly to the state park system, and giving the department part or all of the sales tax on motorboats, which is estimated to bring in about $40 million in fiscal 2000-01.

Article 7 Overview

Article 7 contains the budgets of six agencies charged with supporting a strong Texas economy through business development, transportation, and community infrastructure: the Texas Aerospace Commission, Texas Department of Economic Development (TDED), Texas Department of Housing and Community Affairs (TDHCA), Texas Lottery Commission, Texas Department of Transportation (TxDOT), and Texas Workforce Commission (TWC).

For Article 7, CSHB 1 proposes spending nearly $12 billion for fiscal 2000-01, almost 13 percent of the total state budget. Federal funds play a sizeable role in funding Article 7 agency programs, about 51 percent of fiscal 2000-01 funding as proposed by CSHB 1. Most of the federal funds total is federal highway funds appropriated to TxDOT. However, federal funding accounts for a significant portion of the budgets of TDHCA (more than 89 percent) and TWC (about 87 percent).

Article 7 Spending Comparisons
(millions of dollars)

Type of Funds	Expended/ Budgeted 1998-99	Recommended CSHB 1	Biennial Change	Percent Change
General revenue-related	$ 787.4	$ 802.7	$ 15.2	1.9%
Federal funds	$ 4,871.4	$ 6,129.8	$1,258.4	25.8%
All funds	$10,965.9	$11,962.9	$ 997.0	9.1%

Source: Legislative Budget Board, Summary of CSHB 1, March 31, 1999.

Background

The Lottery Commission was established in 1992 to administer the state lottery, the largest source of non-tax revenue to the state. After increasing every year from fiscal 1992 through 1997, lottery ticket sales dropped in fiscal 1998. The comptroller estimates that the lottery will provide $2.2 billion in proceeds during fiscal 2000-01, a drop of 2 percent from estimated proceeds for fiscal 1998-99.

In 1997, the 75th Legislature dedicated state lottery revenue to public education, capped advertising for fiscal 1998-99 at about $6 million less than had been spent in fiscal 1996-97, and reduced the money available for prizes from 57 cents of every dollar spent to 52 cents, resulting in an increase in the state's share of each lottery dollar from 30 cents to 35 cents. Some say these changes caused the drop in ticket sales and the corresponding drop in state revenue.

From fiscal 1997 to 1998, lottery sales dropped from $3.7 billion to $3.1 billion, a reduction of 18 percent, and state revenue dropped from $1.14 billion to $1.07 billion, a drop of 6 percent. The Lottery Commission projects fiscal 1999 sales of $2.9 billion and state revenue of $1 billion.

Budget Highlights

Only TxDOT and TWC would receive net funding increases under CSHB 1. TxDOT would receive an increase of $1.2 billion in federal funds for highway planning and construction. TWC would experience funding decreases due to declining caseloads and federal funds but would receive increases of $87.8 million in federal and general revenue funds for child-care programs and $80.6 million in federal and general revenue funds for welfare-to-work activities.

TDHCA would receive a net decrease of $63.5 million, primarily due to federal funding decreases in the Low Income Home Energy Assistance Program, Community Development Block Grant, and Oil Overcharge funds.

TDED would receive a net decrease of $71.3 million, primarily due to a $20 million general revenue decrease for financial assistance to defense-dependent communities and a $54 million decrease in other funds due to the expiration of the Smart Jobs Program. The Lottery Commission would receive an $11.5 million decrease due to a projected decline in revenues from lottery ticket sales.

Other Article 7 issues. Significant provisions addressed in the Article 11 wish list for Article 7 agencies and not discussed elsewhere in this report include $53.9 million for the Smart Jobs Fund administered by TDED, contingent upon enactment of HB 1079 by Keffer.

The pages that follow discuss these Article 7 budget issues:

- child-care assistance funding for TWC;
- the state match for the second year of the federal welfare-to-work grant;
- funding for the Housing Trust Fund administered by TDHCA;
- funding for TDED's Office of Defense Affairs to assist Texas' defense-dependent communities; and
- TxDOT's state highway fund appropriations.

Agency: Texas Workforce Commission (TWC)

Increases in child-care assistance

Background: TWC subsidizes child-care costs for some low-income families so the parents can work or attend training or educational classes. Several categories of children are eligible for the subsidized child care, including children of parents involved in specified training programs, those whose parents are making the transition from welfare to work, and those whose parents are classified as at-risk for receiving public assistance. Children in the at-risk category make up almost 62 percent of all children served.

Funding for child-care assistance comes from both state monies and federal block grants. To draw federal funds, state matches can be in a variety of forms, including cash or local matches. In addition to federal block grants for child care, up to 30 percent of a state's Temporary Assistance to Needy Families (TANF) block grant can be converted to child-care funds. (See the Article 2 overview for more information on TANF.)

For a detailed explanation of the availability of federal child-care funds for Texas, see LBB's January 1999 Staff Performance Report, p. 174. The report describes the use of prekindergarten expenditures as state matching funds to draw federal child-care monies, possibly freeing state revenue for other uses. Rider 64 for the Texas Education Agency requires the agency to certify the maximum allowable prekindergarten expenditures as meeting state spending requirements for TANF and as state matches for federal child-care funds.

In fiscal 1998-99, the commission spent about $657 million for child care for an average 78,000 children per day. The total included about 79 percent federal funds, 20 percent state funds, and 1 percent local funds.

The amounts shown below represent proposed ***increases*** in funding over the fiscal 1998-99 level of about $657 million.

CSHB 1 . . . . $80 million

CSHB 1 would spend $80 million in TANF funds to subsidize child care for about 7,800 children per year (TWC Strategy B.2.1). Including some federal and local matches, this proposal could fund care for an average of about 7,800 children per year.

Supporters say this proposal would help address the need for additional child care for at-risk families. About 30,000 children are now on the waiting list for child-care assistance. Many low-income working families are at risk of turning to public assistance if they cannot meet their child-care needs and the parents cannot continue working. The state should help with the growth of child-care needs as more people move from welfare to work. This would help the state's economy because it would help workers stay employed and can help children become ready for school.

Increases in child-care assistance

HB 1 (filed version) . . . . $31.6 million

HB 1 as filed would have increased spending for child care for low-income families by $31.6 million over the fiscal 1998-99 level.

Governor's proposal . . . . $69.5 million

The Governor's Office reports that its revised proposal for increased child-care spending for low-income working families includes $11.8 million in general revenue and $57.7 million in TANF monies to be paired with $19.3 million in local matches. This would provide child care for an average of 16,412 additional children in fiscal 2000 and 15,606 in fiscal 2001. The Governor's Office says this proposal would maximize federal child-care dollars available to Texas and provide assistance for 50 percent of the projected monthly waiting list. About $11.4 million of the proposal would be spent for consumer education, monitoring, training, and other activities to improve the quality of child care.

Other funding proposals . . . . $ varied

TWC proposed increasing child-care funding for at-risk families through two sources:

- spending $31.8 million in general revenue for the biennium to draw down the maximum federal match of $57.9 million to fund care for an average 7,633 children per day in fiscal 2000 and an additional 12,424 children per day in fiscal 2001, which would require a local match of $25.1 million; and

- $28.3 million in TANF funds to serve 4,160 children per day in fiscal 2000 and 4,039 per day in fiscal 2001.

Supporters say these proposals would have ensured that the state draws the maximum amount of federal child-care money available now. It is important to draw down federal child-care dollars when they are available, since Congress could decide to put the funds to other uses. Using state money for this purpose could help ensure aid for the working poor. As more TANF recipients go to work and qualify for transitional child-care benefits, the children of the working poor could be pushed further down the waiting list.

State match for second-year federal welfare-to-work grant

Agency: Texas Workforce Commission (TWC)

Background: In 1997, the federal government made a two-part grant available to states to provide services such as job training, job placement, job retention, and job support for certain low-income persons. Eligible recipients include recipients of Temporary Assistance to Needy Families (TANF), noncustodial parents of children who receive TANF, and TANF recipients who have lost their benefits because of time limits. (See the Article 2 overview for more information on TANF.)

This "welfare-to-work" grant matches every state dollar with two federal dollars. Contributions from local workforce development boards, which can be cash or in-kind services such as job readiness training or transportation assistance, can be counted as part of the state match. Texas has $76.1 million available for the first year and $70.1 million for the second year. States have three years from the date a grant award is signed to meet the matching requirements for a specific year.

For a detailed description of the federal welfare-to-work grants and the availability of grant funds for Texas, see LBB's January 1999 Staff Performance Report, p. 150. The report describes the use of prekindergarten expenditures to meet certain federal requirements for TANF, possibly freeing up general revenue for other uses. Rider 64 for the Texas Education Agency requires the agency to certify the maximum allowable prekindergarten expenditures as meeting state spending requirements for TANF and as state matches for some federal child-care funds.

TWC projects that Texas will draw all of its allotment for the first year of the grants. The agency has identified about $22 million in state funds and $16 million in local funds to meet the matching requirements. CSHB 1 contains $5.1 million as part of the state match and assumes $5.1 million in local match for this first year of the grant.

The proposals discussed below address funding for the ***second year*** of the grant.

CSHB 1 . . . . $12 million

CSHB 1 would spend $12 million in general revenue for activities allowed under the federal welfare-to-work grant program (TWC Strategy B.1.2). This would be coupled with $12 million in local matches, together drawing down $48.2 million in federal funds for the second year of the grant program.

Supporters say this proposal would allow TWC and local workforce development boards to provide services such as skills training, language instruction, job retention skills, and transportation assistance to help low-income persons obtain and keep jobs. The grant could provide services to the 3,700-plus persons who have exhausted their benefits under TANF, the many TANF recipients who will exhaust their benefits in

State match for second-year federal welfare-to-work grant

fiscal 2000-01, other TANF recipients who are the hardest to serve, and noncustodial parents of children who received TANF but have reached their time limit on benefits. In addition, the money could be used for former TANF clients without counting against their future eligibility. CSHB 1 would allow the state to serve these persons who might not qualify for any other assistance programs. Eighty-five percent of these funds would be sent to local workforce development boards that are responsible for delivering services. This proposal would make good use of state, local, and federal funds to help welfare recipients and former recipients achieve self-sufficiency. Even though CSHB 1 would not draw down all available second-year federal welfare-to-work grant funds, Texas still could obtain the whole grant because the state has three years from the date the grant award is signed to meet the match requirements.

HB 1 (filed version) $0

HB 1 as filed included funding for only the first year of the grant and made no proposal for the second year of the grant. HB 1 proposed spending $5.1 million for part of the state match and assumed $5.1 million in local match for the first year of the grant.

Governor's proposal . . . . $13.3 million

The governor's budget report, *Setting Priorities, Getting Results*, proposed spending $13.3 million in general revenue to match the second year of the federal welfare-to-work grant. Supporters of this proposal say it would draw the maximum federal funds for the second year of the grant, ensuring that the state would be in a good position to qualify for additional federal monies if they become available.

Other funding proposals . . . . $20.4 million

TWC proposed spending $20.4 million in general revenue to draw down the maximum federal funds for the second year of the grant. This proposal would require $5.1 million in local matches.

Increased funding for the Housing Trust Fund

Agency: Texas Department of Housing and Community Affairs (TDHCA)

Background: TDHCA administers programs designed to provide housing for low-income Texans. The agency helps local governments and nonprofit and for-profit entities provide housing and other essential needs for low-income people. TDHCA also works to improve living conditions for the poor and homeless, regulates the manufactured housing industry, and contributes to the preservation, development, and redevelopment of neighborhoods and communities. In fiscal 1998-99, more than 95 percent of the agency's funding came from federal sources.

The Housing Trust Fund (HTF), created in 1992, is the only source of state funds for affordable housing. It is funded primarily by general revenue, bond fees, trust fund interest and loan repayments, and oil overcharge funds. The HTF provides loans, grants, and other assistance for the development of safe and affordable housing for low-income families statewide. The HTF also provides housing for those with special needs. In each biennium, the first $2.6 million of the fund is set aside for nonprofit entities, as is 45 percent of the money in excess of that first $2.6 million. For-profit entities can compete with nonprofits for the remaining funds.

Applications for HTF money are evaluated on the basis of factors that include leveraging of funds, low-income targeting, long-term affordability, housing need, and geographic distribution. HTF funds are awarded to local governments, public housing authorities, community housing development organizations, nonprofit and for-profit organizations, and eligible families and individuals on a competitive basis.

CSHB 1 . . . . $2.6 million

CSHB 1 would appropriate $2.6 million for fiscal 2000-01 for the HTF, a decrease of $2 million from fiscal 1998-99 because of anticipated reductions in federal oil overcharge funds.

Wish list funding

Two Article 11 items would increase funding to the HTF by $70 million to provide additional affordable housing units. Of that amount, $30 million would be earmarked for deposit in the HTF.

The first item would appropriate $50 million of general revenue to the fund for fiscal 2000-01. The second would increase funding for HTF Strategy A.1.1 by $20 million and would add 2 FTEs for fiscal 2000-01 to provide new affordable housing units.

Supporters of increasing funding for the HTF say the $70 million would provide more than 5,000 additional affordable housing units for low-income households over the coming biennium. The urgent demand for such housing comes at a time when the federal government is transferring more and more responsibility for providing affordable housing to the states. All the federal and state funds provided to TDHCA meet only 1.5 percent of the need. The additional funds appropriated to the HTF by the Article 11 item would help offset the decrease in federal funds.

Texas, which lags behind most other states in contributions for affordable housing and never has dedicated a source of revenue to the fund, should start shouldering some responsibility for the problem. The HTF is the best place to start. It is versatile and can be used for both multifamily and single-family issues, and the money repaid under lending programs can be recycled into the fund to be used again. TDHCA plans to use the increased funds to build homes, arrange multifamily rentals, and help those with special needs and those whose income and resources will not support a home purchase. The money would be available to fulfill housing needs, spur economic development, and increase the tax base in rural or other areas that the private market overlooks. HTF funds can be invested anywhere in Texas for acquisition, rehabilitation, and new construction, regardless of the size of the community.

Although TDHCA has had problems in the past, the agency has a new executive director and is addressing concerns identified by the State Auditor's Office. In fact, an auditor's report from April 21, 1998, commended TDHCA for addressing many of the recommendations from prior audit reports relating to improvements needed in general management controls and contract administration. The agency is back on track, and low-income Texans should not be denied affordable housing in a misguided attempt to punish the agency for alleged missteps in its past.

Opponents of increasing HTF funding say TDHCA should not be given additional funds until it can prove that it has addressed the recommendations in previous state auditor's reports, including clarifying the criteria it uses in decision-making, enhancing disclosure requirements to reduce the perception of undue influence in the awards process, and reviewing the board's operating structure. Also, an ongoing criminal investigation of one board member has yet to be resolved.

HB 1 (filed version) . . . . $2.6 million

HB 1 would have appropriated the same amount to the HTF as in CSHB 1.

Funding for defense-dependent communities office

Agency: Texas Department of Economic Development (TDED)

Background: TDED's Office of Defense Affairs (ODA) is charged with aiding defense-dependent communities. Its duties include preparing a statewide strategy to prevent future defense closures and realignments, helping defense-dependent communities develop long-term strategies to prepare for realignments and closures, serving as a clearinghouse for information about defense economic adjustment, and providing information and assistance to these communities. In 1998, the office and the Texas Strategic Military Planning Commission issued a statewide master plan for dealing with base closures. In fiscal 1998-99, the office gave almost $20 million in grants to defense-dependent communities.

CSHB 1 . . . . $0

CSHB 1 would provide no funding for ODA for fiscal 2000-01. Rider 11 would require TDED to prepare an annual master plan of how the department will support the state's defense infrastructure. The plan would have to contain information on the agency's strategy for supporting the state's defense industry.

Supporters say the state does not need ODA and should direct any funding for the duties of the office directly to local communities. While the state may have a role in assisting communities when bases close, it could be inappropriate for the state to be involved in combating closures because different areas of a state often are pitted against each other. Other entities, such as the Office of State-Federal Relations, would be more appropriate for statewide education and coordination efforts about base closures. The grants to defense-dependent communities were intended as a one-time aid package and should not be continued. Through Rider 11, CSHB 1 would ensure that the agency can support the state's defense-dependent communities adequately even without ODA.

Wish list funding

Article 11 contains a $20 million appropriation to TDED Strategy A.2.2 for defense-dependent communities. It also contains a contingency rider that would spend $851,021 to operate ODA, contingent on enactment of HB 1286 by Hawley et al. or similar legislation. HB 1286 would expand the duties of the office to include assisting defense-dependent communities in designing programs to enhance their relationship with military installations and defense-related businesses, helping communities retain and recruit defense-related businesses, and administering state and federal funds to help the communities and defense-related businesses. The bill also would require the office to provide information to the Legislature, the state's congressional delegation, and state agencies; expand the types of information that the office must gather; and require the office to prepare an annual report about Texas' active military installations, defense-dependent communities, and defense-related businesses.

Supporters say a statewide effort is needed to help communities react to potential closure of military installations. Individual communities may not have the resources to gather information about base closures, to develop plans to deal with closures, or to retain or recruit defense-related businesses. Funding ODA would ensure that these efforts are not fragmented unnecessarily and that communities would benefit from the expertise and resources of a state agency. A statewide effort can prevent unnecessary and wasteful battles among communities.

HB 1 (filed version) $0

Governor's proposal $405,600

In *Setting Priorities, Getting Results,* the governor proposed spending $405,600 for ODA operations with no funding for grants to defense-dependent communities.

Other funding proposals . . . . $ varied

TDED proposed $20 million in funding for the office, with $365,500 to be used for administrative expenses and the rest for grants to defense-dependent communities.

Supporters say this funding would continue the grant program that has helped communities deal with military base closures. For example, when parts of Kelly Air Force Base in San Antonio were closed, about $8 million in ODA grants were used to build and renovate the base's infrastructure to help attract businesses. Without these grants it would be difficult for communities to find funds to renovate bases to attract businesses or other uses. A survey by the office identified potential requests from Texas communities of about $35 million in grants for base projects.

Funding the state match for new federal highway money

Agency: Texas Department of Transportation (TxDOT)

Background: In 1998, Congress enacted the Transportation Equity Act for the 21st Century (TEA-21), allocating federal highway money to the states. According to TxDOT, the Federal Highway Administration says that over the next six years, Texas will receive an additional $700 million annually on average for highway construction and maintenance when compared to the funding the state received under the previous Intermodal Surface Transportation Efficiency Act (ISTEA). TxDOT says it will require $360-$400 million in fiscal 2000-01 to match the new TEA-21 funds. Additional federal money also may become available under discretionary funding for border infrastructure programs.

TxDOT is funded primarily by state revenue deposited in Highway Fund 6, which accounted for about 60 percent of the agency's fiscal 1998-99 appropriations, with federal funds making up most of the remainder. In fiscal 1998-99, TxDOT was appropriated $4.2 billion from Fund 6, which mostly comes from state motor-fuel taxes, motor-vehicle license and registration fees, and the sales tax on lubricants. The Texas Constitution allocates three-fourths of state motor-fuel tax revenues for construction and maintenance of highways and the administration of traffic and safety laws on highways. The remaining one-fourth goes to the Available School Fund.

In fiscal 1998-99, the Texas Department of Public Safety (DPS) received about $532 million in direct appropriations from Fund 6. This funding accounts for more than 80 percent of the DPS budget and supports programs including criminal and traffic law enforcement, the Texas Rangers, and supporting operations. According to TxDOT, employee benefits for DPS out of Fund 6 accounted for an additional $100 million in fiscal 1998-99. CSHB 1 would continue DPS funding from Fund 6 at the fiscal 1998-99 level.

The amounts shown below represent proposed ***increases*** in the amount that would be appropriated to TxDOT from Fund 6 under HB 1 as filed.

CSHB 1 . . . . $265 million

CSHB 1 would not allocate TxDOT money specifically for state matching funds for TEA-21 but would increase appropriations to TxDOT from Fund 6 by $240 million, the amount the comptroller estimated to be in excess of revenues anticipated by TxDOT in its Legislative Appropriations Request for fiscal 2000-01. The $240 million would be split between Strategy A.1.3 for highway construction, $180 million, and Strategy A.1.1 for planning, design, and management of highway project contracts, $60 million.

Funding the state match for new federal highway money

An additional $25 million will be available to TxDOT from Fund 6 in fiscal 2000-01 from several sources: $3.1 million that previously went to the Texas Department of Health from Fund 6; $6.8 million for public transportation from two general revenue accounts that originally received transfers from Fund 6, and from which, for technical reasons, the funds could neither be spent nor returned to general revenue; and $15 million of service transfers that no longer would be transferred from Fund 6 to pay for special provisions in Article 9 of the general appropriations bill.

TxDOT's Fund 6 method of finance is "estimated" in its bill pattern so any Fund 6 money that becomes available over appropriated amounts, including unexpended balances as well as the additional $265 million, would be available to the agency for Strategy A.1.3. In fiscal 1998-99, for example, about $140 million in revenue came in over the $4.2 billion appropriated for the biennium.

Supporters of giving TxDOT *no more* than $240 million for state matching funds and other purposes say the agency can use the $240 million, along with $116 million of additional money now expected to be available for fiscal 1998-99, to meet TEA-21 state matching requirements without reducing 100 percent state-funded project money, used for highway projects across the state.

The complexity of the TxDOT budget and the impenetrable manner in which the agency presented it make it difficult to understand whether or not the agency has enough money to cover state match costs without dipping into state-funded construction money. One reason is that some of the numbers the department chose to represent funding were averaged over a number of years, making it difficult to tell what the agency's specific needs are for fiscal 2000-01. If a different set of years is selected, a different answer emerges.

According to the Federal Highway Administration estimates used by TxDOT, TEA-21 would allocate an average additional $700 million annually to Texas for highway construction and maintenance over the next six years. That number is derived from an average of the amounts received under ISTEA for six years and the new amounts allocated by TEA-21 over six years. Using six-year averages makes it hard to estimate how much really is needed for TEA-21 state matching funds in fiscal 2000-01.

According to TxDOT, from fiscal 1995 through 1998, the state-funded construction program levels averaged $510 million annually, and the agency projects an aggregate shortfall from that average of roughly 20 percent. If one were to calculate state-funded construction expenditures from fiscal 1994 through 1998, however, the total would be lower, freeing more funds for the state match. It would be more illuminating to show incremental increases from one biennium to the next rather than to show spending averages spread over four years.

Funding the state match for new federal highway money

In its latest Estimated Revenue Schedule, TxDOT shows an unencumbered balance of $188.5 million at the end of fiscal 2001. Some of those funds could be used either for state matching funds or state-funded construction projects, as any amount of Fund 6 that was anticipated to go for contracts but was not used would carry forward to fiscal 2001 and be available for the department. Although CSHB 1 would provide no increase for 100 percent state-funded construction activity, Fund 6 money that is discretionary can be allocated to those state-funded projects. There will never be enough money to fund all the proposed 100 percent state-funded road projects, but CSHB 1 would continue to fund them at a reasonable level.

HB 1 (filed version) $0

HB 1 as filed would have included an appropriation of $4.3 billion from Fund 6 for fiscal 2000-01, about $140 million more than in fiscal 1998-99.

Governor's proposal . . . . $70.3 million

The governor's proposed budget, as set forth in *Setting Priorities, Getting Results*, would take $70.3 million now being used to finance DPS programs and leave the money in Fund 6 for use by TxDOT. The governor proposed making up those funds to DPS with about $50 million from the Operators and Chauffeur's License Account Fund 99, a dedicated fund collected from court fees paid by those convicted of felony and misdemeanor convictions, and using general revenue for the rest. In fiscal 1998-99, DPS was appropriated $20.8 million from Fund 99.

Other funding proposals . . . . $ varied

Supporters of increasing TxDOT's funding to help pay for the state match say the money now allocated to DPS — more than $600 million in fiscal 1998-99 when employee benefits for DPS out of Fund 6 are accounted for — should be restored to Fund 6 and TxDOT should be allocated that money both for the state-funded construction program and to draw down federal funds. TxDOT needs the funds for billions of dollars worth of identified transportation needs in the state.

It would be unconscionable for TxDOT to leave federal dollars on the table, since for every $5 the state spends on a federally participating project, it retrieves $4 in federal tax money. It is important to maintain funding for the 100 percent state-funded construction programs as well. According to TxDOT, if current funding continues without an increase and state funds must be used to match federal dollars, there will not be enough money to fund 100 percent state-funded road projects at the average level of the past four fiscal years. These include farm-to-market rehabilitation, state park roads, and infrastructure improvements needed because of increased Texas-

Mexico trade. To continue funding levels for TxDOT's state-funded construction program, the agency will need an additional $266 million over fiscal 2000-01.

There will never be a better time than now to address the needs of TxDOT and DPS and help to correct funding deficiencies for both agencies. The budget pressures that persuaded the Legislature to use Fund 6 for DPS programs in the first place are gone now, and it would be good public policy to separate funding for transportation and law enforcement. Unless DPS is provided with a separate funding source while the strength of the economy allows it, the state will not have the flexibility to meet any unexpected short-term contingencies in the future.

The state's transportation needs are not being met from state and federal sources. Many factors are contributing to increased agency costs, including steeply rising costs of highway construction, increased fuel efficiency (motor fuels are taxed on a per-gallon basis), aging infrastructure, and increased congestion. According to TxDOT, if current funding continues without an increase and state funds for 100 percent state-funded road projects must be used to match federal dollars, by fiscal 2001 there will not be enough money to cover these state-funded road projects. These include farm-to-market road rehabilitation, state park roads, and infrastructure improvements needed because of increased Texas-Mexico trade.

Allocating to TxDOT only the $240 million in the comptroller's estimate would leave TxDOT's state construction program funded below previous levels and would result in an aggregate shortfall of roughly 20 percent below prior years' average state-funded construction expenditures before accounting for inflation.

Because of the way the transportation budget is calculated, TxDOT's latest Estimated Revenue Schedule submitted to the House Appropriations Committee in March 1999 shows what appears to be an unencumbered balance of $188.5 million at the end of fiscal 2001. However, the $188.5 million does not yet reflect the additional expenditures associated with the increased $265 million of appropriation. If the expenditures associated with this additional appropriation were added, the ending figure actually would be a negative $76.5 million.

It is important for TxDOT to keep a substantial fund balance on hand. TxDOT funds many highway projects by paying money up front to contractors and applying to the federal government for reimbursement. At any given time, the department has more than $2 billion remaining to be paid on current contracts, and as soon as the department is billed, it must have cash on hand to pay bills promptly or face penalties for violating the contract. It would not be practical for the department to encumber the remaining balance on these contracts since that would always result in a large negative unencumbered balance with so many contracts outstanding.

Article 8 Overview

Article 8 contains the budgets of 37 state agencies that regulate a wide range of industries and occupations, including 10 agencies that regulate health professionals, eight agencies that regulate financial services and professionals, four insurance- and workers' compensation-related agencies, and two agencies involved in utility regulation.

Appropriations for Article 8 as proposed in CSHB 1 total $441.2 million in all funds, less than 1 percent of the total state budget. Total appropriations would rise about 4 percent from the fiscal 1998-99 level. Nearly all funding for Article 8 comes from general revenue-related funds.

Article 8 Spending Comparisons
(millions of dollars)

Type of Funds	Expended/ Budgeted 1998-99	Recommended CSHB 1	Biennial Change	Percent Change
General revenue-related	$410.6	$428.1	$17.5	4.3%
All funds	$424.2	$441.2	$17.0	4.0%

Source: Legislative Budget Board, Summary of CSHB 1, March 31, 1999.

Background

Most of these agencies' operations are supported through fees generated by the industries or occupations they regulate, such as licensing and examination fees, and secondarily by sales of goods and services (called appropriated receipts in the budget document) and interagency contracts. Fees collected by a regulatory agency generally are deposited to accounts within the general revenue fund and must be appropriated by the Legislature to the agency for agency use.

The budgets of Article 8 agencies often contain a contingency rider called *Appropriations Limited to Revenue Collections*, which requires an agency to pay for certain costs with specified fees or fines. For example, the appropriations bill may authorize a new investigator position contingent upon the agency's raising licensing fees to a sufficient level to cover the new position. This rider also authorizes LBB to direct the comptroller to reduce appropriations to the amount of revenue expected to be available in the event that actual revenue collections are insufficient to cover costs.

Budget Highlights

Eliminating Funeral Service Commission funding

For fiscal 2000-01, CSHB 1 would fund most agencies at fiscal 1998-99 levels or would increase their budgets slightly for additional staff positions, primarily investigators, for which funding is derived by an *Appropriations Limited to Revenue Collections* rider.

Financial institutions. CSHB 1 would increase funding significantly through contingency riders for agencies that regulate financial institutions. The bill would set the Credit Union Department's budget at $2.5 million, with a contingency rider that would appropriate an additional $1.2 million triggered by several variables — for example, the conversion of a number of federal credit unions to state-chartered entities.

CSHB 1 would decrease the budget for the Department of Banking by $500,000 for fiscal 2000-01, yet the bill contains two contingency riders totaling $8.6 million that would be triggered by such events as a deterioration of the banking system, a dramatic increase in banking assets, or a decrease in the number of examinations performed in Texas by the Federal Deposit Insurance Corporation. The riders would require the department to collect this amount through assessments to the industry.

CSHB 1 would set the Savings and Loan Department's budget at $1.9 million, a slight decrease from the agency's fiscal 1998-99 budget. In the event that additional state resources are needed to maintain adequate regulation of the industry, a contingency rider would authorize $1.8 million in additional funds.

Other Article 8 issues. Significant provisions for Article 8 agencies addressed in the Article 11 wish list and not discussed elsewhere in this report include:

- about $3 million for the Texas Workers' Compensation Commission for fiscal 2000-01, contingent upon the enactment of HB 2511 by Giddings, to implement electronic transmission of specified workers' compensation information;
- about $256,000 to increase examination-staff salaries for the Credit Union Department;
- about $250,000 for four additional inspectors for the Cosmetology Commission, to be located in San Angelo, Nacogdoches, and two locations to be determined by the commission;
- $210,000 to the Finance Commission to provide oversight of departmental operations and optical imaging systems; and
- a provision directing the Texas Department of Insurance to conduct a study comparing for-profit health-maintenance organizations (HMOs), non-profit HMOs, individual practice associations, and group medical-practice HMOs.

Agency: Funeral Service Commission

Eliminating Funeral Service Commission funding

Background: The Funeral Service Commission regulates the funeral industry by examining and licensing embalmers, funeral directors, and funeral establishments and by enforcing laws regarding prepaid funerals.

CSHB 1 . . . . $0

CSHB 1 would eliminate all funding for the commission.

Supporters say the agency has been mismanaged for years and is ineffective in protecting the public. Staff turnover has been high, and the current executive director took inappropriate steps in raising his salary above the level authorized by the budget. Studies by the state auditor have found problems in inspections, record-keeping, licensing, personnel management, board activities, and complaint processing. Others allege that the agency has unfairly targeted for compliance infractions a major funeral-home chain, Service Corp. International (SCI), and, conversely, that an industry-dominated board has inhibited effective enforcement against large chains like SCI.

HB 1 (filed version) . . . . $1.0 million

This amount would fund the agency at its fiscal 1998-99 biennial level, less anticipated reductions in appropriated receipts.

Governor's proposal . . . . $1.1 million

This amount, as stated in *Setting Priorities, Getting Results*, would fund the agency at its fiscal 1998-99 level plus about $100,000 for an additional investigator and an additional administrative technician.

Other funding proposals . . . . $1.2 million

The agency requested $200,000 in general revenue-related funds in addition to the proposed funding in HB 1 as filed to hire additional staff and to increase staff salaries. The agency maintains it has been diligent in rectifying its problems and should continue as a free-standing agency.

Critics of eliminating the agency say this is no way to ensure that consumers and their loved ones are protected from unscrupulous business practices. Political motivations may be getting in the way of good public policy. The Legislature at least should appropriate fiscal 1998-99 funding to another agency such as the Texas Department of Health to continue regulating the funeral industry.

Additional funds for utility regulation

Agency: Public Utility Commission (PUC)

Background: The Legislature is considering proposals for restructuring the electric utility industry, which would require major changes in state regulation. Traditionally, regulation has substituted for competition in the electric industry. Enactment of a restructuring measure this year would open the electricity generation market to retail competition. Distribution and transmission of power would continue to be regulated.

During the four-year transition to retail competition, the PUC would acquire many additional regulatory responsibilities. These would include certifying new electricity providers and making sure they are financially stable; developing new consumer-protection measures; monitoring the methods by which industrial, small business, and retail consumers are charged for losses that may be associated with high-cost facilities like nuclear plants; and overseeing the development of a level playing field among new competitors. The PUC estimated that these new responsibilities would require $1.6 million in funding for fiscal 2000-01 in addition to the agency's fiscal 1998-99 budget of $24 million.

CSHB 1 . . . . $24 million

CSHB 1 would provide $24 million for the PUC for fiscal 2000-01, with no increase to pay for additional regulatory duties due to electricity market restructuring. It would reduce overall funding to PUC by $100,000 from the fiscal 1998-99 level because of a reduction in the estimated contract amount requested by the State Office of Administrative Hearings (SOAH).

Supporters say it remains to be seen whether the Legislature will approve proposed changes in the power industry this year. In any event, market restructuring would reduce the responsibilities of the PUC in the long run.

Critics say progress toward market restructuring could be hampered severely if private businesses have to wait for an overburdened utility commission to take action. The gross-receipts tax on utilities is expected to produce $41 million in general revenue this year, of which only $11.5 million would go to the PUC, with $1.6 million going to the Office of Public Utility Counsel. The best interest of Texas consumers and industry would be served by temporarily appropriating additional gross-receipts revenue to the PUC during the transition. As an alternative, a regulatory transition surcharge could be added to customer bills.

HB 1 (filed version) . . . . $24.1 million

Provisions for the PUC budget in HB 1 as filed were identical to those in CSHB 1, except that the original bill did not reduce funding for SOAH contracts.

Article 9 Overview

Provisions in Article 9 direct state agencies in their use and management of budgeted dollars in administrative and program operations, such as:

- employee salaries and benefits;
- travel;
- building construction;
- computer support and Year 2000 (Y2K) computer conversion activities;
- rulemaking and board per-diem payments;
- use of telecommunications;
- financing of property or other purchases;
- publications;
- contracting with historically underutilized businesses;
- transportation; and
- workers' compensation payments.

Article 9 also includes general provisions on state employee conduct standards; work holidays and vacation leave; equal opportunity employment; use of federal funds, special funds, and reimbursements and revenues from the sale of surplus property and other goods and services; the transfer of funding between budget strategies; and budget performance and accounting requirements.

CSHB 1 would appropriate $64.6 million in general revenue-related funds to pay for Schedule C salary increases ($41.6 million) and state telecommunications expenditures ($23 million).

Article 9 Spending Comparisons
(millions of dollars)

Type of Funds	Expended/ Budgeted 1998-99	Recommended CSHB 1	Biennial Change	Percent Change
General revenue-related	$60.7	$64.6	$ 3.9	6.4%
Federal funds	$35.9	$ 0.0	$(35.9)	(100.0)%
All funds	$110.9	$64.6	$(46.3)	(41.8)%

Source: Legislative Budget Board, Summary of CSHB 1, March 31, 1999.

The General Appropriations Act for fiscal 1998-99 appropriated a net sum of $866.1 million through Article 9 provisions. This sum is not reflected in the above table because many of the appropriations now are shown in agencies' fiscal 1998-99 expenditures or never were spent. For example, fiscal 1998-99 provisions granted a salary increase for state employees ($560 million for the biennium) that now is incorporated in agencies' expended and budgeted amounts, and contingency riders that set aside funds for human services and public education were not totally spent.

Major Provisions

House Appropriation Committee deliberations on Article 9 were guided by input from staff of the LBB and the State Auditor's Office, as well as testimony from Carolyn Purcell, executive director of the Department of Information Resources (DIR), the Small State Agency Task Force, the Midsize Agency Coordinating Committee, the State Agency Coordinating Committee, and other state agency officials.

Unconstitutional sections struck. Article 9 of CSHB 1 does not include sec. 174 of the fiscal 1998-99 budget law, commonly called the "rap rider," which prohibited the investment of state funds in any company that records or produces music that explicitly glamorizes or describes criminal violence, necrophilia, bestiality, pedophilia, illegal drug use, gang activities, or degradation of females. Travis County District Court Judge Scott McCown struck down this provision as unconstitutional in 1998 for attempting to amend general law through an appropriations rider.

Under sec. 24, state employees could serve as expert witnesses against the state as long as no appropriated funds are spent on the employee's salary, benefits, or expenses, unless the employee served on behalf of the agency or was on leave. The fiscal 1998-99 version of sec. 24 prohibited state employees from testifying against the state and was challenged in as an unconstitutional intrusion on free speech in several lawsuits, including *Hoover v. Morales*. The 5th U.S. Circuit Court of Appeals recently ruled that provision unconstitutional.

Sec. 142, pertaining to the Human Rights Commission's training of state agencies that have experienced three or more complaints of employment discrimination, reflects an amended version of a section of the fiscal 1998-99 budget law that Attorney General Dan Morales (in DM-497) determined to be unconstitutional because it attempted to amend general law through an appropriations rider.

In response to recent rulings questioning the validity of certain appropriations act riders, the Senate earlier this session passed SB 174, 175, 176, 177, and 178, all by Ratliff, which would incorporate into general law most of the riders traditionally found in Article 9.

Salary schedules. CSHB 1 would not provide salary increases for state employees classified under Schedules A and B. However, Art. 9, sec. 180 would appropriate about $41.6 million to increase salaries in the Schedule C classification table. This schedule governs the salaries of law enforcement staff employed by the Alcoholic Beverage Commission, Parks and Wildlife Department, Department of Criminal Justice, and Department of Public Safety. For more information, see Article 5 budget issues in this report.

Sec. 18, governing salaries for exempt positions, would include provisions relating to salaries of employees who move from exempt positions to classified positions within their agencies.

Sec. 172 would require employees hired after August 31, 1999, to pay 100 percent of the fair-market rental value of state-owned housing in which they live. Current employees living in state-owned housing would have to pay at least 20 percent of the fair-market rental value, as under current law.

CSHB 1 would not make adjustments for employees who became "underpaid" in relation to their salary ranges when the classification schedules were changed last session. The State Auditor's Office (SAO) recommended to the House Appropriations Committee this session that "green-circled employees" — those paid below the minimum of their salary range — be brought into their minimum salary group. The estimated fiscal note for these adjustments was $327,474.

The SAO also recommended that no "red-circled employees" — those making more than the maximum of their salary range — should be created. Sec. 10 of Article 9 would prohibit employees who are above the maximum of their salary schedule from receiving further salary increases until the rest of the schedule catches up with them.

Merit increases and bonuses. Sec. 5 would add a provision to authorize a one-time merit increase for qualified employees classified in the A or B schedules. This would not be treated as a permanent salary increase.

Sec. 97 would authorize agencies that met or exceeded 80 percent of their performance targets to enhance the compensation (up to 6.8 percent of base pay) of classified employees who contributed to the agency's outstanding performance.

Year 2000 provisions. Sec. 19 would continue Y2K bonus plans enacted for fiscal 1998-99 to retain critical information-resource staff. The employee would have to have been employed in a technical function since September 1, 1997, and agreed to stay on the job until May 31, 2000. Bonuses of up to $3,000 also would be authorized for information-technology employees who agree to stay on the job for 12 continuous months after the execution of the bonus contract. For fiscal 1998-99, information specialists were eligible for bonuses of up to $5,000.

Sec. 178 would carry forward the balance of appropriations set aside for fiscal 1998-99 activities related to Y2K conversions. It would require all state agencies and institutions of higher education to coordinate these efforts through DIR. For fiscal 1998-99, $110.9 million was budgeted for Y2K conversion activities and allocated among state agencies. According to LBB, the amount of any remaining balance cannot be projected at this time, mainly because of questions surrounding remaining Y2K work that needs to be completed as calendar year 1999 comes to a close and systems are being tested.

Commission on Human Rights activities and fees. Secs. 142-145 direct state agencies and institutions of higher education to use the commission to report equal employment opportunity information, to enlist assistance and review of their affirmative-action plans, and to develop, implement, and review personnel policies. Because of a finding that a fiscal 1998-99 section was unconstitutional because it authorized only the commission to provide compliance training, sec. 140 now would authorize entities other than the commission to perform this training. CSHB 1 newly would require agencies to pay for the commission's services at cost, with state auditor approval of the commission's costing plan, instead of at a rate not to exceed $5,000.

Travel-expense limitations. Sec. 95 would cap travel expenses at fiscal 1997 levels unless otherwise authorized by LBB. An agency that exceeded the limit without LBB approval would have to submit each travel expense for audit by the comptroller and could not receive reimbursement for certain travel expenses. Agency board members would have to submit out-of-state travel claims with the Ethics Commission before receiving reimbursement.

TANF contingency appropriation. Sec. 179 would appropriate the balance of all available Temporary Assistance to Needy Families (TANF) funds for the purpose for which the TANF block grant was made. It would authorize the state, with the approval of the governor and LBB, to expend TANF funds to meet fiscal penalties, caseload growth, or other program needs.

Telecommunications revolving account. New to the budget this year is sec. 152, recognizing state costs and appropriations for telecommunications, which have been paid out of this account previously but never itemized in the budget. CSHB 1 would appropriate $23 million to this account for fiscal 2000-01.

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