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HOUSE RESEARCH ORGANIZATION

state finance report

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CSSB 1— THE HOUSE APPROPRIATIONS COMMITTEE'S PROPOSED FISCAL 2002-03 BUDGET

The House Appropriations Committee reported CSSB 1 by Ellis, the general appropriations bill for fiscal 2002-03, on April 2. The bill is scheduled for floor consideration on April 10. The proposed state budget would appropriate a total of $109.7 billion, up 7.7 percent from fiscal 2000-01 spending, with $64.5 billion coming from general revenue-related funds, a 6.0 percent increase. These figures include $597 million in tobacco lawsuit settlement receipts, which are earmarked for spending in a separate Article 12 of the bill. CSSB 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 $10.6 billion. These amounts are not included in the spending totals for CSSB 1. The conference committee on the state budget may decide to add some of these provisions to the final version of the budget.

This State Finance Report includes an overview of the proposed state budget and each article of CSSB 1 and highlights significant budget issues, including differences from the Legislative Budget Board's recommendations in the original version of SB 1/HB 1, the Senate-passed version of SB 1, the governor's proposed budget, and other spending proposals. For a summary of funding proposals for all state agencies, see the LBB report, *Summary of House Committee Report on Senate Bill 1*, April 2, 2001.

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CSSB 1 by Junell, as reported by the House Appropriations Committee, would authorize total spending of $109.7 billion for fiscal 2002-03, an increase of $7.8 billion (7.7 percent) over fiscal 2000-01 spending. The committee substituted CSSB 1 for SB 1 by Ellis, the general appropriations bill approved by the Senate on March 28.

Under CSSB 1, general revenue-related spending would rise by $3.6 billion or 6 percent over the current biennium. About 35 percent of the proposed increase in general revenue-related spending above current levels would go to health and human services, primarily for the Medicaid program. About 20 percent of the increase would go to higher education, and 15 percent to public education. Federal funds would increase by 12.4 percent, with about half of this increase going for health and human services and about one-quarter going for highway planning and construction, aviation, and public transportation.

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 for CSSB 1

(millions of dollars)

Type of funds	Expended/ budgeted 2000-01	Recommended CSSB 1	Biennial change	Percent change
General revenue-related	$60,862.3	$64,507.2	$3,644.8	6.0%
Federal funds	$29,512.9	$33,179.2	$3,666.3	12.4%
Other funds	$11,550.6	$12,054.0	$503.4	4.4%
All funds	$101,925.9	$109,740.4	$7,814.5	7.7%

Source: Legislative Budget Board, Summary of House Committee Report on Senate Bill 1, April 2, 2001

Compared to the amounts proposed by the Legislative Budget Board (LBB) in SB 1 as filed, CSSB 1 would include a net $1.5 billion increase in all funds and a $580.7 million increase in general revenue-related funds. Increases in CSSB 1 over the filed version include about $38 million for the Children’s Health Insurance Program, $31 million for foster care and adoption services, $25 million for Medicaid, and $65 million from the Crime Victims’ Compensation Fund for victim assistance grants and aid to entities that assist victims.

For more detailed agency-by-agency information on increases and decreases from SB 1 as filed and from fiscal 2000-01 appropriations, see LBB’s *Summary of House Committee Report on Senate Bill 1*, April 2, 2001.

Comparison of CSSB 1 with SB 1. SB 1, as approved by the Senate, would appropriate a total of $111.7 billion from all funds, an increase of $9.8 billion (9.6 percent) over fiscal 2000-01 spending. This is $2 billion more than the $109.7 billion proposed in CSSB 1.

Significant spending differences include the provisions for state employee pay raises (about $585 million in general revenue in SB 1 versus about $150 million in general revenue in CSSB 1), Medicaid (a $2.5 billion increase in all funds in SB 1versus a $1.3 billion increase in all funds in CSSB 1), and higher education (about $250 million more in SB 1 than CSSB 1 for the TEXAS grant program).

Salary increases. CSSB 1 would appropriate $136.4 million in general revenue for salary increases for adult and juvenile correction officers in fiscal 2002-03. About $118 million would go to some 32,000 employees of the Texas Department of Criminal Justice (TDCJ), mostly prison guards but also including laundry and food-service managers, parole officers, and case managers. In addition, CSSB 1 would continue the salary increases awarded to adult correctional officers and some other TDCJ employees during the interim before the 77th Legislature convened. The Texas Youth Commission (TYC) would receive $18.7 million to increase the salaries of almost 3,000 juvenile correctional officers, shift supervisors, and dorm supervisors.

CSSB 1 also would appropriate about $14 million in general revenue for salary increases for certain employees at 11 state agencies. The Texas Department of Mental Health and Mental Retardation (MHMR), Texas Department of Protective and Regulatory Services (DPRS), and Texas Natural Resource Conservation Commission each would receive $3.9 million for pay raises. The remaining $2.3 million would be used to increase one state law librarian to full-time and to award higher salaries through salary schedule reallocations to financial examiners at the Texas Water Development Board, Banking Department, Office of Consumer Credit Commissioner, Savings and Loan Department, Credit Union Department, Insurance Department, and Workers' Compensation Commission.

SB 1, as approved by the Senate, would appropriate about $814 million in all funds to provide a 5 percent across-the-board pay increase for state employees and for other salary adjustments. About $585 million would come from general revenue and the remainder from dedicated and federal funds. Each state employee with at least one year's service would receive at least $100 a month, and employees would begin receiving longevity pay increases after three years instead of after five years.

SB 1 would give TDCJ and TYC correctional officers the across-the-board pay increase plus $6 per month per year of service in fiscal 2002 and another $6 per month per year of service in fiscal 2003. This would be in addition to continuing the pay increases awarded to adult correctional officers and other TDCJ employees during the interim. The Senate also would reclassify to a higher salary level some employees at MHMR, TYC, and DPRS. While the reclassification would be in addition to the across-the-board increase, SB 1 would fund only the reclassification for TYC. These items appear in Article 9 of the Senate bill, rather than in the individual agencies' bill patterns, as in CSSB 1.

Teacher health insurance. Neither CSSB 1 nor SB 1 would appropriate funds for a state teacher health insurance program. However, Texas Education Agency (TEA) Rider 81 in SB 1 would specify that funds appropriated for TEA's Foundation School Program (FSP) strategy include a state contribution to a uniform group insurance plan for school district employees. In general, this strategy would receive about $20 billion in formula funding in fiscal 2002-03 to provide school districts with their basic allotments. Overall, Senate leadership has indicated a willingness to spend about $1 billion on a teacher health insurance plan. According to LBB, the House has reserved for this purpose an estimated $800 million in "settle-up" money refunded to the state by school districts. The districts refund this money as a result of overestimates of their average daily attendance and underestimates of local property-value growth.

Tobacco-settlement funds. In 1998, Texas finalized a settlement of its lawsuit against major tobacco companies that awarded the state $17.3 billion over 25 years, subject to adjustments. In 1999, the 76th Legislature added Article 12 to the general appropriations act to allocate these funds and established 21 health-related permanent trust funds and higher-education endowments. For fiscal 2002-03, CSSB 1 would appropriate $597.2 million and SB 1 would appropriate $586.8 million in tobacco-settlement funds under Article 12, primarily from general revenue, for various health-related programs. The funds include payments received from the tobacco companies, interest earnings from the trust funds and endowments, and carry-forward of some unspent balances.

Wish list. Article 11 of CSSB 1 contains a "wish list" of about $10.4 billion in additional funding provisions for fiscal 2002-03. These items are not included in the reported spending amounts for CSSB 1 and are not considered as appropriations. SB 1, as approved by the Senate, contains a wish list of about $8.9 billion. The Article 11 provisions include strategy funding increases, new program funding, and budget riders.

Emergency contingency reserve. CSSB 1 would add a new section to Article 9 that would appropriate $200 million in general revenue to the comptroller to meet "emergency or contingency needs." If the comptroller certified that sufficient general revenue was estimated to be available, another $200 million would be appropriated to the comptroller for emergency or contingency needs.

An item in Article 11 of SB 1, but not in CSSB 1, would add a provision to Article 9 that would appropriate funds to the comptroller from the economic stabilization ("rainy day") fund for state emergency needs if the LBB determined that available funds were insufficient for the state's emergency and contingency needs.

Supporters say this mechanism would provide another way for the state to meet emergency needs that arise during a legislative biennium. By authorizing LBB to tap into a limited portion of the rainy day fund, the state could deal quickly with an emergency or contingency need that might arise when the Legislature was not in session. This authority would be similar to LBB's current budget execution authority.

Critics say authorizing LBB to make expenditures from the rainy day fund would violate constitutional requirements that the fund be spent only with the approval of two-thirds of the members present in both the House and the Senate, and the state has no fiscal emergency to justify changing the rules of how the fund can be spent. This proposal is significantly different from budget execution authority, they argue, because the governor must agree to budget shifts authorized by budget execution authority, and he would not play a role in rainy day fund expenditures that SB 1 would authorize. In addition, the proposal could infringe on the governor's role in spending the fund during a legislative interim because it would no longer be necessary for the governor to call the Legislature into special session to approve additional spending.

Relocating state agency personnel. CSSB 1 would require some state agency personnel to relocate outside of the Austin area. Rider 83 for TEA would require the agency to shift up to 50 full-time positions to locations outside of Travis County and to report to the Governor's Office and LBB on the agency's progress by January 1, 2003. Rider 3 for the Structural Pest Control Board would require the agency to relocate its headquarters outside of Austin during fiscal 2003. Rider 9 for the Real Estate Commission would require the agency to relocate 15 employees at its Austin headquarters to a site outside of Austin's city limits by January 1, 2003.

Rider 6 for the Department of Banking would require the agency to study relocating its Austin Regional Office outside of Austin and to report on the issue by January 1, 2003. The agency would have to move its office to the most cost-effective location at the end of its lease term on August 31, 2003. Rider 1 for the State Securities Board would prohibit the agency from locating any of its 27 newly authorized employees permanently in Austin.

Sec. 5 of the Article 8 special provision relating to all regulatory agencies would require any Article 8 agency with a lease in Austin that expires during fiscal 2002-03 to explore the feasibility of relocating outside of the Austin metropolitan area. Agencies would have to conduct a cost-benefit analysis of the possible relocation and to report to the Legislature no later than two months before their leases expired.

Spending versus revenues. According to LBB, CSSB 1 would spend $60.1 billion in general revenue, about $786.4 million less than the general revenue estimated to be available for fiscal 2002-03 spending.

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 2001, Comptroller Carole Keeton Rylander estimated that general revenue available for certification would total $60.8 billion and that the state would have about $106.8 billion from all revenue sources during fiscal 2002-03. (For more information, see HRO State Finance Report 77-1, *Writing the State Budget*.) The comptroller later added $143 million to the estimate for tobacco settlement revenue, to bring the estimate of available revenue to $60.9 billion.

Supplemental spending for fiscal 2001. On April 5, the House approved HB 1333 by Junell, a supplemental spending bill, transferring unencumbered fiscal 2001 funds from certain state agencies to other state agencies, primarily to the Texas Department of Health (TDH), TDCJ, and the State Office of Risk Management (SORM) for the remainder of fiscal 2001. If HB 1333 is enacted, TDH will receive about $595 million in additional funds for Medicaid to provide Medicaid services for the rest of the fiscal year; TDCJ will receive $110.3 million for prison capacity and career-ladder salary adjustments; and SORM will receive $13 million for worker's compensation claims. HB 1333 also would appropriate $68.2 million in general revenue for fiscal 2002 to six state agencies from which unencumbered fiscal 2001 funds would be transferred.

HB 1333 would have a cost to general revenue of $355.4 million for fiscal 2001 and fiscal 2002. In addition, fiscal 2001 transfers from general revenue-dedicated accounts would reduce the amount of money available for certification for fiscal 2002-03 by $54.2 million, and transfers of fiscal 2001 unexpended appropriations to other agencies would reduce unexpended balance appropriations in the fiscal 2002-03 general appropriations act by $48.4 million.

Article 1 Overview

The more than two dozen agencies within Article 1 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 of legislative agencies appear in Article 10.

For Article 1 agencies, CSSB 1 proposes to spend $2.6 billion in all funds for fiscal 2002-03, about 2 percent of the total state budget, including $1.9 billion in general revenue-related funds. Total appropriations would rise by about 5 percent from fiscal 2000-01.

Article 1 Spending Comparisons

(millions of dollars)

Type of funds	Expended/ budgeted 2000-01	Recommended CSSB 1	Biennial change	Percent change
General revenue-related	$1,731.8	$1,866.1	$134.4	7.8%
All funds	$2,469.8	$2,594.8	$125.0	5.1%

Source: Legislative Budget Board, Summary of House Committee Report on Senate Bill 1, April 2, 2001

Budget Highlights

As proposed in CSSB 1, the most significant increase in general revenue-related funds for an Article 1 agency in fiscal 2002-03 would be for the Office of the Attorney General (OAG). General revenue-related funding for the OAG would rise by about $72 million, or 24 percent, and total funding would rise by $83 million or 13 percent, mainly to expand victim-assistance and child-support programs.

In addition, CSSB 1 would shift the Telecommunications Revolving Fund Account from Article 9 to the General Services Commission (GSC). Since these funds formerly were off-budget, placing them under GSC would result in an increased appropriation of almost $140 million. That amount would include capital expenditures for the Capitol complex telephone and TEX-AN network service systems. The account receives its funds from user charges to state agencies and political subdivisions. The net increase to GSC in all funds would be $96 million or 42 percent over fiscal 2000-01.

GSC is undergoing sunset review this year. Among other proposals, the Sunset Advisory Commission has recommended shifting responsibility for the state's telecommunications operations from GSC to the Department of Information Resources (DIR) and creating an information technology program office within DIR to oversee major state projects in this area.

Commission on State Emergency Communications. CSSB 1 would increase the commission's biennial appropriation by $9.7 million, or 14 percent. An item in Article 11 of the Senate version of SB 1 would appropriate $40 million to the commission to establish, operate, and maintain an emergency roadside call-box system, contingent on the enactment of SB 578 by Madla. Unexpended balances in the 9-1-1 service fee account, funded by fees assessed on local telephone lines and cellular connections, could finance the program. CSSB 1 omits this provision.

Texas Historical Commission (THC). CSSB 1 would continue funding for the Historic Courthouse Preservation Program, created by the 76th Legislature, at $50 million in general revenue for fiscal 2002-03. The commission also asked for $2.5 million in fiscal 2002-03 to develop heritage tourism in Texas. Rider 8 for THC in both CSSB 1 and SB 1 would provide $1.3 million for this purpose. An item in the Article 11 wish list of SB 1 would provide the other $1.2 million. This program would promote opportunities for visitors to learn about and experience local history, culture, customs, and traditions. THC promotes heritage tourism through its Texas Heritage Trails Program, established in 1968. The commission has developed programs for three regions and would use the requested funds to develop programs in additional regions.

State Aircraft Pooling Board (SAPB). The Sunset Advisory Commission's report to the 77th Legislature found that the SAPB operates an aging fleet of aircraft (average age 19 years) and lacks a long-range plan for replacing airplanes. However, agency representatives and some members of the House Appropriations and Senate Finance committees praise the agency's safety record. CSSB 1's Article 11 wish list contains a recommendation for $1.7 million in general revenue to replace aircraft, fuel trucks, and maintenance and avionics equipment.

Drug courts. The Senate version of SB 1 includes a rider that would direct the Governor's Office to provide grants out of Strategy A.1.4, Criminal Justice, for trusteed programs to establish drug courts to handle nonviolent drug offenses that are determined to be the result of addiction. Such courts order treatment and probation and dismiss charges against defendants who complete the court-ordered rehabilitation successfully. The Senate bill would finance the biennial costs of the rider with $1 million from general revenue and $3 million from the Criminal Justice Planning Account. CSSB 1 omits this provision.

Internet Bureau. An item in Article 11 of CSSB 1 would appropriate $3.1 million from the Telecommunications Infrastructure Fund (TIF) to pay for continued operation and expansion of the OAG's Internet Bureau during fiscal 2002-03. Some of the bureau's functions, funded up to now by grants from trusteed programs within the Governor's Office, include investigating crimes perpetrated over the Internet, such as distribution of child pornography, consumer fraud, and identity theft; assisting the investigation of high-tech crimes, including conducting computer forensics to gather and preserve evidence; and educating and training local and state law enforcement personnel in related techniques. The rider would be contingent on enactment of legislation that would amend the Utility Code to allow TIF funds to be used for this purpose.

Also on the wish list. Other provisions in CSSB 1's Article 11 wish list for general government agencies and not discussed elsewhere in this report include:

- an additional $34.6 million to expand the Library and Archives Commission's program supporting local libraries, and
- $1 million for the secretary of state to increase the salaries of primary election workers from $5.15 to $6 per hour and $560,000 for voter-education outreach programs.

Other Article 1 issues. The following pages discuss these Article 1 budget issues in more detail:

- increasing grants from the OAG's Crime Victims' Compensation Fund;
- funding for new regional call centers through the OAG; and
- increased funding for the Texas Commission on the Arts' Cultural Endowment Fund.

Increasing grants from the Crime Victims' Compensation Fund

Agency: Office of the Attorney General (OAG)

Background: Under the Crime Victims' Compensation Act, the OAG administers the Crime Victims' Compensation Fund (CVCF). The act directs the attorney general to award compensation to innocent people who have no other source for recouping monetary losses that they sustained as a result of personal injuries or deaths caused by criminal conduct (Code of Criminal Procedure, sec. 56.31, et. seq.).

The OAG has three strategies under Goal C. Strategy C.1.1, Crime Victim Compensation, involves verifying and paying the claims of individual crime victims in accordance with state and federal laws. Victims may be reimbursed for items such as medical expenses, lost wages, and, in the case of domestic violence victims, relocation expenses. Strategy C.1.2, Crime Victims Institute, finances research and policy formulation regarding the impact of crime on victims and programs designed to address their needs. Strategy C.1.3, Victims' Assistance, administers grants to nonprofit organizations to support victim-related services. Past recipients have included Texas Court Appointed Special Advocates (Texas CASA), the Sexual Assault Nurse Examiner program, and Mothers Against Drunk Driving.

In fiscal 2000, the OAG granted more than $41 million to crime victims and $10.2 million to organizations that provide assistance and services to crime victims. The fund ended the year with a balance of almost $234 million. The OAG anticipates that grants to victims and organizations in fiscal 2001 will total about $47.5 million and $12 million, respectively, and that the fund will end the year with an available balance of about $252 million, not including $10 million that the agency has set aside as a catastrophic reserve fund to be used in the event of an incident of mass violence or terrorism.

The amounts shown below represent proposed ***increases*** in funding to OAG Strategies C.1.1 and C.1.3 for fiscal 2002-03, over the amounts appropriated in the current biennium.

CSSB 1	$74.3 million
SB 1	$74.3 million
Filed version	$10.6 million
Governor's proposal	$33.4 million

CSSB 1 — $74.3 million

For fiscal 2002-03, CSSB 1 would appropriate an additional $74.3 million to the OAG's Goal C over the amounts appropriated for fiscal 2000-01. About $30.4 million of the increase would go for grants to individual crime victims under Strategy C.1.1. The remaining additional $43.9 million would be distributed to programs under Strategy C.1.3 by Rider 14. Funds added under Strategy C.1.3 would go to victims' service organizations ($20 million), children's advocacy centers ($8 million), court-appointed special advocates ($1.2 million), victims' assistance coordinators and victims' liaisons ($2.8 million), grants for legal services to crime victims ($5 million), the OAG's Sexual Assault Prevention and Crisis Services Program ($5 million), and grants for sexual assault services ($250,000).

The Senate version of SB 1 proposes appropriations in the same amounts and to the same programs under Strategies C.1.1 and C.1.3.

Supporters say claims by victims have been increasing in number and monetary value. Over the past decade, the Legislature has expanded eligibility for victims and their families, increased the types of benefits that the fund may pay, and raised the maximum payout permitted under the law. Any claim that is documented, verified by OAG, and covered under the Crime Victims' Compensation Act must be paid. The OAG needs more money to keep up with these increasing claims.

The CVCF has large balances that should be used to further the goals of the act. These appropriations would further those goals and would help thousands of additional eligible people. For example, the Texas CASA program trains volunteers to advocate in court for children who are victims of abuse and/or neglect. The extra money would allow the program to expand to 10 more counties in the next biennium and to provide advocates for 426 more children per year. Similarly, the OAG's Sexual Assault Prevention and Crisis Services Program provides funding to local rape crisis centers and funds training of certified nurses to perform caring medical examinations on sexual assault victims to collect and preserve evidence.

Opponents say some of the victims' services organizations that would receive additional grant money, such as Mothers Against Drunk Driving and Justice for All, are inappropriate recipients of CVCF funding because they engage in lobbying and other political activities.

Filed version — $10.6 million

The bill as filed would have appropriated $22.7 million to Strategy C.1.3 and $93.8 million to Strategy C.1.1, a combined increase of $10.6 million over the amounts appropriated for fiscal 2000-01.

Governor's proposal — $33.4 million

The governor's budget proposal recommended an increase of $33.4 million in funding for Strategies C.1.1 and C.1.3.

Funding for new regional call centers

Agency: Office of the Attorney General (OAG)

Background: The OAG's Child Support Division is charged with establishing disputed child-support obligations and enforcing support obligations against delinquent obligors. Major duties include establishing paternity and locating other absent parents, obtaining court orders requiring support payments, establishing wage withholding to collect support payments, and collecting and disbursing support payments. In fiscal 2000, the division handled more than 1 million cases, took 1.2 million phone calls per month, and processed 7.8 million support payments worth more than $1 billion.

Between 1998 and 2000, the division increased the percentage of phone calls answered within 30 seconds from 14 percent to 95 percent. In addition to moving staff to the field offices to take parents' calls, the other major change instituted by the division was diverting calls originating in Bexar and Travis counties, the Dallas/Fort Worth Metroplex, and the greater Houston area to regional call centers, where customer-service staff answer questions about the status of cases and payments, handle parents' inquiries about establishing support obligations, and take complaints about delinquent support obligations. The call centers then pass appropriate cases on to investigators and attorneys for investigation and legal action.

The amounts shown below represent proposed allocations to the OAG in fiscal 2002-03 for the purpose of establishing and operating new regional call centers.

CSSB 1	$6.8 million
SB 1	$6.8 million
Filed version	$0
Governor's proposal	$0
Other proposals	$12.6-$28.2 million

CSSB 1 — $6.8 million

Rider 21 would appropriate to the OAG up to $2.3 million in unexpended balances from earned federal funds appropriated in fiscal 2001, plus federal matching funds estimated at $4.5 million, for child support enforcement. The earned federal funds are treated as general revenue. The $6.8 million would be earmarked to establish and operate four new regional call centers, including new centers in South, East, and West Texas that would open in fiscal 2003 and an existing but not yet fully funded center in El Paso, which would receive full funding beginning in fiscal 2002. Existing staff who now take calls in the South, East, and West Texas field offices would be relocated to the new call centers.

Supporters say these new call centers would provide customer service by phone in areas of the state that now lack that service, enhancing the division's performance of its child-support enforcement duties. Existing regional call centers have been highly successful, and parents all over Texas deserve the customer support that such centers bring. Furthermore, call centers allow child-support investigators and attorneys to concentrate on enforcement rather than on answering status inquiries about cases. OAG estimates that the new funding would allow the agency to collect an additional $18.2 million in child support over the biennium. Since the state retains some of the child-support money it collects to reimburse it for the Temporary Assistance to Needy Families payments it has made to custodial parents, and because the federal government matches those retained collections two-to-one, the call centers should more than pay for themselves.

Opponents say the Child Support Division apparently has sufficient resources to handle calls efficiently if they can answer 95 percent of calls within 30 seconds. In a tight budget, the state's available resources could be spent better elsewhere.

SB 1 — $6.8 million

Rider 20 in SB 1 contains provisions for call-center funding that are identical to those in CSSB 1.

Filed version — no increase

The base budget bill contained no provisions for funding new regional call centers, and the governor's budget proposal matched the LBB recommendations.

Other funding proposals — $12.6-$28.2 million

The OAG originally requested an increase of $28.2 million ($9.6 million general revenue-related) and 210 FTEs for Strategy B.1.1, Child Support Enforcement. The request would fund, among other things, a new central Texas field office, the four regional call centers, and across-the-board staffing increases, including 165 child-support officers, 12 special enforcement investigators, 12 attorneys, a manager for the new field office, and 20 new support staff. Less expensive options that the agency proposed to the House Appropriations Committee would have required $12.6 million and added 141 FTEs.

Supporters say the OAG's child-support caseload grew 65 percent between 1994 and 2000, while staff increased by only 5 percent. The OAG estimates that with the additional $28.2 million it originally requested, the agency could collect an additional $97 million in child-support payments, establish paternity for more than 4,600 additional children, and establish 3,750 more child-support obligations.

Increased funding for the Cultural Endowment Fund

Agency: Texas Commission on the Arts (TCA)

Background: For fiscal 2000-01, about 10 percent of TCA's funding came from federal sources and the rest from general revenue and other funds. TCA received a total of $13.1 million, including $2.7 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 establish a base fund of $200 million by fiscal 2005, half of which would be raised from the private sector.

The amounts shown below represent proposed ***increases*** in appropriations for deposits in the Cultural Endowment Fund during fiscal 2002-03.

CSSB 1	$0
SB 1	$0
Filed version	$0
Governor's proposal	$8 million
Other proposals	$50 million

CSSB 1 — no increase

Rider 3 in both CSSB 1 and SB 1 would allocate $2 million from TCA Strategy A.1.1 for deposit in the Cultural Endowment Fund in fiscal 2002-03, the same amount as in the current biennium. This figure matches the proposed appropriation in the base budget bill.

Governor's proposal — $8 million

The governor's budget proposal called for appropriating an additional $8 million in general revenue for deposit into the Cultural Endowment Fund in fiscal 2002-03.

Other funding proposals — $50 million

TCA's Legislative Appropriations Request asked for an additional $50 million in general revenue for deposit into the fund.

Supporters say the arts in Texas deserve a stable source of funding. In September 2000, the fund contained about $13 million. Lacking an allocated tax source and still well short of the funding target for 2005, the fund needs legislative appropriations to help it meet the goal set out in its enabling legislation. According to TCA, Texas invests only 17.4 cents per capita in funding for the arts, ranking below the other 49 states, five U.S. territories, and the District of Columbia. The national median for state arts funding per citizen is more than eight times Texas' investment.

Opponents of granting the additional money to TCA say the state cannot justify making a large appropriation of general revenue to support the arts when many Texans lack health care and other necessities.

Article 2 Overview

The 13 health and human services (HHS) agencies in Article 2 constitute Texas' second largest budget function after education. HHS agencies account for 30 percent of the total proposed budget for fiscal 2002-03 and 21 percent of proposed general revenue-related spending. They receive funding from multiple federal, state, and local sources and vary widely in size, mission, and funding mix.

The Health and Human Services Commission (HHSC) oversees the operations of and allocates resources for other HHS agencies, which include the Department of Health (TDH), Health Care Information Council, Department of Human Services (DHS), Department of Mental Health and Mental Retardation (MHMR), Department of Protective and Regulatory Services (DPRS), Rehabilitation Commission (TRC), Department on Aging, Commission on Alcohol and Drug Abuse (TCADA), Commission for the Blind, Children's Trust Fund of Texas Council, Commission for the Deaf and Hard of Hearing, and Interagency Council on Early Childhood Intervention. TDH, DHS, and MHMR, the largest agencies, account for 88 percent of the proposed appropriations for Article 2 in the next biennium and have more than 40,000 employees.

CSSB 1 would fund Article 2 agencies at $33 billion in all funds for fiscal 2002-03, about 10 percent more than in fiscal 2000-01. The general revenue-related portion, $13.3 billion, would represent an 11 percent increase from the current biennium.

Article 2 Spending Comparisons
(millions of dollars)

Type of funds	Expended/ budgeted 2000-01	Recommended CSSB 1	Biennial change	Percent change
General revenue-related	$12,026.6	$13,288.0	$1,261.4	10.5%
Federal funds	$17,687.5	$19,559.9	$1,872.4	10.6%
Other funds	$ 162.1	$ 132.2	$ (29.9)	(18.4)%
All funds	$29,876.2	$32,980.2	$3,104.0	10.4%

Source: Legislative Budget Board, Summary of House Committee Report on Senate Bill 1, April 2, 2001

Background

Federal directives drive many HHS programs. Federal funds finance about 60 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 larger caseloads and changes in the population mix for Medicaid programs, funded through TDH, and TANF, administered by DHS.

Demographics. According to HHSC, 3.3 million Texans, or one-sixth of the state population, lived below the federal poverty line in 1999. In part because of this, Texas has a high number of medically uninsured adults and children. HHSC estimates that Texas has about 4.8 million uninsured residents (24 percent of the population), of whom 1.4 million are children. Texas has the second highest percentage of uninsured people among all states.

Caseloads. Federal entitlement programs such as Medicaid, TANF, and food stamps require the state to serve *all* individuals who meet the eligibility standards. Entitlement caseloads in Texas and other states have declined in recent years. However, during fiscal 2000-01, Medicaid caseloads did not decline as quickly as expected, and the clients who remain are considered more difficult to serve and to move off the caseload.

Also, 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. The 1999 U.S. Supreme Court ruling in *Olmstead v. L.C.* found that the federal Americans with Disabilities Act (ADA) compels states to provide treatment and habilitation for disabled persons in a community setting within a reasonable amount of time if community placement is appropriate. This ruling increases pressure on Texas to move these clients from institutions into community care or risk legal liability under the ADA. (For more background, see HRO Focus Report Number 77-9, *The* Olmstead *Challenge: Community Care for the Disabled*, March 27, 2001.)

Medicaid. Medicaid, the federal-state health insurance program serving the poor, the elderly, and people with disabilities, is the largest single source of federal funds to the state budget. During fiscal 2000-01, Texas will spend about $18.8 billion in Medicaid programs, including $7.2 billion of state general revenue, before an expected emergency appropriation. 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 the current biennium, Texas paid about 39.8 percent of all program costs, and the federal government paid the rest. At least 12 agencies in Article 2 receive Medicaid funding. Medicaid also supports the Medicaid fraud-detection unit of the Attorney General's Office and some health programs in public schools, and it contributes toward graduate medical education costs.

Medicaid caseloads have trended down over the past few years but appear to have bottomed. The caseload mix has shifted toward higher-need categories, such as the elderly and people with disabilities. Health-care providers' demands that the state pay for cost increases due to inflation have created additional pressure to increase Medicaid spending, as have changes in medical technology and practices and soaring drug costs.

In the current biennium, TDH has experienced a shortfall of about $600 million in Medicaid funding, largely because caseloads have not declined as quickly as expected, but also because of rising costs of services and drugs and a less favorable federal match rate than anticipated. On April 5, the House approved a supplemental appropriation bill, HB 1333 by Junell, to address the Medicaid shortfall, among other issues. If HB 1333 is enacted, TDH will receive about $595 million in additional funds for Medicaid in fiscal 2001.

Medicaid is funded through TDH and administered by DHS. TDH contracts with the National Heritage Insurance Co. (NHIC) to manage the processing of Medicaid claims. During the current biennium, the overpayment of $22 million to $63 million of claims with incorrect or missing information has prompted scrutiny of the terms and practices of the contract. Areas of concern include the delayed delivery of Compass 21, a claims processing and data management system, the administration rate that the state pays, requirements that the contractor provide office space for TDH departments unrelated to Medicaid, and third-party recovery efforts by NHIC on behalf of the state. The current contract with NHIC expires in August 2002.

TANF. The 1996 federal welfare-reform law created TANF to replace Aid to Families with Dependent Children and other assistance programs. Texas initially received more federal funds through TANF than it would have received before welfare reform, and lower-than-expected welfare caseloads left sizeable unspent funds. Those surplus funds have been used to cover spending for TANF-related programs that are in excess of the state's grant. Because TANF was authorized by the federal government through September 1, 2002, Congress will need to reauthorize funding for the program to continue.

States may use federal TANF funds to provide the following services to families who meet state income and resource criteria: assistance for caring for children 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. Also, a state's welfare clientele must meet minimum work-participation rates, which may include participation in job training and other education programs as well as actual employment.

In fiscal 2000-01, Texas is using TANF funds to pay for:

- cash assistance (DHS);
- TANF eligibility determination (DHS);
- child protective services and related programs (DPRS);
- 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).

In the past, TANF surpluses were transferred into other federal block-grant funding programs such as Title XX, the federal social-services block grant, or the Child Care and Development Fund. With declining TANF surplus funds, lawmakers will have to consider other methods of finance or else scale back these programs. CSSB 1 recommends removing TANF funds from DHS, TEA, TWC, and TCADA.

To continue to receive TANF funds, Texas must meet a maintenance-of-effort (MOE) requirement to spend on TANF at least 75 to 80 percent of its 1994 spending on AFDC. To maintain the current 80 percent MOE, Texas must spend $251.4 million in general revenue per year on TANF. TANF programs may be paid for entirely with federal TANF funds, with federal funds and state MOE funds, or with MOE alone.

Tobacco-settlement money. CSSB 1 would budget for fiscal 2002-03 about $597 million in receipts from the settlement of the state's lawsuit against the tobacco industry. Proposals in Article 12 would dedicate these funds primarily to higher education institutions in Article 3 and selected health-related programs in Article 2. The Children's Health Insurance Program (CHIP), the largest program funded by tobacco-settlement receipts, has first priority for any tobacco money available after funding the 21 permanent trust funds and endowments in Article 12.

Crime Victims' Compensation Fund. About $51 million from the Crime Victims' Compensation Fund, administered by the Attorney General's Office, is expected to be available for appropriation to Article 2 during fiscal 2002-03. These funds, generated mainly by court fees paid by criminal offenders, are intended to fund compensation, services, or assistance for crime victims. Because some children served by DPRS are crime victims, the agency likely will use those funds to pay for child-care services.

Budget Highlights

CSSB 1 would increase overall Article 2 spending by $3.1 billion over fiscal 2000-01 levels. Major net increases would occur for TDH ($1.5 billion), HHSC ($692 million), DHS ($609 million), and DPRS ($111 million).

In addition to the budget issues discussed in the pages following this overview, HHSC budget increases would include $663.7 million in all funds for caseload and cost growth in CHIP, about $57 million of which would be general revenue-related. DHS' funding increase would include $27.5 million in federal funds for nutrition assistance, while TDH's increase would include $54.2 million in federal funds for the same purpose through the Women, Infants, and Children program.

Medicaid. Texas must increase state matching funds by at least $123.7 million in general revenue because of less favorable matching rates for fiscal 2000-01. Because Medicaid was funded for only 23 months during the current biennium, CSSB 1 would include 25 months of premium payments for fiscal 2002-03. Funding proposed in CSSB 1 would cover caseload growth of about 2 percent per year.

CSSB 1 generally would 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. Other Article 11 items related to Medicaid include growth in the Medicaid managed-care program, increasing the pharmacy dispensing fee in the vendor drug program, and streamlining the process of applying for Medicaid.

TANF. In the current biennium, Texas is spending about $144 million more in TANF funds than it receives and is covering the difference with surplus funds. Assuming the same level of spending and the same block grant in fiscal 2002-03, the state would enter the following biennium with a $100 million deficit.

CSSB 1 recommends reducing TANF-related services across four agencies by $98 million in fiscal 2002-03. This would result in TANF expenditures of $1.1 billion and would reduce the TANF surplus from around $225 million to $122 million, preserving a TANF balance of $19 million for fiscal 2004-05. The cuts would come from adult education programs at TEA and TWC and from TCADA's prevention, treatment, and intervention program, as well as from method-of-finance changes in other programs at these agencies and DHS.

Salary increases. Many HHS agencies requested additional funds to provide raises for employees to reduce turnover and to attract qualified applicants. DHS requested about $352 million to increase wages and benefits for community-care attendants and $36 million to fund bonuses for direct-contact staff. MHMR requested about $36 million to upgrade salaries for direct-contact staff in state hospitals and state schools. DPRS requested about $34 million to increase salaries by two pay grades for all employees and by three pay grades for supervisors.

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

- in the TDH budget:
  - $20.5 million in grants to community organizations involved in addressing health disparities;
  - $5.9 million for dental benefits for nursing-home residents who receive Medicaid (in addition to $10.2 million in the DHS wish list for the same purpose);
  - $4.9 million to maintain current services for people with kidney diseases and to fund the end-stage renal disease program;

   - $20.8 million to vaccinate children who live along the border and are at risk of contracting hepatitis A;
   - $6.3 million to expand and improve the state's collection of health registry and vital statistics data; and
   - $20 million for the state's anti-tobacco campaign;

- in the MHMR budget:

   - $22 million to fund minimum safety requirements for public buildings and other repairs to the central office and state facilities; and
   - $6.3 million to develop a new Medicaid waiver program that would provide Medicaid waiver slots to individuals who already reside in the community;

- $4.7 million for DPRS to move 120 medically fragile children from institutions into the community;
- $9.2 million for DPRS to expand foster reimbursement to kinship care;
- $6.5 million for TRC to provide transitional planning services for students with disabilities who are leaving the school system;
- $800,000 to establish new TRC independent-living centers to serve 309 new clients in Tyler and Corpus Christi;
- $4.5 million for the Department on Aging to expand volunteer services for people over age 60, including RSVP, Senior Companion, and Foster Grandparent;
- $2.5 million for the Department on Aging to expand the Advocates for the Elderly pilot program; and
- $100,000 for the Commission on the Deaf and Hard of Hearing to develop testing materials for trilingual interpreter certification.

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

- streamlining Medicaid applications for children (DHS);
- pay increases for community-care attendants (DHS);
- funding for community options awareness programs (DHS);
- rate increases for nursing homes (DHS);
- reducing wait lists for community care (DHS and MHMR);
- pay increases for direct-care mental health workers (MHMR);
- increased funding for women's and children's services (TDH);
- removing prescription limits for all Medicaid recipients (TDH);
- increasing foster-care rates and adoption subsidies (DPRS); and
- increased funding for child protective services.

Streamlining Medicaid applications for children

Agency: Texas Department of Health (TDH)

Background: About 1.4 million uninsured children live in Texas, almost 600,000 of whom are eligible for Medicaid but not enrolled in the program, according to the Health and Human Services Commission. For every dollar spent on Medicaid services, Texas now pays 39.8 cents and the federal government pays 60.2 cents. Medicaid is an entitlement program, meaning that federal law requires states to provide medically necessary care to all eligible people who seek services, and the state may not cap enrollment.

To enroll in Medicaid, a person must fill out an application, attend an hour-long interview, and demonstrate income below certain levels as well as cash assets and car value (the "assets test"). Recipients must reapply for benefits at least every six months, unless on a fixed income. The original purposes of these features were to narrow program eligibility or make eligibility conform to the former cash-assistance program, Aid to Families with Dependent Children, and to prevent fraud.

State outreach for children has improved dramatically with the implementation of the Children's Health Insurance Program (CHIP), for which active outreach is a condition to receive federal funding. CHIP outreach efforts target uninsured low-income and working families in the same communities in which Medicaid-eligible families live. Under federal law, CHIP cannot provide benefits to a Medicaid-eligible individual, so families responding to the CHIP outreach efforts must be screened for Medicaid eligibility as well. CHIP provides comprehensive health-benefit coverage to children in families who earn up to 200 percent of the federal poverty level, or about $2,842 per month for a family of four. The state pays 25 percent of the costs and the federal government pays 75 percent.

Legislative proposals for streamlining the Medicaid application process for children include authorizing 12-month continuous eligibility for Medicaid, eliminating the assets test, eliminating the face-to-face interview, and simplifying the application form.

Medicaid is budgeted under TDH Goal B, Medicaid Services, at about $12.4 billion for fiscal 2000-01. The amounts shown below represent proposed ***increases*** in Medicaid funding for fiscal 2002-03 for the purpose of streamlining the application process.

CSSB 1	$0
SB 1	$0
Filed version	$0
Governor's proposal	$0
Other proposals	$1.2-4.2 billion

CSSB 1 — no increase

Neither CSSB 1 nor SB 1 would provide funding to streamline the Medicaid application process for children, in line with the LBB recommendation for the base budget bill.

Wish list provisions

Article 11 of CSSB 1 includes riders that would require changes in the Medicaid application process for children, contingent on enactment of HB 825, HB 826, HB 827, and HB 828 by Gray, et al. and 1604 by Coleman.

Other funding proposals — $1.2-$4.2 billion

Estimates of the costs of proposals to streamline the Medicaid application process range from $1.2 billion to $4.2 billion per biennium ($400 million to $1.4 billion in general revenue). This wide range is due in part to differing estimates of Medicaid enrollment under these proposals. Because Medicaid is an entitlement, the financial impact of changes to the enrollment process cannot be capped at a dollar value.

During early discussions, LBB estimated that implementing continuous eligibility and eliminating the face-to-face interview and the asset test would cost the state $217.5 million in general revenue in fiscal 2001 and $596.2 million in fiscal 2002-2003. That estimate reflects a slight savings in administrative costs but large increases in enrollment and corresponding medical costs. LBB based its calculations on Texas' historical Medicaid enrollment, average Medicaid costs for fiscal 2000-01, and DHS data relating to cases denied for assets, missed appointments, and failure to provide information.

Supporters say Texas' current application process prevents too many eligible people from receiving coverage because the state wants to keep eligible people off the Medicaid rolls to minimize expenditures. The state's outreach efforts to inform people about their potential eligibility for Medicaid also are inadequate. Policies that hinder access to Medicaid coverage end up increasing costs to local taxpayers when local hospitals wind up providing health- care for indigent people as part of their charity care.

Streamlining the Medicaid application process would help the state achieve its goal of reducing the number of uninsured children. The application process for Medicaid should be similar to the CHIP process in the type of information needed to ensure that families who respond to the outreach efforts get the health coverage to which they are entitled.

LBB's cost projections are too high because each change was estimated separately. Projected enrollment increases and medical costs were added together rather than taking into account the combined effect of all three changes. The projection of first-time Medicaid enrollees double-counted children who would enroll newly because of either of these changes. Also, the projections do not reflect savings to local governments and hospitals that provide indigent and charity care to eligible patients not enrolled in Medicaid.

Opponents of current streamlining proposals say these changes would be wrong both for children and the state. The Medicaid application process actually results in more children enrolling in CHIP, which is a better program. Because children who are eligible for Medicaid are ineligible for CHIP, the current Medicaid rules, by excluding many children from Medicaid, make more children eligible for CHIP. The key benefit of enrolling children in CHIP over Medicaid is the copayment, which allows parents to participate in their children's health care and disassociates families from "welfare." Also, expanding enrollment in Medicaid rather than in CHIP would not maximize the federal funds the state receives for insuring children. CHIP has a match rate of three-to-one for federal funds, versus two-to-one for Medicaid.

LBB's cost projections are too low because they do not take into account a possible increase in fraud as a result of these measures, nor do they factor in the less favorable match rate for Medicaid versus CHIP. If these changes were implemented, the state could receive a much larger than expected Medicaid bill in two years.

Because there is no dollar limit on health-care benefits under Medicaid, the potential impact of fraud is great, and the state must verify that recipients are eligible to receive benefits. The limited duration of eligibility, asset test, and face-to-face interviews ensure that the state's Medicaid funding goes to those who need it and only for as long as they need it.

Pay increases for community-care attendants

Agency: Texas Department of Human Services (DHS)

Background: Community-care attendants assist individuals with disabilities who live in the community with daily living activities and other essential tasks, which can include getting up in the morning, bathing, cooking, and escorting the client to medical appointments. Community-care attendants are employed by home health agencies that contract with DHS to care for Medicaid clients. These services are paid by Medicaid through the DHS budget, either on a cost reimbursement basis or by a per-person rate.

The current rate for home-care services ranges from $8.33 to $9.89 per hour. Out of this rate, home health agencies must cover the attendants' wages and administrative costs. According to DHS, the average wage for attendants is about $7 per hour.

Salaries for community-care attendants are budgeted under DHS Strategy A.1.1, which funds community-care services at about $1.8 billion for fiscal 2000-01. The amounts shown below represent proposed ***increases*** in funding for fiscal 2002-03.

CSSB 1	$0
Filed version	$0
SB 1	$0
Governor's proposal	$0
Other proposals	$207-$369 million

CSSB 1 — no increase

CSSB 1, SB 1, and the governor's budget proposal would not increase funding in fiscal 2002-03 to provide pay increases for community-care attendants, in line with LBB recommendations in the base budget bill.

Wish list funding — $207.3 million

Provisions in the Article 11 wish list would increase funding for community-care attendants by $207.3 million in general revenue as a part of an overall increase in wages for DHS direct-care workers.

Supporters say low wages make it very difficult to attract and retain qualified attendants. Community-care attendants are paid minimum wage with no benefits, resulting in turnover as high as 60 percent in some areas. Supporters point out that individuals with disabilities are among Texas' most vulnerable citizens, yet they often wind up in the hands of poorly paid employees.

Opponents say appropriating more money to home health agencies might not translate into higher wages. If DHS increased the amount paid to the home health agency, only a portion would go to the attendant, possibly not enough to reduce turnover. Other initiatives such as client voucher programs could be more successful in recruiting and retaining high-quality attendant care. In a client voucher program, the consumer is the employer of record and can offer limited incentives, such as a bonus or the prospect of a raise. In a pilot study conducted by the Department of Protective and Regulatory Services, client vouchers reduced turnover from 16 percent to 4 percent in the control group.

Other opponents say that in the larger context of the state's initiatives to move more institutionalized Texans into the community, other items should be funded first. With thousands of Texans on waiting lists for community care, limited funds would be better spent on opening up additional Medicaid waiver slots to move people out of institutions.

Other proposals — $369 million

DHS' Legislative Appropriations Request included $368.5 million in all funds for fiscal 2002-03. Although this funding would support a rate increase paid directly to home health agencies, the proposal assumes that attendants' compensation would increase by 10 percent in fiscal 2002 and by 12 percent in fiscal 2003.

Supporters say community-care workers need a significant raise to make their wages competitive. While community-care attendants and institutional direct-care workers do almost the same work, direct-care workers in state institutions earn significantly more than community-care attendants earn.

Funding for community options awareness programs

Agency: Texas Department of Human Services (DHS)

Background: In response to the U.S. Supreme Court ruling in *Olmstead v. L.C.*, 527 U.S. 581 (1999), which established the right of people with disabilities to live in the most appropriate setting, Texas formed the Promoting Independence Advisory Board. The board assessed Texas' long-term care system and identified barriers to meeting the demands of the *Olmstead* ruling. Although Texas has developed effective community-based alternatives to institutional services, the board found that lengthy waiting lists slow people's access to services. Furthermore, the board found that the system for obtaining services is fragmented and confusing and often results in people entering institutions when they could be served better by community services.

Community options awareness programs are budgeted under DHS' Goal A, Long-Term Care continuum. This goal is funded at $5.9 billion for fiscal 2000-01. The amounts shown below represent proposed appropriations to create a community options awareness specialist program in fiscal 2002-03.

CSSB 1	$0
SB 1	$0
Filed version	$0
Governor's proposal	$0
Other proposals	$24.5 million

CSSB 1 — no increase

Neither CSSB 1 nor SB 1 would provide additional funds for community options awareness programs in fiscal 2002-03, in line with LBB recommendations in the base budget bill.

Wish list funding — $24.5 million

A provision in Article 11 would add $24.5 million in all funds for Promoting Independence initiatives. This funding would create two programs at DHS. In one program, regional specialists employed in nursing facilities would provide assessment services and information about community placement options and would work with caseworkers to determine patients' eligibility for waivers and other programs. In the other program, public information specialists would work in the community with families and community providers to provide information about alternatives to institutionalization. These specialists would work both with people who have made the transition from institutions to the community and with people who never have entered institutions.

Funding for community options awareness programs

Supporters of this program say that people in nursing homes need a central source of information because the current system's complexity prevents people from finding the most appropriate care setting. Those who care for people in institutions may not know about community alternatives. People who leave institutions need caseworkers to prevent minor but confusing aspects of living with a disability in the community from forcing the patients to return to institutions needed.

Opponents say the state should not create two new programs in DHS to do what community groups and other agencies already are doing. Nonprofit community organizations already provide casework services through staff and volunteers, both to people in institutions and to those living in the community. Local agencies already provide this information separately and receive funds for outreach. They should use those outreach funds, not new funds, to ensure that they are publicizing their services adequately.

Other opponents say caseworkers might enter institutions and discuss community living with people for whom it is not an appropriate option. This could cause unnecessary stress for some people in institutions. Those with relatives in nursing facilities say a third party could convince their relative to move into the community, but if the move did not work out, the family would have to find a spot in an institution and move the relative back in.

Rate increases for nursing homes

Agency: Texas Department of Human Services (DHS)

Background: Texas has about 1,250 certified nursing facilities with 125,900 beds. Although regulated by the state, the nursing-home industry is private. However, about 75 percent of nursing-home residents receive Medicaid services. The state reimburses nursing homes for Medicaid patients on a per-bed basis that reflects a patient's anticipated level of need. This means that increasing acuity of patients' care can drive up the cost per bed. Along with the high cost of liability insurance, this is cited as contributing to the high rate of bankruptcy for nursing homes in the state.

For fiscal 2000-01, the Legislature increased nursing-facility payments by $169.5 million in all funds ($65.5 million in general revenue) to reflect an inflation rate of 3.7 percent per year. Under the terms of this new funding, contractors could receive a rate increase of $0.20 per bed per day if they agreed to spend that money on attendant wages and benefits. Because of a budget shortfall for DHS, however, the base rate was $0.08 short, both for organizations that sought the increase and for those that did not. Furthermore, organizations that have sought the rate increase say they must pay the administrative costs to obtain the rate increase, which can go only to attendants' wages. In March 2001, the Texas Alliance for Nursing Homes filed a lawsuit claiming that the state had not fulfilled the terms of last session's arrangement.

Nursing-facility payments are budgeted in DHS Strategy A.1.4 at about $3.2 billion for fiscal 2000-01. The amounts shown below represent proposed ***increases*** in funding for nursing-facility rate increases for fiscal 2002-03.

CSSB 1	$0
SB 1	$39.7 million
Filed version	$0
Governor's proposal	$245.2 million
Other proposals	$380-$800 million

CSSB 1 — no increase

CSSB 1 would provide no increased funding for community-care providers, reflecting LBB's recommendations in the base budget bill for fiscal 2002-03.

Wish list funding — $380 million

Article 11 of CSSB 1 contains provisions that would increase nursing-facility payments by an additional $380 million in all funds to reflect an inflation rate of about 3.4 percent per year, increasing client acuity, and salary increases. These provisions also would include funds for annual dental examinations, cleanings, and X-rays to nursing-home residents, contingent on enactment of HB 479 by Naishtat.

Supporters say 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, 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.

The state does not pay nursing homes enough to cover the cost of care. Texas ranks 45th in the nation in nursing-home funding with an average reimbursement rate around $81.22 per bed per day, below the $92 per day it costs to provide care. Four out of 10 Texas nursing homes are in bankruptcy, and direct-care staff turnover rates are above 100 percent in some areas. Nursing homes can provide the level of care that the state requires only if they receive more reimbursement.

Supporters of the dental benefit say that regular dental care could improve the health of nursing-home residents significantly. They say that because the dental benefit for Medicaid requires nursing-home residents to pay out of pocket initially and then be reimbursed, these patients often go without dental care. This can lead to disease or reduced quality of life.

Opponents of raising reimbursement rates say this would not stem the rate of nursing-home bankruptcies because reimbursement rates are not the problem. To support this, they cite the disparity between the rate of bankruptcy for for-profit nursing homes versus that for nonprofit nursing homes. The leading cost driver for nursing homes, they say, is the rising cost of liability insurance, not more acute-care patients. Raising rates would not improve the nursing-home industry's financial outlook significantly. Rather, they say, the state needs to look at measures that will reduce the cost of liability insurance.

Other opponents of increasing reimbursement rates say that the industry's 30 percent vacancy rate indicates that not all beds are needed. Bankruptcies are a sign that the free-market system is working to thin out unnecessary operations. Other opponents 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 mix and quality of services provided.

SB 1 — $39.7 million

SB 1 would add $39.7 million in all funds to DHS Strategy A.1.4 to increase rates to address increasing client acuity in nursing homes.

Supporters say the state needs to spend money to address the increasing acuity of patients but not to address rising liability insurance premiums. This funding level would increase reimbursement rates to match the increasing health needs of nursing-home residents. It would not provide funds to offset the rise in liability insurance rates. Because the state reimburses nursing homes for Medicaid patients on a per-bed basis that reflects a patient's anticipated level of need, the state should stay abreast of those costs. Liability insurance premiums are part of the cost of doing business and should not be the state's responsibility.

Governor's proposal — $245.2 million

The governor's budget proposal called for spending an additional $245.2 million for fiscal 2002-03 to increase nursing-home reimbursement rates by 3.3 percent. Part of this funding would be tied to the quality-of-care index implemented by the Health and Human Services Commission during the interim before the 77th Legislature.

Other proposals — $800 million

The nursing-home industry has proposed spending as much as $800 million to increase nursing-home reimbursement rates. These increases would go toward pay raises, inflation, and rising liability insurance premiums.

Supporters say the smaller proposed increases are not enough to save the nursing-home industry. The three primary cost drivers for nursing homes today are labor costs, fixed capital costs, and liability insurance premiums. Labor accounts for 60 percent of the cost of care. With the reimbursement rate set so low, nursing homes cannot afford to pay the required number of registered nurses and nurse aides. This has resulted in turnover rates in excess of 100 percent in some areas. Of the proposed $800 million increase, $322 million would go toward reducing the turnover problem by improving wages and benefits. The rest would go toward general operating costs, inflation, and liability insurance premiums.

Reducing waiting lists for community care

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

Background: Medicaid waiver slots are the primary funding mechanism for moving people with disabilities from institutional to community settings. Under federal law, Medicaid can pay for long-term care services only in institutional settings unless the client obtains a waiver. Because the number of waivers is limited by availability of funds and the demand for waivers is greater than the supply, most states have created waiting lists for waiver programs. About 48,000 Texans now are on waiting lists for these waivers. Depending on the level of need, a person may wait many years for a waiver slot to open up. Reducing waiting lists has become a more urgent priority in the wake of the 1999 U.S. Supreme Court decision in *Olmstead v. L.C.*, 527 U.S. 581, which established the right of people with disabilities to live in the community if that is the most appropriate setting and required states to make reasonable efforts to accommodate those needs.

DHS administers three primary waiver programs: Community-Based Alternatives (CBA) for individuals with disabilities who are eligible for nursing-home care; Community Living Assistance and Support Services (CLASS) for individuals with developmental disabilities other than mental retardation; and the Medically Dependent Children's Program (MDCP). MHMR administers one main waiver program, the Home- and Community-Based Services (HCS) program, which 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.

Medicaid waivers are budgeted under DHS Strategy A.1.1, which funds community care services, at about $1.8 billion for fiscal 2000-01. Waivers are budgeted under MHMR Strategy C.1.4, which funds mental retardation home- and community-based services, at about $502.4 million for fiscal 2000-01. The amounts shown below represent proposed ***increases*** in funding for Medicaid waivers for fiscal 2002-03.

CSSB 1	$0
SB 1	$289.9 million
Filed version	$0
Governor's proposal	$103.7 million
Other proposals	$416 million

CSSB 1 — no change

CSSB 1 would provide no additional funding for Medicaid waiver slots in fiscal 2002-03, reflecting LBB recommendations for the base budget bill.

Opponents of expanding waiver slots say this could create a system that is unfavorable to people who live in institutions. The state could coerce those living in institutions into moving into a less than ideal situation in the community because care is less expensive there. Shifting a large amount of funding to *Olmstead*-related initiatives could undermine state support for institutions, causing the level of care to deteriorate.

Other opponents say the price tag associated with increasing the number of waiver slots could prohibit funding of other Promoting Independence priorities, such as improving the network of community supports. As the Legislature makes choices with limited state dollars, lawmakers will have little flexibility in paying for the rising costs of entitlement programs and in meeting other pressing needs.

Wish list funding — $416 million

Provisions in Article 11 of CSSB 1 would fund waiver slots at the levels requested by DHS and MHMR in fiscal 2002-03. DHS Strategy A.1.1 would increase by $363 million in all funds, and MHMR Strategy C.1.4 by $53 million. According to the agencies, this would reduce waiting lists for the individual waiver programs as shown below.

Agency Requests to Reduce Waiting Lists

Waiver program	Agency	Additional slots in FY 2002	Additional slots in FY 2003	If funded, decrease in waiting list
MDCP	DHS	108	360	28%
CLASS	DHS	305	1,300	31%
CBA	DHS	3,808	5,300	44%
HCS	MHMR	624	1,561	16%

Source: Agency Legislative Appropriations Requests and House Research Organization.

Supporters say this funding level would strike a balance between opening up community slots and expanding the network of community supports. It would represent the state's effort to move with "reasonable promptness" as required by the *Olmstead* ruling.

SB 1 — $289.9 million

SB 1 would provide $289.9 million in additional funding for new Medicaid waiver slots in fiscal 2002-03 through appropriations to DHS and MHMR. The Senate's recommendation is based on funding 56 percent of the slots requested by the agencies.

Supporters say given the state's limited resources, 56 percent would a sizeable step in the right direction. Funding more than half of the agencies' requests would represent "reasonable promptness" in the spirit of the *Olmstead* ruling.

Governor's proposal — $103.7 million

The governor's budget proposal would fund Promoting Independence initiatives at $103.7 million. This would include funding to reduce wait lists for long-term care services with an emphasis on individuals currently living in institutions.

Supporters say this level of funding would give the people who have been on waiting lists the longest an opportunity to move into the community.

Other funding proposals (varies)

Supporters of increased Medicaid waiver slots say all of the above proposals are too low to comply with *Olmstead* or to make an appreciable difference in the lives of people waiting for community slots. The agency requests are based on funding portions of the waiting lists, the most significant of which would be only 44 percent. In other words, the most generous proposal now on the table would leave more than half of the individuals still waiting.

Pay increases for direct-care mental health workers

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

Background: MHMR employs about 9,400 direct-care workers in state hospitals, state centers, and state schools. The agency says that the salary for entry-level workers in these positions is below the federal poverty level for a family of four. The agency has a turnover rate of 34 percent, double the average for all state employees. Turnover ranges from about 17 percent at the Rio Grande State Center to 55 percent at the Austin State School.

Direct-care workers' salaries are budgeted at about $970 million for fiscal 2000-01 under MHMR Strategies B.1.1, Mental Health State Hospital Services, and D.1.1, Mental Retardation State School Services. The amounts shown below represent proposed ***increases*** in funding for direct-care workers' salaries in fiscal 2002-03.

CSSB 1	$3.9 million
SB 1	$0
Filed version	$0
Governor's proposal	$0
Other proposals	$45.3 million

CSSB 1 — $3.9 million

A provision in Article 9 of CSSB 1 would appropriate funds for targeted salary increases totaling $150 million, of which $3.9 million would be for MHMR.

Wish list funding — $45.3 million

A provision in Article 11 of CSSB 1 would appropriate $45.3 million in all funds to increase compensation for direct-care workers in fiscal 2002-03. This funding could provide an increase of $1.00 per hour plus benefits across the board for direct-care workers.

Supporters say MHMR cannot compete with other entities in the public or private sector in recruiting and retaining employees. MHMR estimates that it has about 1,000 unfilled direct-care positions at any given time and that about 242 employees have left MHMR over the past year to work in prisons. Other competitors include fast-food restaurants and home improvement stores that may offer higher wages, comparable or superior benefits packages, and a better work environment.

High turnover may cost the state more than the proposed pay increases, because temporary workers and overtime cost more. An MHMR facility with a job vacancy must ask current employees to work more than the normal 40 hours per week. In the past fiscal year, Denton

State School alone spent almost $1.5 million in overtime. Alternatively, a facility must fill vacancies by hiring temporary workers, who earn about twice as much per hour as the agency pays in-house staff. Temporary employees often work for the institution to receive training, then leave to work for a temporary agency that pays more. In these cases, the state invests money up-front to train people but then cannot retain them.

High turnover also reduces the level of care that facilities can offer. Because direct-care workers have the most frequent contact with clients, they are best able to assess a client's condition and alert the medical staff or caseworker when something needs attention.

Opponents say the issue of pay raises for direct-care workers should be considered in the context of pay for all state employees. Because all state agencies have turnover rates that are higher than those in the private sector, the Legislature should adopt a consistent plan for raises and not single out one group. The state cannot afford to "chase the market" by appropriating higher levels of pay each session. Rather, the state should explore innovations such as flexible hours to attract workers at salaries the state can afford.

SB 1 — no increase

The Senate bill would provide a pay increase for all state employees in fiscal 2002-03 at a cost of $814 million in all funds. The bill would single out MHMR and other agencies with high turnover rates for a reclassification of jobs to qualify these employees for higher salaries. SB 1 would provide no additional funding for the reclassification but would require MHMR to fund the anticipated $10 million cost associated with the reclassification.

SB 1 would provide $10.2 million in additional funding for salary raises and reclassification of non-state employees in community facilities not owned entirely by the state. This funding would not go toward the salaries of state hospital, state center, or state school employees.

Supporters say MHMR has $10 million to apply toward targeted raises. This proposal would help both state and non-state employees who work within the MHMR community and at least would bring MHMR's turnover rates into line with those for other state agencies.

Increased funding for women's and children's services

Agency: Texas Department of Health (TDH)

Background: Enacted in 1936, Title 5 of the Social Security Act (Maternal and Child Health Services) provides a variety of health services to women and children who are not eligible for Medicaid, including low-income pregnant women and the children of low-income women. The state must match every $4 of federal money with at least $3 in state and local funds. TDH contracts with providers of these services on a fee-for-service basis.

Title 5 supports a wide range of services, including family planning, children with special health-care needs, infant screening, and women's health services. In the past, the state did not spend all of its federal Title 5 funds in a given budget period and carried those funds forward. However, because the state has spent those surplus funds, future Title 5 receipts will be lower than in the past. LBB estimates that the state will receive $46.5 million in Title 5 funds for fiscal 2002 and $35.7 million for fiscal 2003, compared to $48.5 million in fiscal 2001.

Women's and children's services are budgeted under TDH Strategies D.1.1 through D.1.4 at about $318 million for fiscal 2000-01. The amounts shown below represent proposed ***increases*** in general revenue for women's and children's services to replace Title 5 federal funds in fiscal 2002-03.

CSSB 1	$0
SB 1	$0
Filed version	$0
Governor's proposal	$0
Other proposals	$21.5-$24 million

CSSB 1 — no increase

CSSB 1, SB 1, and the governor's budget proposal would not appropriate additional general revenue in fiscal 2002-03 to replace Title 5 federal funds for women's and children's services. This accords with LBB recommendations in the base budget bill.

Wish list funding — $21.5-$24.2 million

An item in Article 11 of CSSB 1 would appropriate $21.5 million in general revenue to replace Title 5 funds for this purpose. A provision in Article 11 of SB 1 would appropriate $24.2 million in general revenue for the same purpose.

Supporters say these programs are too important to be neglected because of a method-of-finance issue. The state should step in if federal funds are not available. Prenatal and infant care is vital to the health and well-being of all of Texas' children — particularly those in the Medicaid program, because many of these infants will remain eligible for Medicaid as they grow up. If the state does not fund care for these infants, it will cost the state even more to care for them when they are grown.

Opponents say the state should not replace Title 5 funds with general revenue. When faced with a situation like this, the state has no choice but to cut funding for the program. Paying for ongoing program expenses with temporary surpluses is not a sustainable method of finance. The state faces a similar situation in programs funded by the Temporary Aid to Needy Families (TANF) block grant and is considering cutting funding from those programs to bring spending in line with the grant.

Other opponents say the state should exercise caution in using more state funds to provide women's health services without a federal match. Some women's health services are not aligned with the type of activities the state should fund — for example, family planning services. Matching federal funds with general revenue is a good compromise between those who think the state should fund those types of services and those who do not. Spending general revenue alone on those services would not preserve that compromise.

Removing prescription limits for all Medicaid recipients

Agency: Texas Department of Health (TDH)

Background: In administering Medicaid, the state has a limited range of options in regard to what prescription benefits to provide. The state previously restricted drug benefits to three prescriptions per recipient per month but, over time, has lifted the prescription limits for all Medicaid recipients except for TANF adults not in managed care and for disabled adults living in the community. Those groups remain limited to three prescriptions per month.

The Medicaid vendor drug program is budgeted in TDH Strategy B.1.8 at about $2.4 billion for fiscal 2000-01. The amounts shown below represent proposed ***increases*** in Medicaid vendor drug funding for fiscal 2002-03.

CSSB 1	$0
SB 1	$0
Filed version	$0
Governor's proposal	$0
Other proposals	$333 million

CSSB 1 — no change

CSSB 1, SB 1, and the governor's budget proposal would not include funding in fiscal 2002-03 for increased costs in the vendor drug program attributable to removing the three-prescription limit. This accords with LBB recommendations in the base budget bill.

Wish list funding — $333 million

Provisions in Article 11 would add $333 million in all funds ($133 million in general revenue, the rest federal) to remove prescription limits for all Medicaid recipients.

Supporters say LBB's $333 million estimate of the cost of removing the limit may be too high. It does not reflect possible savings due to preventing stockpiling of medications and other tactics that recipients now use to circumvent the rule. For example, a physician might prescribe 60 days' worth of drugs every 30 days, essentially doubling the number of prescriptions.

Opponents say because Medicaid is an entitlement, the state would be responsible for the cost of unlimited prescriptions. In the current environment of rising costs, it would not be prudent to remove these restrictions. Aggressive direct-to-consumer advertising by pharmaceutical companies encourages patients to ask for drugs that they do not really need. Limiting the number of prescriptions that a patient can obtain ensures that recipients get only the drugs they really need.

Increasing foster-care rates and adoption subsidies

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

Background: DPRS provides money to foster and adoptive families to defray the costs of caring for children who otherwise would live in institutions. When children have to be placed outside the home and no appropriate noncustodial family member can take them, DPRS tries to place the child with a foster family.

DPRS reimburses foster families for expenses such as food, clothing, or recreation. Adoption subsidies, available to adoptive families, help with the costs of special services, such as therapy or medical care. In some cases, such as the adoption of a group of siblings, the subsidy may be used for living expenses. Both the foster-care rates and adoption subsidies depend on the level of expense associated with bringing a specific child into the home. For example, rates are higher for children with special health-care needs. These reimbursements range from one-time reimbursement to as much as $516 per month.

Foster-care rates and adoption subsidies are budgeted under DPRS Strategy A.1.5, Foster Care/Adoption Payments, at about $593.4 million for fiscal 2000-01. The amounts shown below represent proposed ***increases*** in foster-care rates and adoption subsidies for fiscal 2002-03.

CSSB 1	$0
SB 1	$31.4 million
Filed version	$0
Governor's proposal	$0
Other proposals	$6.9 million

CSSB 1 — no change

CSSB 1 would not increase DPRS' appropriation for foster care rates and adoption subsidies in fiscal 2002-03, matching the recommendation in SB 1 as filed and the governor's budget proposal.

Supporters say in a tight budget, the qualification criteria should be tightened so that families who really need reimbursement would get more. For example, foster families above a certain income level or families who take children with less severe medical problems should be excluded from the increased rate or subsidy.

Wish list funding —$6.9 million

Increasing foster-care rates and adoption subsidies

Article 11 of CSSB 1 includes a provision that would increase adoption subsidies by $6.9 million in fiscal 2002-03 but would not include an increase for foster-care rates. This would increase adoption subsidies by 5 percent.

Opponents say an adoption subsidy increase alone is the same thing as no increase at all. Adoption subsidies are tied to foster-care rates. If foster-care rates increase, then adoption subsidies do as well, but adoption subsidies cannot increase independently.

SB 1 — $31.4 million

SB 1 would increase DPRS funding by $31.4 million in fiscal 2002-03 to increase foster-care rates and adoption subsidies. This would provide a 5 percent increase over current levels.

Supporters say funding for these programs has not increased significantly in years and is so low that the programs do not provide enough help. The Legislature provided $160 million in additional funds for DPRS last session, and appropriations for foster-care rates and adoption subsidies rose by 7 percent, but before that they had not received a targeted increase since 1992. If payments remain at current levels, families will not be able to provide foster care or adopt children with special needs because of the cost burden.

This level of funding would ensure a strong network of families willing to take children who otherwise might have to move into institutions. An important part of the state's Promoting Independence plan is preventing institutionalization. Foster and adoption programs are the cornerstone to keeping children at home.

Increased funding for child protective services

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

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

The 76th Legislature gave DPRS an increase of more than $160 million for fiscal 2000-01 and appropriated almost $9 million of emergency CPS funding for fiscal 1999 through SB 472 by Ratliff. These funds were earmarked to reduce caseloads and increase the salaries of CPS workers, reduce the number of CPS workers per supervisor, improve investigations and assessments, buy services to treat abused or neglected children, and increase rates of reimbursement for foster care providers.

Increased funding has not reduced turnover significantly at DPRS, which had one of the state's highest turnover rates at 19 percent in fiscal 2000. For protective services specialists, those who work closely with children and families, turnover was 25 percent. Investigators average 22.3 cases each, compared to the national average of 18.

CPS funding is distributed among 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.

The amounts shown below represent proposed ***increases*** in funding for child protective services in fiscal 2002-03.

CSSB 1	$69 million
SB 1	$0
Filed version	$0
Governor's proposal	$16.1 million
Other proposals	$70.3 million

CSSB 1 — $69 million

CSSB 1 would increase funding for child protective services in fiscal 2002-03 by $69 million to continue current service levels, based on caseload growth. The bill also would provide targeted salary increases totaling $150 million under Article 9, of which $3.9 million would be appropriated to DPRS.

Wish list funding — $70.3 million

In addition to the funding increase in CSSB 1, Article 11 provisions would increase CPS funding to address turnover and high caseloads as follows:

- $34 million in all funds ($14 million in general revenue) to increase salaries for workers and supervisors;
- $3.6 million in all funds ($983,661 in general revenue) to increase compensation for CPS investigators;
- $4.5 million in all funds ($1.5 million in general revenue) to expand the CPS work-from-home project, including information technology support; and
- $28.2 million in all funds ($7.9 million in general revenue) to reduce investigator caseloads.

Supporters say last session's increases have not made a significant impact on these problems and that Texas' children are suffering as a result. High turnover and caseloads make it difficult for investigators to develop relationships with children and to detect signs of problems in the home.

The state should fund expansion of the work-from-home program, which allows investigators to work from home via network connection, because investigators already spend so much time visiting clients' homes. This program would allow investigators to set up meetings and write reports from home. In a DPRS pilot test, this program reduced turnover to 4 percent versus 16 percent in the control group.

Half of the agency's staff is over 40 years old. DPRS finds it difficult to persuade these employees to take supervisory positions because the pay is not commensurate with the increase in responsibility. As more of the DPRS workforce nears retirement, the agency could face a shortage of employees willing to fill supervisory positions without the increases proposed in Article 11. Because the work-from-home program is not appropriate for all DPRS employees, the pay raise is a vital part of the turnover-reduction strategy.

Opponents say the state should fund the work-from-home program but not wage increases. DPRS should be encouraged to find innovative ways to reduce turnover like work-from-home, which is largely a one-time expense, without the recurring expense of increasing salaries.

SB 1 — no increase

In addition to the proposed pay raise for all state employees totaling $814 million, the Senate bill would reclassify high-turnover jobs at DPRS and other agencies to qualify these employees for higher salaries. SB 1 would not provide additional funding for the reclassification but would require DPRS to fund the anticipated $200,000 cost of the reclassification.

Supporters say this approach would provide pay raises for those who need them most. This would help bring DPRS' turnover rates into line with those of other state agencies.

Governor's proposal — $16.1 million

The governor's budget proposal would fund an additional 220 case worker positions, which would reduce the current case load from 22.3 to 20 cases per worker.

Public education, the largest single function funded by the state, accounts for 30 percent of the total budget and 40 percent of general revenue-related spending. Nearly all public education funding is appropriated to the Texas Education Agency (TEA), including funding for the State Board of Education. The State Board for Educator Certification, Texas School for the Deaf, and Texas School for the Blind and Visually Impaired also receive state funds. Other major budget items under Article 3 pay for the Teacher Retirement System and appropriate funds received through the Telecommunications Infrastructure Fund.

For fiscal 2002-03, CSSB 1 proposes total funding of $33.1 billion for public education. This would represent an increase in all funds of $1.9 billion or 6 percent over the current biennium. General revenue-related spending would rise by 2 percent, to $26 billion.

Public Education Spending Comparisons

(millions of dollars)

Type of funds	Expended/ budgeted 2000-01	Recommended CSSB 1	Biennial change	Percent change
General revenue-related	$25,468.3	$26,031.8	$563.6	2.2%
Federal funds	$4,520.2	$5,364.9	$844.7	18.7%
All funds	$31,173.8	$33,068.9	$1,895.1	6.1%

Source: Legislative Budget Board, Summary of House Committee Report on Senate Bill 1, April 2, 2001

Background

State funding for public education through the Foundation School Program (FSP) accounts for about 44 percent of all school funding in Texas. Federal funds pay for 8 percent, and school districts generate the rest through property taxes. Public school funding is driven by five primary factors: property values, enrollment growth, court-imposed equity standards, staff salaries, and facility needs.

Property values. The comptroller projects that property values in Texas will continue to increase over the coming biennium. In tax year 2000, statewide taxable property values rose by an estimated 8.9 percent over 1999 values. The comptroller projects that statewide values will grow by about 6 percent in 2001.

Enrollment growth. During the past five biennia, Texas public schools' average daily attendance (ADA) has increased by roughly 2 percent each year. For the purposes of school finance, LBB estimates that Texas public schools had about 3.7 million students in average daily attendance (ADA) in 2000. Statewide ADA is projected to increase to nearly 3.9 million by 2003.

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.

Salaries. Staff salaries, particularly teacher salaries, account for 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 standards increase when state funding for the FSP increases. SB 4 by Bivins, enacted by the 76th Legislature, provided a salary increase of $3,000 per year for all teachers in all school districts, at a cost to the state of $1.4 billion in fiscal 2000-01.

Facilities. Growing enrollments require additional classrooms. A separate facilities-funding component is crucial to maintaining school-finance equity as mandated by the courts. School facilities generally are financed through bonds approved by local taxpayers. In 1997, the 75th 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. The IFA is funded at $396 million for fiscal 2000-01.

This year, actual expenditures included expanding the Existing Debt Allotment of the FSP, which helps school districts pay old debt for construction and facilities, from $0.12 to $0.29 of eligible district debt, and recognizing half of the school-district optional homestead exemption. These items received one-time funding, which CSSB 1 would not continue.

Permanent School Fund. Stocks, bonds, and royalties from mineral leases on state land comprise the $21 billion Permanent School Fund (PSF), which generates income of about $700 million annually. The PSF distributed $248 per student to school districts in the current school year through the Available School Fund (ASF). Under the Texas Constitution, the PSF may distribute only interest and dividend income to the ASF.

Some observers maintain that if PSF spending remains limited to interest and dividend distributions, the PSF may be unable to maintain the purchasing power of its distributions while increasing the market value of PSF assets. These two objectives conflict because investments that generate high interest and dividend income do not tend to increase in principal value over time. Gov. Rick Perry and some legislative leaders have recommended amending the Constitution to allow the PSF to adopt a total-return investment strategy. This would allow the PSF to distribute a prudent portion of its capital gains to the ASF in addition to interest and dividend income. The governor, backed by some legislators, has proposed spending some of the PSF capital gains for health insurance and other benefits for teachers and other school employees. SBOE members oppose the change on the grounds that it could jeopardize the soundness of the fund.

Budget Highlights

CSSB 1 would increase TEA's funding by about $1.4 billion or 5 percent for fiscal 2002-03. SB 1 as approved by the Senate would increase TEA's funding by $542 million or 2 percent. The difference is due primarily to the treatment of "settle-up" money that school districts refund to the state as a result of overestimates of their ADA and underestimates of their growth in property values. Settle-up funds are estimated to total $800 million in 2002, and the return of this money to TEA will free an equal amount of general revenue. The House has reserved these funds as a source of start-up costs for a state-funded health insurance program for public school employees. The Senate plan shifts about $600 million of settle-up funds to higher education and the remainder to Medicaid.

School finance, funded through the FSP, is by far the single largest line item for public education. CSSB 1 would appropriate $21.2 billion for TEA's Strategy A.2.1, FSP-Equalized Operations, in fiscal 2002-03. According to LBB, CSSB 1 would fully fund current statutory requirements for the FSP and would maintain the court-accepted level of equity within the school-finance system.

Other budget highlights for public education are summarized below.

Windham School District. Funded through TEA's Strategy B.2.7, Windham provides basic education, including literacy skills, to Texas prison inmates, the majority of whom have less than a high school-equivalent education, and more than one-third of whom are functionally illiterate. Windham lacks the resources to educate all eligible inmates and now targets those who are about three to five years away from release. Rider 6 for TEA directs Windham to target inmates whose participation will help to reduce recidivism and increase former inmates' success in obtaining and maintaining employment.

Windham has been funded at the same level ($115 million) for the past three biennia, with funding based on contact (classroom) hours. Overall operating expenses have decreased, but payroll expenses have increased. CSSB 1 would fund Windham at $140.7 million; SB 1 would appropriate $142.2 million. Both bills would transfer $19 million in general revenue to Windham from the Texas Department of Criminal Justice, reflecting educational services historically provided by Windham to inmates in the state jail system.

Criminal background checks for teachers. The State Board for Educator Certification (SBEC) requested $2.6 million in general revenue and an additional four FTEs for fiscal 2002-03 to perform a national criminal-history background check for all new prospective teachers. The funds would come from an increase in fees for applications for certification and would be passed through to the Department of Public Safety (DPS) and the Federal Bureau of Investigation to pay for the background checks, less an administrative fee of $4 per investigation. The application fee is now $75; an increase of $41.59 would cover the program costs. SBEC now performs only Texas criminal-history background checks on applicants. The proposed national background checks would be only for those seeking certification or renewal. Since September 1, 1999, SBEC has issued "standard" certificates that must be renewed every five years. The checks would not be retroactive and would not apply to lifetime certificate holders. SBEC estimates that it would perform more than 60,000 checks per year.

Proponents argue that national background checks are necessary to protect students. The teacher shortage, they say, has pressed an increasing number of school districts to recruit teachers from other states. However, some current teachers and schools oppose a sharp increase in application fees for prospective teachers at a time when schools and some legislators would like to reduce the barriers to hiring qualified teachers. CSSB 1 placed the requested funding and FTEs for national criminal-history background checks in the Article 11 wish list. SB 1, however, would appropriate the requested amount to SBEC through Rider 7, contingent on the agency's raising the fees to generate the necessary revenue.

Reading and literacy programs. Continuing the 76th Legislature's emphasis on reading programs, CSSB 1 would continue funding for programs to teach reading and prereading skills and to improve adult literacy.

Adult literacy programs are funded in part through federal Temporary Assistance to Needy Families (TANF) funds. (See overview for Article 2.) The stated goal of these programs is to help recipients of public assistance obtain self-supporting jobs, thus reducing the number of long-term aid recipients. Funding for all adult education programs, primarily adult literacy programs, under TEA's Strategy B.2.5 for fiscal 2000-01 totals $80.4 million. CSSB 1 would increase that funding to $124.5 million, while SB 1 would increase it to $134.5 million. An item in Article 11 of CSSB 1 would add another $8.3 million for adult literacy and community education programs.

TEA Rider 65 would allocate $173 million during fiscal 2002-03 to the Student Success Initiative, an umbrella program focused on teaching students to read. Most of the funds would have to be spent on teacher training and grants to schools to implement programs for students who have been identified as unlikely to achieve the third-grade Texas Assessment of

Academic Skills reading standards by the third grade, including those with dyslexia. An item in the Article 11 wish list would add another $88 million for this initiative.

TEA Rider 55 would allocate funds appropriated to Strategy B.1.2, Student Success, to the Texas Reading Initiative, providing $34 million for fiscal 2002-03, $16 million less than in the current biennium. The reduced amount now appears in CSSB 1's Article 11 wish list. This initiative implements reading programs, trains staff, and purchases instructional and diagnostic materials.

The Ready to Read Program, the preschool extension of the Texas Reading Initiative, funds competitive grants for preschool prereading programs in schools with at least 75 percent low-income students. TEA Rider 62 would allocate $1 million per year to this program in fiscal 2002-03, the same amount as in the current biennium. However, the rider would change the grant matching-fund requirement. Currently, locally raised or private funds must provide at least half of the grant amount. CSSB 1 would change the 50 percent requirement to "at least 30 percent but not more than 75 percent."

Texas School for the Blind and Visually Impaired (TSBVI) and Texas School for the Deaf (TSD). These schools, both located in Austin, have aging campus facilities that require repairs, remodeling, and modifications needed for compliance with the federal Americans with Disabilities Act.

CSSB 1 would increase TSBVI's capital budget for fiscal 2002-03 by $1.4 million for construction of a new student dormitory, in addition to other capital items. SB 1 would increase the capital budget by $6 million for campus renovations. The governor's budget plan proposed $2.9 million in general-obligation bond funds to build two new dormitories. TSD would receive a one-time appropriation of $6.8 million to build a dormitory and health center, in addition to other improvements. These items represent a scaled-down version of a project dating back to 1989, for which the state has authorized a total of $68.5 million in bonds and which has run significantly over budget for various reasons. SB 1 also contains the proposed additional funds for campus renovation.

WIsh list. Article 11 of CSSB 1 contains about $655 million in requested funding for various TEA programs, including an additional $375 million for the Instructional Facilities Allotment. Another significant item is $318 million for the Teacher Retirement System to address the shortfall in TRS-Care and other concerns.

Other budget issues. The following pages discuss funding issues for public school instructional facilities, development of ExCET teacher examinations, and SBEC's teacher mentoring programs.

Funding for public school instructional facilities

Agency: Texas Education Agency (TEA)

Background: Most new school facilities are funded by bonds approved by local school district voters and backed by property-tax revenues. The facilities funding component or "third tier" of the state's Foundation School Program (FSP) includes two programs to help school districts repay debt associated with school facilities: the Instructional Facilities Allotment (IFA) and the Existing Debt Allotment (EDA). The IFA finances new debt, while the EDA finances bonded debt for which a district has a continuing payment obligation.

The IFA, created in 1997, provides a guaranteed yield of $35 of combined local and state funding per student in average daily attendance (ADA) per penny of tax effort for new facility construction. While the IFA is structured as a guaranteed yield, it does not guarantee that all districts that have received voter approval to sell bonds for facilities construction will receive IFA funds. Each district seeking IFA funds must apply to TEA. The IFA is a sum-certain appropriation, meaning that once TEA has allocated all of the appropriated funds through the application process, it can allocate no more. Debt financed through this program is primarily either general-obligation bonds or "lease purchase" agreements.

The 75th Legislature appropriated $200 million for the IFA for fiscal 1998-99. According to LBB, that amount leveraged funding to build more than $3 billion worth of new facilities in 230 school districts. Funding appropriated for these projects is a continuous requirement until the bonds are retired, usually 20 years. Once a district receives IFA funds, it is entitled to continue to receive IFA funding without reapplying to TEA.

SB 4 by Bivins, enacted by the 76th Legislature, directed TEA to give priority to districts with lower property wealth, high student population growth, and citizens who are willing to pay for instructional facilities. While wealth is the primary criterion, TEA also considers whether the district was denied IFA assistance in the previous biennium.

For the current biennium, the 76th Legislature appropriated $400 million for the IFA under TEA's Strategy A.2.2 and an additional $930 million to fund the EDA under Strategy A.2.1, for total funding of about $1.3 billion. The State Auditor's Office projects that by the end of fiscal 2001, 312 school districts will have leveraged IFA funds to build about $5.6 billion worth of instructional facilities. Lawmakers also established a $25 million allotment for the New Instructional Facilities Allotment (NIFA), not considered a part of Tier 3 funding. The NIFA is intended to help fast-growth districts by providing an additional $250 per ADA the first year a school is open and $250 per additional ADA during the second year.

TEA's bill structure changed during the strategic planning process in spring 2000. Under the new structure, Strategy A.2.2, FSP-Equalized Facilities, includes both the IFA and the EDA. The appropriations bills in the 77th Legislature reflect this change.

Funding for public school instructional facilities

Local property-tax values have increased substantially over the past few years, increasing the ability of school districts to generate revenue and thus decreasing the state's share of funding for school facilities. The amounts shown below represent proposed ***increases*** in funding for school facilities for fiscal 2002-03 over the $1.1 billion needed to meet the state's obligation to school districts.

CSSB 1	$0
SB 1	$200 million
Filed version	$0
Governor's proposal	$150 million
Other proposals	$375-$500 million

CSSB 1 — no increase

CSSB 1 would appropriate $1.1 billion for facilities funding assistance in fiscal 2002-03, maintaining the state's obligation to school districts. This funding level reflects the base budget bill's proposal, which would allot $353 million for the IFA and $760 million for the EDA. According to the bill's estimate, this amount would be enough to assist 312 schools, maintaining the state's fiscal 2000-01 obligation. It would allow no increase in the number of districts assisted in the upcoming biennium.

Wish list funding — $375 million

An item in Article 11 of CSSB 1 would appropriate an additional $375 million to Strategy A.2.2, representing TEA's request for additional funding for fiscal 2002-03.

SB 1 — $200 million

SB 1 would fund TEA Strategy A.2.2 at $1.3 billion for fiscal 2002-03, representing an increase of $200 million over the amount needed to maintain the state's funding obligation. Article 11 of SB 1 contains the same provision for an additional $375 million as in CSSB 1.

TEA Rider 80 in SB 1 would specify that, contingent on enactment of legislation amending the EDA, funds from Strategy A.2.2 would be sufficient to provide a guaranteed yield of $35 per ADA on all school-district debt for which taxes were levied and collected in 2000-01.

Governor's proposal — $150 million

The governor's budget proposal, as set forth in *Moving Every Texan Forward*, requested an increase of $150 million for the IFA in fiscal 2002-03. The governor proposed to fund this increase, along with other education items in his proposed budget, with "settle-up" funds, amounts overpaid to school districts through the FSP and refunded to TEA because the value of district property-tax bases increased more than projected and the number of students in average daily attendance was less than projected. In the current budget, TEA Rider 36 appropriates all settle-up funds for fiscal 2000-01 to TEA for distribution to school districts for FSP purposes. Both CSSB 1 and the Senate version of SB 1 would continue this rider.

Other funding proposals — $500 million

TEA requested a total of $1.6 billion for fiscal 2002-03 to fund new facilities construction and existing debt. TEA projected that this would allow 355 school districts to receive IFA assistance, 43 more than allowed under the base budget proposal.

Supporters say the IFA needs more money than contained in the current budget proposals to address the substantial demand for new facilities. Funding in CSSB 1 would not be enough to cover statewide demand. As long as Texas' school-age population increases, school districts will continue to require additional facilities. Furthermore, as older school facilities become obsolete or otherwise need to be replaced, poorer school districts will continue to need help maintaining adequate and safe instructional facilities.

Additional state funding for facilities is a critical item for all school districts. Poorer districts need help building facilities because of their difficulty generating property-tax revenues, and many suburban districts need help because of their explosive growth.

Opponents say IFA funding is a continuing obligation that will require funding for 20 years or longer. Increasing the current level of funding would set a dangerous precedent that would put pressure on future legislatures not only to fund previously obligated bonds, but also to add continually to the amounts available to fund new construction. 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 collect.

Funding for development of teacher examinations

Agency: State Board for Educator Certification (SBEC)

Background: SBEC, created in 1995 by the 75th Legislature, regulates and oversees all aspects of the preparation, certification, continuing education, and standards of conduct for public school educators. Before 1995, the Texas Education Agency performed these functions.

Texas law requires every person seeking certification in Texas to pass a comprehensive exam, the ExCET. Each teaching certificate requires particular exams, including a professional development test (elementary or secondary) plus a content specialization test. The latter set of tests include an elementary comprehensive test and subject-matter tests such as art, chemistry, sociology, and foreign language, as well as the specialized exams for positions such as school counselor, educational diagnostician, principal, and reading specialist. For example, to receive a certificate in secondary economics, a candidate must pass the professional development test for the secondary level, plus the content specialization test for economics.

SBEC is working to streamline the number of types of credentials issued to teachers and to align the ExCET standards for beginning teachers with the Texas Essential Knowledge and Skills (TEKS), the state-mandated minimum curriculum tested on the Texas Assessment of Academic Skills (TAAS). In fiscal 2000, SBEC began to coordinate the ExCET exams with the more rigorous revised TEKS. SBEC plans to develop 61 new exams, with 36 completed during the biennium and an additional 25 in development. SBEC now has six FTEs and a testing contractor working on the new exams.

Funding for ExCET exam development in fiscal 2000-01 totals $2.8 million. The amounts shown below represent proposed ***increases*** in funding for fiscal 2002-03.

CSSB 1	$0
SB 1	$0
Filed version	$0
Other proposals	$1.9-$4 million

CSSB 1 — no increase

CSSB 1 would appropriate $2.8 million for development of new and revised ExCET exams in fiscal 2002-03 under SBEC's Strategy A.1.1, Educator Quality/Accountability. This would provide no increase over current funding for ExCET, reflecting the recommendation in the base budget bill and in the governor's budget proposal. However, Rider 8 would provide SBEC some funding flexibility.

The House Appropriations Committee estimates that the actual cost of exam development would be about $2.1 million if SBEC eliminated duplication exams, less critical exams, and exams that could be purchased. That would leave SBEC $700,000 for administrative costs and the evaluation and purchase of standard exams.

Rider 4 would allow SBEC to carry forward up to $1.6 million in unexpended balances of appropriated certification and assessment fees from the end of fiscal 2001 to fiscal 2002-03. It also would allow SBEC to carry forward up to $310,000 in unexpended balances of fees from fiscal 2002 into fiscal 2003. Such carry-forward could be used only for test administration and development. The comparable rider in the current budget allows carry-forward of only $310,000 of unexpended balances of assessment fees from the end of fiscal 1999 to fiscal 2000-01.

Rider 8 would direct SBEC to consider the use of standard exams not specific to Texas curricula to complement or replace certain planned Texas-specific exams. Standard, non-state-specific teacher certification exams are available for purchase from private entities and are used in a number of other states. SBEC would have to consider specific criteria when determining whether a Texas-specific exam was necessary: the number of Texas educators likely to take it, the extent to which educators from states using a standard exam passed similar Texas-specific exams, similarity in content covered on a standard exam and a planned Texas-specific exam, and the relative cost (to both the state and candidates) of a standard exam versus a Texas-specific exam. The rider would authorize SBEC to spend funds appropriated in Strategy A.1.1 for test development and for evaluation and purchase of standard exams, if SBEC found that a standard exam was appropriate.

SB 1 — no increase

SB 1 also would maintain funding for ExCET at $2.8 million. The Senate bill contains the same Rider 4 as CSSB 1 but contains no provision analogous to Rider 8 in CSSB 1.

Rider 6 would direct SBEC to seek federal funds for ExCET development and would appropriate any such funds received to the agency. The comptroller would have to reduce the general revenue appropriated for test development by the amount of federal funds SBEC received for this purpose.

Other funding proposals — $1.9-$4 million

SBEC initially requested an additional $4 million above the base budget recommendation for fiscal 2002-03, plus three additional FTEs to develop 56 new exams. The board's revised request sought an additional $1.9 million and three FTEs to develop 38 new exams. The source of this additional funding would be an increase in exam fees of $6.26 and $1.3 million in carry-over fee revenue. SBEC also noted that a test-fee increase of $14.41 could fund continued development of the complete set of 56 new tests. The last test-fee increase was in fall 1995.

Supporters say SBEC is now at a critical phase of test development — creating new exam items and pilot-testing them — that requires additional expenditures. SBEC involves professional educators in each step of the exam-development process. This participation is crucial to ensure that the resulting exams are legally defensible instruments, thus protecting the state's investment in exam development. This is a labor-intensive process, as SBEC staff must organize groups of experts to set standards and review the work of contractors in translating those standards into valid exam items.

Opponents say Texas should not spend money to develop state-specific exams aligned to TEKS. Development of new exams is not necessary because standard exams are available for many, if not all, of the subject areas. The Texas TEKS curriculum does not differ appreciably from what other states — and the standard exams — require teachers to know. Development of exams is costly and time-consuming; this money and effort could be better spent recruiting and supporting new teachers to alleviate Texas' teacher shortage. In addition, the state should think carefully before making any changes that would add or increase barriers to new teachers, such as raising teacher application fees.

Funding for teacher mentoring programs

Agency: State Board for Educator Certification (SBEC)

Background: A shortage of teachers has forced Texas' education agencies to focus additional resources on recruiting and retaining new teachers. Districts need more teachers to fill vacancies created by increasing student enrollment and by retiring teachers. One of the main problems is the high attrition rate of new teachers. On average, 20 percent or more of all new teachers do not return to the classroom to teach a second year. A report by the Texas Center for Educational Research notes that of the teachers who began teaching from 1993 to 1995, between 13 percent and 19 percent left the profession after the first year, and by the end of the third year, 35 percent to 43 percent had quit teaching.

SBEC created the Texas Beginning Educator Support System (TxBESS) in 1999, using a $10 million, three-year federal grant from the U.S. Department of Education. The program provides training and support for new public school teachers during their first two years of teaching and helps them with the transition into a teaching career. A pilot program began in spring 2000, with regional partnerships including new teachers, local school districts and campuses, educator preparation entities, and regional education service centers. SBEC developed TxBESS program standards and an "activity profile" project that culminates in a conference between the beginning teacher and a mentor teacher to help the new teacher develop and improve classroom teaching skills.

The TxBESS pilot program now involves 2,500 new teachers, about 10 percent of all teachers who have entered Texas classrooms for the first time during the past two years. About 88 percent of new teachers who participated returned to teach the next school year. SBEC plans to expand the program to include more teachers. However, the federal grant will provide funding only through fiscal 2002, so the program will lose $4.4 million in federal funds in fiscal 2003. The grant is nonrenewable.

In fiscal 2000, SBEC spent $4.8 million on this program. The budgeted amount for fiscal 2001 is $5.1 million, for a total of $10 million for the biennium.

CSSB 1	$11.9 million
SB 1	$5.2 million
Filed version	$5.2 million
Other proposals	$28.8 million

CSSB 1 — $11.9 million

CSSB 1 would provide base funding of $5.2 million in general revenue for teacher mentoring in fiscal 2002-03, as in the base budget bill and in the governor's budget proposal. Riders would authorize transfer of an additional $3 million per year in general revenue among SBEC strategies and would provide $700,000 as a transfer from TEA. The total would represent an increase of $1.9 million over funding for the current biennium.

Rider 7 for SBEC would require the board to seek federal funds to continue TxBESS or any other beginning teacher induction or mentoring program. The rider would appropriate any such federal funds received to SBEC. It would allow the agency to transfer general revenue from one strategy to another and to carry forward unexpended balances from fiscal 2002 to fiscal 2003, to fund TxBESS at $3 million for each year of the biennium. Any federal funds received would reduce the interstrategy transfers and unexpended balance carry-forward. Rider 7 also would require SBEC to train districts to develop and operate new teacher mentoring programs based on the TxBESS model and to report its efforts to obtain federal funds to the 78th Legislature.

Rider 85 for the Texas Education Agency would direct TEA to transfer $350,000 per year of federal funds to SBEC for the operation, marketing, and support of school district-based teacher mentoring programs. These funds would be allocated out of available federal funds from the Education Flexibility Demonstration Program (“Ed Flex”), created by the federal government to determine whether allowing states to waive provisions of certain federal educational programs will improve student performance. Districts could apply directly to TEA for teacher mentoring funds as a part of several federal grant programs.

Wish list funding — $9 million

An item in Article 11 of CSSB 1 would provide an additional $9 million in general revenue for TxBESS in fiscal 2002-03.

SB 1 — $5.2 million

SB 1 would appropriate $5.2 million in general revenue for TxBESS in fiscal 2002-03, reflecting the base budget bill’s provision. The Senate bill contains no provisions analogous to SBEC Rider 7 and TEA Rider 85 in CSSB 1. As a result, overall funding for teacher mentoring programs would decrease by $4.8 million from the current biennium. However, the Article 11 wish list of SB 1 includes an additional $9 million, as in CSSB 1.

Other funding proposals — $28.8 million

SBEC requested $4.8 million for fiscal 2002 and $24 million and three additional FTEs for fiscal 2003. In the second year, SBEC would allocate $23.1 million, or about $3,000 per beginning teacher involved with TxBESS, to regional education service centers, which would award grants to districts within those regions on a competitive basis. These grants would be used to train beginning teachers, mentors, and campus administrators, provide stipends for experienced mentor teachers, and pay for other support services such as substitute teachers to allow the mentor to spend time with the beginning teacher or to allow the beginning teacher to attend professional development activities. The remaining funds would pay for a statewide TxBESS administrator, program evaluator, SBEC support staff, and related administrative expenses.

Supporters say SBEC needs more funds for teacher mentoring programs to ensure that the state can retain high-quality teachers. Retaining new teachers saves time and money associated with recruiting and interviewing additional teachers, reduces the need for long-term substitute teachers, and results in a more experienced and qualified teaching staff. The top complaint among teachers who leave the profession is lack of mentoring and support in their first year of teaching.

Opponents say continued expansion of TxBESS at the state level would require increased funding every year. Many school districts already have mentoring programs in place. Instead of giving SBEC more funds for this program, the Legislature should direct SBEC to assist school districts in applying the TxBESS model in their local mentoring programs. School district-based mentoring programs would be more efficient.

Higher Education Overview

Public higher education institutions funded by the state include 35 universities, 50 community college districts, four technical colleges, and two state colleges and a technical institute. Funding also goes to the private Baylor College of Medicine, to eight 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 public four-year universities vary widely. Some rely heavily on external support, while others are supported almost totally by state dollars. About 80 percent of state funding for public general academic institutions is allocated through the Texas Higher Education Coordinating Board (THECB) by means of two funding formulas and supplements for each formula. One formula addresses instruction and operations, and the other, infrastructure. Public community and technical colleges receive nearly all of their state appropriations through formulas based on contact (classroom) hours. Community colleges also are supported by local property taxes as well as by tuition and fees.

Health-related institutions receive state general-revenue allocations through a combination of formula funding, special items, tuition revenue bonds, and revenue generated by hospital services. About 64 percent of state funding for these institutions (excluding appropriations for hospitals and clinics) is allocated by formulas. The 76th Legislature appropriated about $1 billion in tobacco-settlement money to establish endowments for medical, educational, and research programs at these institutions. Baylor College of Medicine receives funding equivalent to the cost of public medical-school education.

CSSB 1 would add about $911 million in all funds for higher education for fiscal 2002-03, a 6.5 percent increase over the current biennium, for a total of almost $15 billion. General revenue-related funding would rise by about the same percentage, to $723 million.

Higher Education Spending Comparisons

(millions of dollars)

Type of funds	Expended/ budgeted 2000-01	Recommended CSSB 1	Biennial change	Percent change
General revenue-related	$11,015.1	$11,737.9	$722.8	6.6%
Federal funds	$ 221.8	$226.9	$5.0	2.3%
All funds	$14,065.5	$14,976.5	$911.1	6.5%

Source: Legislative Budget Board, Summary of House Committee Report on Senate Bill 1, April 2, 2001

Background

About 881,200 students were enrolled in Texas' public higher education institutions in fall 2000, according to THECB. About 437,000 were enrolled in community colleges, 415,400 in four-year universities, 12,700 in health-related institutions, 9,300 in technical colleges, and 6,800 in state colleges. More than 100,000 other students were enrolled in private institutions of higher education across the state.

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, to enable higher education institutions in the state to meet the growing demand for their services, and to keep Texas institutions competitive with university systems in other large states.

Another major debate hinges on efforts to maintain a racially, ethnically, and economically diverse student body and to prepare students for employment in a "knowledge-based" economy. Demographic projections indicate that by 2008, Texas will be a "minority majority" state, with Hispanics, African-Americans, and Asian-Americans combined accounting for 55 percent of the population. Historically, Hispanics and African-Americans have enrolled in and graduated from higher education institutions at lower rates than Anglos. Some experts predict that Texas will have a less educated, less competitive workforce in the future unless public universities try harder to recruit and retain minority students.

Funding level. As the student population gradually approaches the 1 million mark, higher education in Texas remains moderately priced by nationwide standards. According to the Texas Guaranteed Student Loan Corp. (TGSLC), the average tuition and fees for the 2000-01 academic year at a Texas four-year public university were $2,958, compared to the national average of $3,510.

Grants, loans, and state and federal support mean that few students actually pay the full costs of higher education out of their own pockets. However, nearly half of the students entering universities in Texas do not graduate within six years, often because of financial constraints. According to the TGSLC, although tuition and fees are more reasonable in Texas than in many other states, they account for only 26 percent of the total cost of education at the state's four-year public universities. Other expenses, such as for food, transportation, housing, books, and day care, have risen steadily, driving up the total cost of higher education in Texas.

The 76th Legislature created the TEXAS Grant and Teach for Texas Conditional Grant programs (HB 713 by Cuellar, et al.) and funded them at $95 million and $4 million, respectively, for fiscal 2000-01. TEXAS Grants are available to Texas residents with the greatest financial need who complete college preparatory classes in high school or earn associate degrees. College juniors and seniors may receive Teach for Texas grants if they agree to teach full-time for five years in a field or public school experiencing a critical shortage of teachers. Following a two-year phase-in period, only those who receive TEXAS Grants will be eligible to receive the Teach for Texas grant, which equals twice the amount of a TEXAS Grant. A rider for THECB in Article 11 of CSSB 1 would decouple the two programs and establish the Teach for Texas Alternative Certification Assistance Program, contingent on enactment of HB 1998 by Delisi.

Both THECB and the governor's Special Commission on 21st Century Colleges and Universities have focused on steps the state could take to improve the preparation of its future workforce by "closing the gaps" in higher education participation, graduation rates, and funded research over the next 15 years. Recommendations include expanding the TEXAS Grant program and similar need-based financial aid programs; developing a "seamless" PreK-16 educational system that builds a formal policy bridge between PreK-12 and higher education in an effort to ease students' transition from one level to the next; attracting more federal research funding to Texas higher education institutions; developing partnerships between higher education institutions and business and industry in research and development areas; and developing policies and programs in higher education institutions that respond to the state's workforce needs, especially in fields that experience shortages of highly skilled workers.

Gov. Rick Perry, THECB, and public higher education institutions have asked lawmakers to increase spending for higher education in fiscal 2002-03. The governor requested spending of $15.3 billion in all funds, an increase of $1.3 billion from fiscal 2000-01 and $353 million more than in the base appropriations bill for fiscal 2002-03. More than two-thirds of the increase above LBB recommendations would go for the TEXAS Grant program and other grants and scholarships.

Community colleges. More students attend Texas' public community colleges than attend public four-year universities. State appropriations pay for part of the instructional and administrative costs at community colleges. The Texas Association of Community Colleges (TACC) has proposed a five-biennia plan to reach full formula funding. For fiscal 2000-01, the Legislature appropriated formula funding for about 72 percent of the costs of instruction and administration. For fiscal 2002-03, TACC has requested formula funding for 81 percent.

PUF and HEF. The $7.5 billion Permanent University Fund (PUF) backs bonds for capital improvement projects at higher education institutions and agencies, including the University of Texas and the Texas A&M University system offices, UT-Austin, Texas A&M-College Station, Prairie View A&M, six UT general academic institutions, seven health-related institutions, and five of the eight A&M agencies. PUF funds distributed through the Available University Fund (AUF) are used for debt service at all the institutions and for "excellence" funding at UT-Austin, Texas A&M-College Station, Prairie View A&M, and the UT and A&M system offices. The $300 million Higher Education Fund, targeted to increase to $2 billion, supports 28 other institutions and provides funding for capital improvement projects and debt service at these institutions.

In November 1999, Texas voters approved Proposition 17 (HJR 58 by Junell/Ratliff), amending the Constitution to revise PUF distribution and investment practices. The amendment allows the UT System board of regents to determine annual PUF distributions to the AUF based on the total returns on all PUF investments, including capital gains. Supporters said that granting fund managers broader investment authority would enhance PUF assets and enable PUF earnings to grow enough to support the level of new bond issues required to support the capital needs of eligible UT and A&M higher education institutions. According to the UT System Office, the change in fund management is projected to generate an additional $87 million in AUF funds for fiscal 2002-03.

Budget Highlights

TEXAS Grants. CSSB 1 would add $50 million in funding for TEXAS Grants, bringing the total to $145.3 million for fiscal 2002-03. An item in the Article 11 wish list would provide another $29.3 million, bringing the total funding in line with THECB's recommendation. The governor's proposal in *Moving Every Texan Forward* recommended $346 million in funding for the TEXAS Grant program for fiscal 2002-03. The Senate version of SB 1 would provide $395.3 million for TEXAS Grants. Rider 29 in both CSSB 1 and SB 1 would provide an additional $40 million for the program by allowing unexpended balances at the end of fiscal 2001 to be carried forward into fiscal 2002-03.

Teach for Texas. CSSB 1 would add $4 million in funding for this program, for a total of $8 million in fiscal 2002-03. An item in Article 11 would add another $7 million. THECB and the governor recommended spending $15 million for this program. SB 1 would provide $4 million as in the current biennium, although an item in Article 11 would appropriate an additional $11 million in funding contingent on the enactment of SB 1595 by Bivins, which would revise the program and double the size of the Teach for Texas grant.

Enrollment growth supplement. Rider 37 for THECB in CSSB 1 would change the method by which enrollment growth is funded for general academic institutions by basing this funding on actual growth as indicated by the most recent enrollment data available, rather than on projected growth as is now the case. Currently, the THECB projects two years in advance which institutions are likely to grow and by how much. Those projected to grow receive direct appropriations of a "growth supplement" through the formulas. If the projections do not hold true, no mechanism exists to recoup funds from institutions that did not grow nor to provide funds for institutions that grew more than projected.

CSSB 1 would delete from the base budget bill $34 million in general revenue funds directly appropriated to general academic institutions for enrollment growth. Instead, CSSB 1 would appropriate about $11 million to THECB to be trusteed for later allocation to these institutions based on their actual enrollment growth. Institutions that grew by 3 percent in each year of the biennium or by 6 percent overall would receive allocations from the trusteed amount. To encourage growth and to recognize the additional costs experienced by growing institutions, CSSB 1 would "overfund" growth by up to 5 percent above the regular formula rate. The rider would require a similar approach to enrollment growth funding for general academic nursing programs.

"Hold harmless" funding. In the current biennium, certain general academic institutions are receiving funds to offset declines in their formula appropriations due to changes in enrollment. CSSB 1 and SB 1 would maintain the current level of "hold harmless" funding, $21.5 million in fiscal 2000-01, into the next biennium and would redistribute funds among affected institutions. If no other monies were added through the formulas for general academic institutions, an additional $9.2 million would be required in CSSB 1 to offset all shortfalls in formula funding in the current biennium, according to LBB, and the affected institutions have requested these additional funds.

Supporters of providing increased "hold harmless" funding to these institutions argue that a university's fixed costs do not decrease with enrollment declines that may be only temporary. Also, they argue that such funding could be necessary because of changes in the mix of students attending the institutions, as the formulas provide additional funding for graduate students rather than for undergraduates. Opponents of providing additional "hold harmless" funding argue that this type of funding was not intended to be perpetual and that the amount already appropriated to these institutions for this purpose is sufficient. If additional "hold harmless" funding is appropriated, they say, it should be tied to institution-specific plans to increase student enrollment.

Texas Southern University and Prairie View A&M University. Under CSSB 1 and SB 1, Texas Southern University and Prairie View A&M University would receive an additional $25 million each in fiscal 2002-03 for the Texas Commitment-OCR Priority Plan, developed by the Governor's Office, THECB, higher education and community leaders, the two institutions, and the U.S. Department of Education's Office of Civil Rights. The universities would use these funds for academic and institutional enhancements.

Science and technology. The governor's budget proposal recommended spending an additional $35 million for research enhancement, including an increase in the allowable retention of indirect cost recovery earned for conducting sponsored research, and $2 million in seed money to develop a collaborative biotechnology initiative. CSSB 1 and SB 1 would provide continued funding at the current level for the Advanced Technology Program ($39.3 million) and Advanced Research Program ($19.6 million) in fiscal 2002-03. An item in

Article 11 of CSSB 1 would provide an additional $20.7 million for the ATP and $10.4 million for the ARP, as recommended by THECB. These programs provide competitive grant funding to Texas research institutions for research designed to promote the state's economic growth and diversification, expand the state's technology base, and provide the knowledge base needed for innovation.

The following pages discuss these higher education budget issues in greater detail:

- increased funding for the TEXAS Grant program, and
- formula funding for public community colleges.

Increased funding for the TEXAS Grant program

Agency: Texas Higher Education Coordinating Board (THECB)

Background: Paying for higher education requires the combined efforts of students, their families, private donors, and local, state, and federal government agencies. Although the cost of obtaining a higher education in Texas remains moderate by national standards, the cost has risen in recent years. Average tuition and fees at Texas public universities have nearly doubled since 1992, according to the Legislative Oversight Committee for the TEXAS and Teach for Texas Grant Programs. Also, the burden of paying for a higher education has been shifting from the state to students and their parents. Students and their families now pay 22 percent of the cost of tuition and fees, compared to 16 percent in 1992. Other expenses (food, transportation, housing, books) have risen steadily as well, driving up the total cost of higher education in Texas.

In Texas, loans comprise about 68 percent of students' financial aid. Although many states have created substantial state-supported financial aid programs, Texas traditionally has relied mainly on the federal government to remove financial barriers to higher education. According to THECB estimates, Texas ranks 30th in the nation in providing state financial aid to its students.

The 76th Legislature created the TEXAS (Toward EXcellence, Access, and Success) Grant program by enacting HB 713 by Cuellar, et al. This program provides need-based grants, equal to the statewide average of tuition and fees, to recent high school graduates who completed the recommended or advanced high school curriculum. Currently, students from households earning about $25,000 or less qualify for the program, the purpose of which is to enable well-prepared eligible students to attend public and private institutions of higher education in Texas.

For fiscal 2000-01, the TEXAS Grant program received an appropriation of $95.3 million. The amounts shown below represent proposed ***increases*** in funding for fiscal 2002-03.

CSSB 1	$50 million
SB 1	$300 million
Filed version	$0
Governor's proposal	$211 million

Increased funding for the TEXAS Grant program

CSSB 1 — $50 million

CSSB 1 would increase funding for the TEXAS Grant program to $145.3 million for fiscal 2002-03, $50 million more than appropriated for the current biennium. Also, Rider 29 for THECB would allow unexpended balances from funds appropriated to the program for fiscal 2000-01 — including any excess amounts from the New Horizons Scholarship Program, Tuition Assistance Grants Program, and National Guard ROTC Program transferred into TEXAS Grants — to be appropriated for the same purposes for fiscal 2002-03. This amount is estimated at $40 million.

Supporters say it is in Texas' best interest to expand the TEXAS Grant program. At the current level of funding, only one in four students who meet the eligibility requirements can receive the grant. This program now serves less than 1 percent of all Texas students who are seeking a higher education. Funding at the level set forth in CSSB 1 would ensure that any student who qualifies under the current law and rules would receive a grant.

Texas needs to provide more financial aid to help produce the kind of educated workforce that can attract industry and to make sure that jobs created in Texas go to Texans. Nearly half of all students enrolling in Texas colleges and universities do not graduate within six years. One major reason for this low graduation rate is the high level of students' unmet financial need, coupled with the growing expense of staying in school.

Increasing funding for the TEXAS Grant program would be a fair and legal way to recruit more African-American and Hispanic students and help them stay in college. This measure would increase the affordability and accessibility of higher education to many economically disadvantaged students, helping to "close the gaps" in participation as recommended by THECB. It also would benefit the community college system, since many of its students come from lower-income families.

Critics of this funding level say it is not adequate to meet the financial needs of all eligible students. Funding for TEXAS Grants at least should be doubled to $200 million, as recommended by the Governor's Special Commission on 21st Century Colleges and Universities. The majority of financial aid in Texas comes in the form of loans, and existing financial aid programs are not sufficient to fill the gaps in students' financial needs. According to the Texas Guaranteed Student Loan Corp., the average unmet need per student at Texas' four-year public universities is $2,721, while that at Texas' community colleges is $4,199. As a result, too many Texas students leave universities burdened by thousands of dollars of debt, including not only student loans but also high-interest credit-card debt. The financial-need eligibility requirements for TEXAS Grants should be relaxed, and students from middle-class families should be eligible for these grants.

Wish list funding

An item in Article 11 of CSSB 1 would provide an additional $29.3 million for the TEXAS Grant program for fiscal 2002-03, above the amount recommended in CSSB 1.

SB 1 — $300 million

SB 1 would appropriate $300 million in additional funding for the TEXAS Grant program, for a total of $395.3 million. This proposal is based on expanding the program to include students from families with household income of up to nearly $75,000.

SB 1 contains the same rider as in CSSB 1, allowing THECB to carry forward unexpended balances from fiscal 2000-01 into the next biennium.

An item in Article 11 of SB 1 would appropriate to THECB $5 million in general revenue for fiscal 2002-03, contingent on the enactment of SB 573 by Bivins or similar legislation that would establish a public awareness campaign for higher education. THECB could retain $335,000 in fiscal 2002 and $295,000 in fiscal 2003 to administer the campaign.

Filed version — no increase

The filed version would have provided $95.3 million in funding for the TEXAS Grant program for fiscal 2002-03, the same amount as in the current biennium.

Governor's proposal — $211 million

The governor's budget proposal recommended $306.3 million in funding for the TEXAS Grant program for fiscal 2002-03. This proposal also would allow unexpended balances from funds appropriated to the program for fiscal 2000-01 to be appropriated for the same purposes for fiscal 2002. This amount is estimated at $40 million. This would represent an increase of $211 million over the LBB's fiscal 2002-03 recommendations. The governor's proposal is based on expanding the program to include students from households with income of up to $50,000.

Formula funding for public community colleges

Agency: Public community and junior colleges

Background: Community colleges use state appropriations to pay part of their instructional and administrative costs. Education Code, sec. 130.003(a) requires that these institutions be appropriated amounts sufficient to supplement local funds for proper support, maintenance, operation, and improvements. Sec. 130.003(c) provides that all funds allocated under the code, except those necessary to pay the costs of audits, must be used exclusively to pay the salaries of instructional and administrative employees and to buy supplies and materials for instructional purposes.

During the 76th Legislature, the Texas Association of Community Colleges (TACC) proposed a five-biennia plan for these institutions to reach full formula funding for the cost of instruction and administration. The Legislature appropriated formula funding for about 72 percent of the full costs of instruction and administration. This session, TACC and the Texas Higher Education Coordinating Board (THECB) have asked for formula funding for 81 percent of those costs.

LBB's *Staff Performance Report to the 77th Legislature* analyzes the issue of whether general revenue funds are intended to cover the total costs of instruction and administration at community colleges. The report recommends that the Legislature add language to the general appropriations act specifying that community colleges' tuition and fee revenues be used for a portion of instruction and administration costs, and that the Legislature amend the statutes accordingly.

For fiscal 2000-01, the 76th Legislature appropriated $1.5 billion in formula funding for community colleges. The amounts shown below represent ***increases*** in funding for fiscal 2002-03.

CSSB 1	$0
SB 1	$0
Filed version	$0
Governor's proposal	$0
Other proposals	$458 million

CSSB 1 — no change

CSSB 1 would appropriate $1.5 billion to support community colleges in fiscal 2002-03, the same funding level as in the current biennium, including additional funds for enrollment growth based on recent enrollment data. This proposal matches the recommendation in the base budget bill and the governor's budget proposal.

SB 1 — no change

The provisions of the Senate version of SB 1 are identical to those in CSSB 1.

Other funding proposals — $458 million

THECB requests an additional appropriation of $458 million over the amount appropriated for fiscal 2000-01 to meet 81 percent of full formula funding.

Supporters of full formula funding say public community colleges are growing rapidly, and demographic projections indicate that this trend will continue. According to THECB's *Closing the Gaps* study, by 2015, Texas will have to enroll about 500,000 additional students in higher education institutions to raise its participation rate to 5.7 percent of the state population, as recommended by the board. It is estimated that 60 percent of these students will begin their studies at community and technical colleges. Community colleges already are the largest sector of higher education, with about 44 percent of total student enrollment.

Full formula funding for these institutions would allow them to maintain their affordability and accessibility to students throughout the state while providing high-quality academic programs and responding to the needs of their communities. Over the past 10 years, revenue for these institutions has more than doubled from tuition and fees and from property taxes, while state appropriations have increased by only about 50 percent.

Full formula funding also would help certain community college districts deal with difficulties in generating sufficient property-tax revenue. Some districts with high property-value growth have been able to keep property taxes low, while property values in other districts have remained unchanged or even declined, applying upward pressure on local tax rates. According to TACC, 20 percent of community college districts are at or near their property-tax cap.

Implementation of the LBB recommendations also would undercut local control of tuition. Using tuition and fee revenue to cover a portion of instruction and administration costs would result in different impacts among colleges based on their revenue policies and would diminish the authority of boards of trustees in setting those policies. These recommendations also could force colleges to increase tuition rates to generate enough money to cover their costs. Historically, in years when state appropriations to community colleges have increased, the increases in tuition and local taxes have moderated. Therefore, full formula funding would not result in a cost spiral in which full formula funding would be a moving target.

Opponents say community colleges are a partnership between state and local entities, and both statutory language and funding history indicate that community colleges should use part of their tuition and fee revenues to pay for instruction and administrative costs. State law specifically authorizes general revenue appropriations to public junior colleges to supplement local funds, and it limits expenditure of those funds to certain elements of cost pertaining to instruction and administration, although it is unclear what proportion of these costs may be covered by general revenue. Although supporters of full formula funding contend that legislative intent has always been for the state to cover all costs of instruction, this never has been documented and has been subject to changes in interpretation over the years.

Implementation of the LBB recommendations would not threaten the fiscal responsibility of these institutions by endangering their bond covenants, because state law strictly limits the amount of tuition revenue that can be pledged irrevocably to bond payments. Under Education Code, sec. 130.123(e), institutions may pledge only a very small amount of tuition revenues — a maximum of $15 from each enrolled student for each regular semester and $7.50 from each enrolled student for each summer term. Allowing a portion of tuition revenues to be used for instruction and administrative costs would not jeopardize these institutions' bond commitments.

Nor would implementation of the LBB recommendations undercut local control of tuition or result in the state setting tuition at community colleges. Implementation merely would clarify further the appropriate uses of such revenue as regards instruction and administrative costs.

By increasing revenues for community colleges, full formula funding could increase costs as well, creating a spiral in which "full" funding would be a continuously moving target. Community colleges have a high level of discretion in spending non-state funds. Increasing state appropriations could result in expansion of programs, services, or operations at some colleges, while only offsetting costs at other colleges. Also, a college receiving full formula funding for instruction and administration costs still could supplement instruction and administration costs with other sources of revenue, and the target of full formula funding would shift upward in direct correlation.

Other opponents say providing full formula funding across the board for all community colleges would not address existing disparities in revenue sources among the state's community college districts. Full formula funding should be made available only to community colleges in districts that have a limited property-tax base or a large proportion of economically disadvantaged students who could not afford tuition increases. Those institutions would use the additional revenue in the most cost-effective manner.

Article 4 Overview

The Texas court system includes two high courts, 14 intermediate appellate courts, 418 state district courts, and 2,158 county, city, and justice-of-the-peace courts. Of those courts, the state funds the salaries of all 450 appellate and district judges, provides courtrooms for the three appellate courts based in Austin, and covers travel expenses for district judges whose district covers more than one county. The state also pays the entire salary of 154 district and county attorneys and partial salaries of two assistant district attorneys. The state provides no funding to local courts.

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

For fiscal 2002-03, CSSB 1 proposes total funding of $403 million for the judiciary, or less than 1 percent of total state spending. This would represent an increase in all funds of $20 million, or 5 percent, over fiscal 2000-01 spending. Proposed general revenue-related appropriations total $331 million, an increase of 4 percent.

Article 4 Spending Comparisons

(millions of dollars)

Type of funds	Expended/ budgeted 2000-01	Recommended CSSB 1	Biennial change	Percent change
General revenue-related	$317.7	$331.4	$13.7	4.3%
All funds	$383.7	$403.3	$19.6	5.1%

Source: Legislative Budget Board, Summary of House Committee Report on Senate Bill 1, April 2, 2001.

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 judges' salaries) 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, both 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 the intermediate appellate courts must dispose of every case filed. As dockets have grown and the number of judges has remained constant, appellate judges have relied on legal staff and visiting judges to increase output and avoid creating a backlog of cases. The OCA is responsible for tracking these data for all Texas courts.

Budget Highlights

OCA. Under CSSB 1, funding for the OCA would total $23.6 million in fiscal 2002-03, or about 6 percent less than in the current biennium. The Judicial Committee on Information Technology (JCIT) would receive $8.6 million in general revenue to implement information-technology needs for Texas courts. SB 1 would provide $6.4 million for this strategy. Both proposals would be a reduction from the $9.8 million appropriated for fiscal 2000-01. The following pages discuss this budget issue in more detail.

In addition, an item in Article 11 of CSSB 1 would appropriate $2.2 million to OCA for fiscal 2002-03 to fund eight new foster-care courts and 15 additional FTEs to staff them. SB 1 would place that funding in Rider 4 under the OCA budget.

The budget plan also would eliminate the Metropolitan Court Backlog Reduction project (also known as the Strike Force) that the 76th Legislature approved to assist the 1st, 5th, and 14th courts of appeals with their docket backlogs. Accordingly, the Supreme Court’s current biennial appropriations related to the Strike Force would be reduced by $2 million, though increases in other areas would keep the court’s overall funding close to the $17.8 million appropriated for the current biennium.

CSSB 1 would fund the Court of Criminal Appeals’ Strategy B.1.1, Judicial Education, at $15.8 million for fiscal 2002-03, nearly double the current level, to expand training and technical assistance for attorneys and court personnel. Rider 3 would authorize the court to spend up to $800,000 over the biennium to contract for training of attorneys who regularly represent indigent criminal defendants. A corresponding rider in SB 1 would authorize up to $2.5 million in training for indigent defense. The amount allowed for fiscal 2000-01 is $400,000.

Funding for the Judicial Committee on Information Technology

Agency: Office of Court Administration (OCA)

Background: The Texas Commission on Judicial Efficiency, created in 1995, recommended the creation of a committee to plan and implement information technology (IT) initiatives for all Texas courts. In response, the 75th Legislature in 1997 enacted SB 1417 by Ellis, which created the Judicial Committee on Information Technology (JCIT). The 76th Legislature appropriated $9.8 million to OCA's Strategy A.2.1, JCIT, in fiscal 2000-01 to plan and implement information technology for trial and appellate courts.

Though a computer and telecommunications network was developed and deployed for the appellate courts, JCIT could not complete projects for trial courts that included data and case management systems, electronic data reporting systems, and a statewide computer network for trial courts. Until recently, OCA lacked the management personnel to set goals, assess needs, and plan and oversee such projects. OCA will not implement trial-court IT initiatives during the current biennium and has made significant progress on planning these projects only since the beginning of 2001. As a result, the state auditor expects that about $1.6 million of JCIT's funding will lapse in the current biennium. These same problems caused OCA's reports to LBB to be delayed, with the result that LBB recommended virtually no funding for OCA's JCIT strategy for fiscal 2002-03.

CSSB 1	$8.6 million
SB 1	$6.4 million
Filed version	$650,000
Governor's proposal	$650,000
Other proposals	$9.8 million

CSSB 1 — $8.6 million

CSSB 1 would appropriate slightly less than $8.6 million in general revenue for OCA's Strategy A.2.1 in fiscal 2002-03, about $1.2 million less than in the current biennium, and would allocate 13.7 additional FTEs. The proposed appropriation would fund:

- continued appellate-court technology, case management software, and technical support;
- implementation of new data reporting systems for state and local trial courts;
- implementation of a statewide computer network and telecommunications infrastructure for all state courts; and
- need-based grants to local courts for acquisition of computer hardware and software.

Supporters say although OCA and JCIT will not complete IT projects for the trial courts in the current biennium, those projects still are needed if Texas courts are to run efficiently, to share case information among themselves and with the public, and to be able to report data electronically to OCA. Furthermore, OCA and JCIT have made significant management improvements in the past several months by hiring a new director of technology services to lead the technology initiatives, as well as several managers to help the director plan and implement projects and a budget analyst to ensure that reporting to LBB is adequate and timely in the future.

SB 1 — $6.4 million

The Senate version of SB 1 would appropriate $6.4 million to JCIT in fiscal 2002-03, a decrease of $3.4 million from the current biennium. The total would include $4.5 million for acquisition of IT resources under OCA's capital budget rider.

Filed version — $650,000

SB 1 as filed would have appropriated only $650,000 to JCIT for fiscal 2002-03. This would have eliminated 20 FTEs and funding for appellate-court technology**.** The governor's budget proposal matched the LBB recommendation.

Other funding proposals — $9.8 million

OCA initially requested through exceptional items a total appropriation of $9.1 million in addition to the amount in the filed bill. The request would have brought JCIT funding to within $50,000 of the amount appropriated in fiscal 2000-01 and would have included some enhancements to the appellate-court technology that the House Appropriations Committee did not approve.

Others proposed funding JCIT only at a level sufficient to maintain existing appellate-court technology (about $3.2 million per biennium) and finding another entity to manage IT initiatives for the trial courts. However, no suitable alternative to OCA exists. Alternatively, each appellate court and the State Prosecuting Attorney's Office, which now is on the appellate courts' network, could be appropriated a capital budget for computer hardware and software. Collectively, the individual courts' requests would have totaled about $4.3 million.

HB 1333 by Junell, the supplemental appropriations bill approved by the House on April 5, would transfer OCA's unexpended balances for fiscal 2001 to other agencies, but would appropriate $1 million to JCIT in fiscal 2002. The effect of HB 1333 in conjunction with CSSB 1 would be to increase JCIT's total fiscal 2002-03 appropriation to $9.6 million.

Criminal justice as a state government function has experienced rapid growth in spending and employment over the past decade. Of the criminal justice and public safety agencies under Article 5, the largest is the Texas Department of Criminal Justice (TDCJ), which operates the adult correctional system. TDCJ receives about two-thirds 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, receive about 9 percent. Other Article 5 agencies include the Department of Public Safety (DPS), Texas Alcoholic Beverage Commission (TABC), Commission on Jail Standards, Adjutant General's Department, Criminal Justice Policy Council (CJPC), and three boards that license and regulate criminal-justice professionals.

CSSB 1 proposes to spend $7.2 billion in general revenue-related funds for Article 5 in fiscal 2002-03, an increase of about $370 million, or 5 percent, over fiscal 2000-01. Article 5 agencies would receive 7.5 percent of all expenditures and 11 percent of general revenue-related spending in fiscal 2002-03, roughly the same shares as in the current biennium.

Article 5 Spending Comparisons

(millions of dollars)

Type of funds	Expended/ budgeted 2000-01	Recommended CSSB 1	Biennial change	Percent change
General revenue-related	$6,840.8	$7,210.5	$369.6	5.4%
Federal funds	$ 321.9	$251.7	($70.2)	(21.8)%
All funds	$8,084.5	$8,221.4	$136.9	1.7%

Source: Legislative Budget Board, Summary of House Committee Report on Senate Bill 1, April 2, 2001

Background

Growth in adult correctional demand. From 1989 to 1999, Texas' adult correctional capacity — mainly in prisons, state jails, and transfer facilities — more than tripled. As of January 2001, total adult correctional capacity stood at about 155,500 beds, including about 4,700 beds under contract with counties. CJPC reports no overcrowding in state correctional facilities and no backlog of state inmates awaiting transfer to 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. Also, 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.

According to CJPC, parole release and revocation policies have the most immediate impact on the demand for correctional beds. The low parole-approval rate in the mid-1990s played a significant role in increasing demand for correctional beds. As parole-approval rates have increased in recent years, more correctional beds have become available. The 2000 parole-approval rate was 22.5 percent, the highest since 1994, and CJPC projects the 2001 rate to be slightly higher. CJPC estimates that if parole and discretionary mandatory supervision rates continue at the fiscal 2000 average, the state will not need to contract for or build additional correctional beds before 2005. CJPC's report also notes, however, that decreases in demand for correctional beds historically have been short-lived.

Growth in criminal-justice spending over the past decade has been driven primarily by increases in the number of adult offenders incarcerated in state facilities. CJPC reports that between 1991 and 1999, Texas' incarceration rate increased by 157 percent. On average, inmates are serving a significantly larger percentage of their sentences than in 1992. For example, the most severe offenders are projected to serve 89 percent of their sentences now, compared to 38 percent in 1992. Texas houses more prisoners than any other state, and its incarceration rate is second only to that of Louisiana.

Growth in juvenile-offender populations. The capacity of state facilities for juvenile offenders also has grown over the past decade because of tougher policies for punishing and supervising juvenile offenders. In 1995, Texas had space in TYC facilities for 1,686 juveniles. By the end of fiscal 2001, TYC's capacity will have grown to more than 6,000, according to CJPC projections.

CJPC projects that TYC should have enough capacity to meet demand through 2005 without significant expansion if present trends and policies continue. While Texas' juvenile population grew by 3 to 4 percent between 1995 and 1999, the arrest rate dropped by 14 percent. Also, HB 2947 by Goodman/ Naishtat, enacted by the 76th Legislature, allows misdemeanant offenders to be committed to TYC only after two prior felony or misdemeanor adjudications, instead of after a first offense. CJPC estimates that the average number of new monthly commitments dropped from 248 to 213 between fiscal 1999 and fiscal 2000 because of this new law.

About 4 percent of juveniles referred to the juvenile justice system in 1999 were sent to TYC. The rest were handled locally by juvenile probation departments or juvenile courts. In 1999, 146 juveniles were certified to stand trial as adults, down from 467 in 1997.

Budget Highlights

TDCJ. CSSB 1 would appropriate $4.9 billion in general revenue-related funds to TDCJ in fiscal 2002-03, a 2 percent increase over amounts spent and budgeted in fiscal 2000-01. Major increases would include $146 million to provide salary increases and extend the career ladder for correctional employees and $23 million to pay for new units brought on-line this biennium.

CSSB 1 proposes no new spending for adult prison expansion. CJPC projections in 1999 that the state would need more correctional beds did not hold true when parole rates rose, making more prison space available.

TYC. CSSB 1 would appropriate $471 million in general revenue to TYC, 8 percent more than in the current biennium, including $4.1 million for additional staff in youth correctional facilities, $19.4 million in pay increases for juvenile correctional officers to create parity with adult correctional officers, and $8.9 million for capacity and supervision funding to address projected growth in the number of youth served. The agency initially requested $2.7 million to hire 50 full-time equivalent employees to expand its Aggression Management Program in McLennan County but withdrew that request after legislators expressed concerns about the program's safety.

TAIP. The Treatment Alternative to Incarceration Program (TAIP) allows judges to sentence nonviolent offenders with drug or alcohol problems to substance-abuse treatment programs in local probation departments rather than to a state correctional facility. In fiscal 2000, TAIP served about 32,500 probationers in 125 counties. Originally administered by the Texas Commission on Alcohol and Drug Abuse (TCADA), the program was transferred to the TDCJ's Community Justice Assistance Division (CJAD) in fiscal 1996. For the current biennium, the Legislature designated $13 million for transfer from TCADA to CJAD for this program. TDCJ Rider 67 would require the agency to spend at least $13 million over fiscal 2002-03 for TAIP. In addition, Rider 11 for the Governor's Office would shift $6.5 million to TDCJ for TAIP.

TABC. Riders 12 and 13 in CSSB 1 would appropriate about $1.15 million in all funds for TABC to hire additional staff for fiscal 2002-03, contingent on TABC's increasing fees and surcharges enough to cover this amount. Part of the increase would be allocated to salaries, operating expenses, and one-time capital expenses for four additional licensing officers and for two more monitor-seller trainers. About half of the proposed increase would fund the hiring of nine employees to ensure taxpayer compliance at currently unmanned bridges on the Texas-Mexico border and to build five additional booths on the border. Costs for this portion would be paid by taxes collected on liquor brought into the state from Mexico.

DPS. Rider 34 in the Senate bill would express the intent of the Legislature that DPS sell its 1,000-acre property in Florence, in Williamson County north of Austin, and use the proceeds to upgrade facilities at the Camp Swift military reservation in Bastrop County for defensive law enforcement training. Camp Swift now is designed for offensive military training. Under this plan, DPS could build an additional facility for full-spectrum firearms training. Rider 36 in CSSB 1 would prohibit DPS from selling the Florence property without 30 days' notice to the governor and LBB, as in the current budget act.

Rider 2 in CSSB 1 would authorize DPS to spend $13.3 million in fiscal 2002-03 to buy equipment for the Conroe communications facility, DNA laboratories, and the Automated Driver's License Testing System; upgrade facilities to comply with requirements of the federal Americans with Disabilities Act; buy land and other real property; build five specific buildings and facilities; replace aircraft and helicopters; and operate an additional recruit school. This money would come from the seized assets fund, primarily money confiscated through drug enforcement.

Joint reserve facility. The Adjutant General's Department and the Texas Military Facilities Commission (TMFC) requested a joint appropriation of about $1.75 million for fiscal 2002-03 to buy land for a joint reserve facility in Houston. Both CSSB 1 and SB 1 placed this item in the Article 11 wish list for TMFC. The facility would be built with federal funds, and operating costs would be split between Texas and the federal government. Supporters say that another reserve facility would aid recruitment in the Houston area, which has only three facilities compared to 10 in Dallas, and that a study conducted for the commission picked northwest Houston as the most promising area. Opponents say that the area selected is one of the most expensive in the city in which to build and that choosing a different site could save the state hundreds of thousands of dollars. Others have questioned the need for the new facility.

Wish list. Criminal justice funding provisions in CSSB 1's Article 11 wish list that are not discussed elsewhere in this report include these items for TDCJ:

- authorization for $80 million in general-obligation bonds for repair and rehabilitation of prison facilities, including roof replacements, security, and fencing;
- $20 million for an additional 500 community-corrections residential beds;
- $12.6 million to fund multiyear contract-rate increases for prison beds; and
- $4.6 million to buy new vehicles; and

Other Article 5 issues. The following pages examine these criminal justice and public safety issues in more detail:

- pay increases for adult correctional employees;
- funding for new prison construction;
- increased spending for adult correctional health care;
- a pay raise for juvenile probation officers; and
- creating an interagency program for mentally ill offenders.

Pay increases for adult and juvenile correctional employees

Agency: Texas Department of Criminal Justice (TDCJ) and Texas Youth Commission (TYC)

Background: Low pay for TDCJ correctional officers has been blamed for the agency's staffing shortage and problems with retention. The State Auditor's Office (SAO) reported in February 2001 that TDCJ had a shortage of 2,595 correctional officers as of December 31, 2000. Correctional officer turnover for fiscal 2000 was estimated at almost 23 percent, costing the agency more than $40 million. Between fiscal 1999 and 2000, the number of correctional officer vacancies rose by more than 1,000 even though TDCJ recruited a record number of new officers. Part of the increase in vacancies also can be attributed to the addition of 940 correctional officer positions since the last biennium to staff new high-security units brought on-line. Thousands of new correctional officer positions have been created in recent years to staff a vastly expanded prison system.

SAO notes that while injuries to TDCJ employees and inmates have not increased, the growing shortage of staff could lead to future injuries. Of particular concern is the attrition of experienced correctional officers. Officers with three or fewer years of experience make up 35 percent of the workforce but were involved in 47 percent of all assault-related employee injuries in fiscal 2000. TDCJ officials say that because the agency's current career ladder awards its top salary after three years, employees with more than three years' experience have little incentive to stay.

Gov. George W. Bush issued an executive order in May 2000 creating a new position for TDCJ guards, called Correctional Officer IV, which will expire September 1 unless continued by the Legislature. TDCJ worked with the governor, lieutenant governor, and House speaker to implement the position in July 2000 and used its "spend forward" authority to shift funds from the second year of the biennium to the first year. HB 1333 by Junell, the supplemental appropriations bill approved by the House on April 5, would appropriate $35.7 million to TDCJ to replace money spent from fiscal 2002 to pay for the new position, which provided a pay raise of $1,656 per year to correctional officers with three or more years' experience, increasing the maximum annual salary to $28,380. About 56 percent of correctional officers are classified as Correctional Officers IV. Measures taken during the interim also increased the salaries of sergeants and food-service and laundry personnel.

TYC is experiencing similar difficulties in retaining juvenile correctional officers, but these officers did not receive a pay raise in the interim. SAO estimates that TYC's turnover rate for fiscal 2000 was 28.5 percent. TYC is requesting pay parity with TDCJ as a means of reducing turnover and increasing employee satisfaction.

SB 1 as filed and the governor's budget proposal would appropriate an additional $78.3 million in fiscal 2002-03 to continue the Correctional Officer IV position (interim pay raise) for TDCJ. The proposals discussed below represent proposed ***increases*** in funding for salary increases beyond the level proposed in the base bill.

Pay increases for adult and juvenile correctional employees

CSSB 1	$136.4 million
SB 1	$176.5 million
Other proposals	$190.3 million

CSSB 1 — $136.4 million

CSSB 1 would appropriate $117.7 million in general revenue for TDCJ salary increases in fiscal 2002-03, mostly for correctional officers, but also for supervising officers, laundry and food service managers, parole officers, and case managers. The House Appropriations Committee estimated that SB 1 as filed would have overappropriated $165.5 million to TDCJ for contract prison beds that will not be needed because of declining demand, which helped free up funding for the salary increase in CSSB 1.

TDCJ Rider 65 would require that the money appropriated for salary adjustments for correctional officers and supervisory staff, laundry and food-service managers, and parole officers and case managers be appropriated to TDCJ Strategy C.1.1, Security/Classification; Strategy C.1.2, Institutional Goods/Services; Strategy E.1.1, Board of Pardons and Paroles; Strategy E.1.2, Parole Selection; and TDCJ Strategy E.2.1, Parole Supervision.

TDCJ Rider 11 would specify that the salary adjustment would apply to correctional officers, sergeants, lieutenants, captains, and majors of correctional officers, food-service managers, laundry managers, caseworkers and parole officers, and human services technicians and case managers. The rider would prohibit merit raises for employees who are eligible to receive step adjustments in the career ladder system.

CSSB 1 would continue the position of Correctional Officer IV, add the position of Correctional Officer V, increase the current correctional officer career ladder from six to nine steps, increase pay for all steps, and provide a maximum salary of $31,068 to correctional officers with more than eight years' experience. Career ladders for supervising officers, laundry and food service managers, parole officers, and case managers also would be expanded.

CSSB 1 would appropriate $18.7 million in general revenue for TYC juvenile correctional officer salary increases. The raise would bring pay parity with TDCJ correctional officers by adjusting the career ladder and creating the Juvenile Correctional Officer VI position. Raises also would go to shift supervisors and dorm supervisors.

TYC Rider 19 would authorize the agency to adjust salaries of its juvenile correctional officers to rates within their designated salary group for the purpose of recruiting, employing, and retaining career juvenile correctional personnel. Merit raises would be prohibited for juvenile correctional officers eligible to receive step adjustments in the career ladder system.

Wish list funding — $90.6 million

A contingency rider in Article 11 of CSSB 1 would provide an additional $90.1 million of general revenue in fiscal 2002-03 for hazardous-duty pay, contingent on enactment of HB 2427 by Hawley or similar legislation. The legislation would increase hazardous-duty pay from $7 per month per year of service to $25 per month per year of service.

Supporters say this proposal would help address TDCJ's and TYC's ongoing problems with vacancies, recruiting, and retention of qualified staff. Implementing the Correctional Officer IV position for TDCJ was a good start. This proposal would help both agencies recruit correctional and parole officers by further increasing pay. TDCJ and TYC often compete with local law enforcement and private industry for these employees, and recruiting has been especially difficult with a healthy economy. During fiscal 2000, TDCJ had to hire additional correctional officers to keep pace with growth in the offender population and employee turnover, and the agency still has a shortage of nearly 2,600 correctional officers.

Without better pay, turnover of correctional officers could continue to rise as officers find it easy to obtain other jobs with better pay and working conditions. Turnover at TDCJ rose from about 13 percent in 1995 to almost 23 percent in 2000. Turnover at TYC was 28.5 percent for fiscal 2000. 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 would be front-line workers who deal with inmates every day and have difficult jobs involving a significant amount of risk and hardship. These employees have to work at night, on weekends, and double shifts to compensate for the shortage of workers. Correctional officers can be assaulted by inmates, have urine and feces thrown at them by inmates, be subjected to abusive language, and have to perform strip searches on inmates.

This proposal also would include raises for TDCJ 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 the most experienced parole officers by $1,985, to $41,693.

SB 1 — $176.5 million

SB 1 would not add new steps to the correctional officer or juvenile correctional officer career ladders. Instead, it would direct $31.9 million to TDCJ and TYC correctional officers in the form of a longevity pay supplement of $6 per month during fiscal 2002 for every year of service and $12 per month during fiscal 2003 for every year of service.

Pay increases for adult and juvenile correctional employees

SB 1 would include in Article 9 a pay increase of 5 percent over current salary or $100 per month, whichever was greater, for all state employees with more than one year of service. The cost of the 5 percent increase for TDCJ and TYC correctional officers would be $139.8 million.

TYC Rider 19 would authorize the agency to adjust salaries of its juvenile correctional officers to rates within their designated salary group for the purpose of recruiting, employing, and retaining career juvenile correctional personnel. Merit raises would be prohibited for juvenile correctional officers eligible to receive step adjustments in the career ladder system.

TYC Rider 22 would direct $4.8 million to Strategy A.1.1, Correctional Programs, to implement salary adjustments for juvenile correctional officers for the purpose of gaining parity with correctional officers at TDCJ. This $4.8 million, in addition to the longevity pay supplements and 5 percent across-the-board pay increase, would bring the total pay increase for TDCJ and TYC correctional officers to $176.5 million.

Rider 11 would specify that the salary adjustment would apply to correctional officers, sergeants, lieutenants, captains, and majors of correctional officers, food service managers, laundry managers, caseworkers and parole officers, and human services technicians and case managers. The rider would prohibit merit raises for employees who are eligible to receive step adjustments in the career ladder system.

TDCJ Rider 66 would require the agency to develop a human resources management plan to improve morale and retention among its employees. The plan would have to focus on reducing employee turnover through better management. The performance-measure target for turnover of correctional officers under Strategy C, Incarcerate Felons, would be 20 percent for fiscal 2002-03.

Supporters say the proposal for an across-the-board pay increase for state employees shows that Texas recognizes the importance of these workers and makes retaining them a top priority. The longevity pay supplement for correctional officers offered on top of the 5 percent across-the-board raise would help retain experienced front-line employees by offering a supplement every month that would increase with the number of years worked. The TDCJ rider requirement that the agency develop a human resources management plan would help TDCJ improve the morale of its employees and retain them longer. The TYC rider directing that the agency create pay parity with TDCJ would show that the state values all correctional officers equally.

Other funding proposals — $190.3 million

In its Legislative Appropriations Request (LAR), TDCJ asked for $173.2 million in funding to provide pay increases for correctional officers and supervisory staff, laundry and food-service managers, and parole officers and case managers. The request would extend the correctional officer career ladder from six to 10 steps and would provide pay increases for each step, up to a maximum salary of $34,056 for 12 years of service.

TYC requested an additional $3.1 million for fiscal 2002-03 to create pay parity for its juvenile correctional officers with the pay raise TDCJ correctional officers received during the interim. The agency's LAR did not include a request for parity with TDCJ's proposal for an additional $173.2 million in employee raises. During appropriations hearings, TYC officials asked legislators to fund a pay increase for juvenile correctional officers that would give them pay parity with the Legislature's final appropriation for TDCJ correctional officer salaries. The agency estimated that it would need an additional $14 million appropriation to achieve parity with the pay raise TDCJ proposed in its LAR.

Supporters say this proposal would address TDCJ's retention problems by raising Texas to the national average in pay for guards with 12 years of experience. Currently, Texas ranks between 42nd and 46th nationally in pay for these officers, depending on the survey source. If Texas provided this pay increase, TDCJ estimates that annual turnover could drop to 12 percent from its current level of almost 23 percent. Also, it is important that TYC juvenile correctional officers achieve pay parity with their counterparts at TDCJ because their jobs are equally as difficult or more difficult than adult correctional officers' jobs.

Others propose creating pay differentials in TDCJ between urban and rural prisons. The shortage of officers is more pronounced in rural prisons than in urban ones. New correctional officers automatically are assigned to units that have the greatest need for staff. Experienced correctional officers can transfer to a unit of their choice, and many prefer to live in urban areas. The resulting shortage of experienced officers in rural areas, where most prisons are located, leads to problems with officer safety. Supporters of increasing pay for officers in rural areas say this move would provide greater incentive for experienced officers to stay at those prisons.

Funding for new prison construction

Agency: Texas Department of Criminal Justice (TDCJ)

Background: The Criminal Justice Policy Council (CJPC), which conducts criminal justice research for the governor and Legislature, reported in June 2000 that the state would need to build or contract for 14,662 correctional beds by 2005 to keep pace with anticipated demand. When parole approval rates in fiscal 2000 turned out higher than expected, freeing up correctional beds, CJPC revised its projections. The agency's January 2001 report found that if parole approval and revocation rates remain at the fiscal 2000 level and the crime rate does not go up, Texas will not need any additional correctional beds before 2005.

According to CJPC, the parole approval rate is the most important factor affecting demand for correctional beds in Texas. As the parole approval rate increases, more inmates are released, freeing up more correctional beds. Conversely, as the approval rate decreases, fewer inmates are released, causing more correctional beds to be needed as additional inmates come into the system. CJPC projects that if the rate of discretionary mandatory supervision (DMS), a type of parole, were to decrease from its current level of 52.5 percent to 50 percent, Texas would need 1,755 correctional beds by 2005. In another scenario, if the parole approval rate fell from the fiscal 2000 level of 22.5 percent to 18 percent and the DMS rate fell from 52.5 percent to 40 percent, Texas would need 6,961 additional correctional beds by 2005.

CJPC estimates that the state needs a cushion of 5,000 beds below 97.5 percent of capacity (151,624) to absorb fluctuations in correctional bed demand during fiscal 2002-03. Texas now has a cushion of almost 4,000 beds and is projected to have more than 5,000 empty beds in its contracted facilities as early as May 2001. Both CSSB 1 and the Senate version of SB 1 contain riders that would allocate to other TDCJ programs the money appropriated for correctional bed contracts that exceeded the 5,000-bed cushion.

CSSB 1	$0
SB 1	$0
Filed version	$0
Governor's proposal	$8.1 million

CSSB 1 — no increase

CSSB 1 would appropriate no money for new prison construction in fiscal 2002-03, nor does it include funds for this purpose in its Article 11 wish list. TDCJ Rider 4 would specify that unexpended balances of construction bonds could be used only for repair and rehabilitation of facilities, not for new construction.

Funding for new prison construction

Supporters say TDCJ has safeguards available if it needs more beds during fiscal 2002-03. With permission from the governor and LBB, TDCJ can spend forward up to $150 million from the second year of the biennium to the first. This money could be used for additional prison contracts. Texas already has enough correctional beds. Even at the current level, TDCJ has a shortage of 2,600 correctional officers. Expanding the prison system would aggravate the shortage of correctional officers, create problems with officer morale and safety, and cut into available money for a pay increase for correctional officers.

SB 1 — no increase

The Senate version of SB 1 also would appropriate no new money for prison construction. However, TDCJ Rider 4 would allow the unexpended balance of general-obligation bond proceeds from fiscal 2001-02 (about $5 million by the end of fiscal 2000) to be used for construction purposes, with Texas Board of Criminal Justice approval.

Filed version — no increase

The bill as filed proposed no new money for correctional beds or to pay interest on bonds whose proceeds would be used to build correctional beds.

Governor's proposal — $8.1 million

The governor's budget plan, as set forth in *Moving Every Texan Forward*, proposes issuing $95.1 million in general-obligation bonds and using the proceeds to build two 400-bed facilities for elderly offenders and two 504-bed administrative segregation facilities at existing TDCJ locations. The governor's office said that the additional beds would allow TDCJ to close older, staff-intensive facilities. The required debt service on the bonds would total $8.1 million during fiscal 2002-03. This corresponds to a proposal in TDCJ's Legislative Appropriations Request. During the appropriations process, the agency indicated that this request was a low priority because new CJPC projections estimated that no new prisons would be necessary during fiscal 2002-03.

Supporters say authorizing these bonds would provide flexibility in case correctional bed demand suddenly increased. The bonds would not have to be issued until the need arose, and the bond authority would serve as a safety net. Even a slight change in parole approval rates could increase demand for correctional beds substantially. CJPC projects that if DMS rates drop by only 2.5 percent, the state will need 294 additional beds by the end of fiscal 2002-03 and 1,755 beds by 2005. In addition, an increase in the crime rate or new legislation requiring stricter sentences could increase the demand for correctional beds.

Increased spending for adult correctional health care

Agency: Texas Department of Criminal Justice (TDCJ)

Background: In 1993, the 73rd Legislature created the Correctional Managed Health Care Committee (CMHCC) and charged it with developing a managed health-care system for prison inmates. 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 for state inmates. UTMB's contract covers about 80 percent of the inmates, and TTUHSC's contract covers about 20 percent.

The 76th Legislature appropriated $540.5 million for correctional managed health care (TDCJ Strategy C.1.4) for fiscal 2000-01, $53.9 million more than in the preceding biennium. In fiscal 1999, TDCJ paid the universities $5.29 per inmate per day for health care. Costs per inmate per day (the capitation rate) rose to $5.65 in fiscal 2000. The LBB set a performance-measure target of $5.71 per inmate per day for fiscal 2002 and $5.75 for fiscal 2003. Psychiatric care (TDCJ Strategy C.1.3) is not provided through these capitated rates but is paid to the universities through a type of fee-for-service arrangement.

CMHCC reports that the biggest factor in increasing health care costs is the growth of the population of offenders who are age 55 or older. This group — considered elderly because they typically have health problems similar to those of free-world people 65 and older — is growing faster than any other population group in the prison system and is projected to increase by almost 11 percent during fiscal 2002-03. In fiscal 2000, elderly offenders used the health-care delivery system five times more often than offenders under 55 and cost three times as much to treat, an average of $16.71 per offender per day.

The other main factor driving up health-care costs is the growing number of cases of HIV and hepatitis among the prison population. In fiscal 2000, TDCJ spent about $15.2 million on HIV medications, 44 percent of its total prescription drug budget. Treating offenders with hepatitis C costs about $7,000 per year per offender. The managed health-care system treats only the most severe cases, about 200 to 300 per year. CMHCC predicts that this disease will become the next big issue in correctional managed health care as offenders serve longer sentences and more offenders' illnesses move into the advanced stage.

Amounts shown below represent proposed ***increases*** in funding for correctional managed care in fiscal 2002-03, compared to the $540.5 million appropriated for this biennium.

CSSB 1	$35.9 million
SB 1	$43.2 million
Filed version	$30.9 million
Governor's proposal	$30.9 million
Other proposals	$71.5 million

Increased spending for adult correctional health care

CSSB 1 — $35.9 million

CSSB 1 would increase funding for correctional managed health care by $35.9 million in general revenue compared to the current biennium. This would cover increased prescription drug costs, hepatitis treatment, and increased expenses due to aging inmates. TDCJ Rider 60 would allow the agency to transfer up to $5 million during fiscal 2002-03 from its other appropriations to the Correctional Managed Health Care Committee in the event of a budget shortfall.

Supporters say CSSB 1 would include adequate funding to offset increasing medical care costs. In addition to the $35.9 million increase in general revenue and the $5 million available through TDCJ Rider 60, the CMHCC has a reserve fund of $11.1 million that could be used to offset increased health-care costs, which the agency can tap as needed.

The population of inmates aged 55 and older is growing faster than any other population of inmates. Health care for these inmates costs about $11 per day more than the base capitation rate. CSSB 1 would help offset increasing medical costs for treating these offenders. It also would cover cost increases for treating HIV- and hepatitis B and C-positive inmates.

SB 1 — $43.2 million

SB 1 would appropriate $43.2 million more for correctional managed health care during fiscal 2002-03 than in the current biennium. This would provide an additional $7.7 million for prescription drugs and an additional $4.6 million to continue the hepatitis B vaccination and treatment program, compared to SB 1 as filed. An item in the Article 11 wish list would add another $13.6 million for correctional managed care.

According to the Senate Finance Committee, pending legislation, if enacted, could reduce the impact of prescription drug costs. SB 347 by Brown, HB 773 by Haggerty, and HB 1230 by Maxey would require TDCJ to use the federal 340B drug pricing program, which would allow the agency to buy prescription drugs at a lower cost than it now pays for those medications.

Supporters say SB 1 would allow TDCJ to continue its hepatitis B vaccination program for inmates entering the prison system. The program, begun this biennium, has a goal of vaccinating all inmates already in the system as well as new inmates. 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 vaccinations for all offenders. Continuing this program would be less expensive for the state than treating inmates for the illness.

Filed version — $30.9 million

SB 1 as filed would appropriate $571.4 million for fiscal 2002-03 to pay for correctional managed health care, $30.9 million more than in the current biennium. This funding level would cover the increase in the offender population and includes $19 million to replace a temporary source of funding used during fiscal 2000-01. The capitation rate in the bill as filed is $5.57 per day. The governor's budget proposal matched the recommendation in SB 1 as filed.

Other funding proposals — $71.5 million

In its Legislative Appropriations Request, TDCJ sought an increase of $71.5 million in general revenue for fiscal 2002-03. The additional funding above the level in the bill as filed would be appropriated as follows:

- $16.1 million for increased prescription drug costs,
- $4.7 million to continue the Hepatitis B vaccination program,
- $14.6 million for Hepatitis C management, and
- $5.2 million to cover increased expenses for aging inmates.

Supporters say this amount of funding would provide enough money to cover the four largest health-care needs that face TDCJ, instead of requiring the agency to choose only one or two to cover fully.

Pay increases for juvenile probation personnel

Agency: Texas Juvenile Probation Commission (TJPC)

Background: Juvenile probation, detention, and correctional officers are employed by local juvenile boards. Funding for the boards is a mix of local dollars and state funds channeled to the boards through the Texas Juvenile Probation Commission. Officers are paid with a mix of state and local dollars that varies among the localities. Juvenile probation officers oversee juveniles on probation, while detention and correctional officers work in juvenile detention facilities.

These officers are paid less than many other professionals in Texas. According to TJPC, 89 percent of these officers receive salaries below the statewide median of $31,224. The median salary for juvenile probation officers, $26,480, is also lower than the median for public school teachers, $27,292.

Juvenile probation, detention, and correctional officers are not on salary parity with the equivalent positions in the adult system. The 76th Legislature appropriated $37.5 million for fiscal 2000-01 to adjust the career ladder for adult correctional officers in the Texas Department of Criminal Justice and $8.6 million to adjust the career ladder for juvenile correctional officers in the Texas Youth Commission.

CSSB 1	$20.5 million
SB 1	$0
Filed version	$0
Governor's proposal	$0

CSSB 1

Rider 16 for TJPC would allocate $20.5 million of the appropriation under Strategy A.1.1, Basic Probation, for salary increases for juvenile probation officers (JPOs) and juvenile detention/correctional officers (JDO/COs). This would provide across-the-board pay raises of up to $3,000 for each JPO and up to $1,500 for each JDO/CO, depending on the number of officers employed. Funding for fringe benefits (FICA and retirement) would come out of the across-the-board amount.

Supporters say this proposal would help address juvenile boards' problems with recruiting and retaining juvenile justice officers, who are paid well below the statewide median.

Juvenile probation, detention, and correctional officers are on the front lines of the juvenile justice system. They deal with the children who fall through everyone else's safety nets. Low salaries are a major factor in TJPC's high turnover rate, which has increased over the past six years. In fiscal 1999, turnover for probation officers was 20 percent, and turnover for detention and correctional officers was 31 percent, compared to 15 percent average turnover in the private sector and 18 percent among all state employees.

Recruiting also has become a problem. Salaries are not competitive with the private sector, nor even with other state or county jobs. Inflation in the Austin area, for example, has made it harder for probation officers to live on their present salaries. Probation, detention, and correctional officers generally are committed to their work but will not stay at these jobs if they cannot earn a living.

Juvenile probation, detention, and correctional officers are leaving the system and taking their experience with them. Almost two-thirds of JPOs have six years' experience or less. When these officers leave, they take with them knowledge of resource opportunities, knowledge of the children and their families, and institutional knowledge. Often, a probation officer may act as a child's only family, and the end of this relationship could be detrimental for the child. Also, in rural areas, probation officers are generalists, and they respond to many situations that may arise with children.

SB 1 — no increase

The Senate version of SB 1 proposes no appropriation for pay increases for juvenile probation, detention, and correctional officers, although funding for this proposal appears in the Article 11 wish list. Because juvenile probation personnel are employed by juvenile boards, and not the state, they would not receive the across-the-board raise for state employees that is proposed in SB 1's Article 9.

Filed version — no increase

SB 1 as filed proposed no appropriation for pay increases for juvenile probation, detention, and correctional officers. The governor's budget proposal matched recommendations in the bill as filed.

Creating an interagency program for mentally ill offenders

Agency: Texas Department of Criminal Justice (TDCJ) and Texas Juvenile Probation Commission (TJPC)

Background: The Texas Council on Offenders with Mental Impairments (TCOMI) is charged with addressing the needs of mentally and physically impaired adults and juveniles in the criminal justice system and with providing care for these inmates after they leave the system. It comprises 30 criminal justice, health and human services, and regulatory agencies. TCOMI's funding and budget is administered through TDCJ under Strategy B.1.1, Special Needs Projects.

CSSB 1	$35 million
SB 1	$0
Filed version	$0
Governor's proposal	$0

CSSB 1 ($35 million)

CSSB 1 would appropriate a total of $35 million for fiscal 2002-03 to fund an interagency program for enhanced mental health services for offenders, referred to as the TCOMI plan. Rider 66 for TDCJ would allocate $31 million of the appropriation under TDCJ's Strategy A.1.2, Diversion Programs, and Strategy B.1.1, Special Needs Projects, for enhanced mental health services. These funds would be used to establish specialized mental-health caseloads, provide case management and mental-health services for probationers, and provide aftercare mental-health services for parolees under the supervision of the Texas Youth Commission. CSSB 1 also would appropriate another $4 million to TJPC's Strategy A.2.1, Community Corrections, for specialized caseloads that address mentally impaired juveniles.

Supporters say this funding is needed for an interagency effort to address the needs of mentally ill offenders in the criminal justice system. The TCOMI plan would target offenders with serious mental illnesses such as schizophrenia, major depression, and bipolar disorder (manic depression). The plan would target limited resources to mentally ill populations already in the justice system and would be focused on the pre-trial and probation phases. The goal would be to lower rates of recidivism of the mentally ill populations by attempting to provide proper treatment and services as early as possible.

Currently, no statewide interagency funding plan targets adult and juvenile offenders with mental impairments who already are in the criminal justice system, although major urban areas have set up programs to deal with mentally ill offenders. The TCOMI plan would standardize these programs at a statewide level and would help more mentally ill offenders obtain state and federal money for treatment. If mentally ill offenders do not receive appropriate intervention and treatment, many will continue to recycle through county probation systems and wind up in the state criminal justice system. As inmates, the mentally ill are the most expensive to maintain. Therefore, funding statewide programs for the early stages of the process would save the state money in the long run.

The TCOMI plan would use a new funding method that values interagency relationships over agency-by-agency planning. Because TCOMI comprises 30 agencies all connected with the criminal justice or mental health systems, funding through TCOMI would touch all of these agencies when they deal with these specialized populations. TCOMI and its member agencies have worked out the systemic problems for this plan and now need money to implement the programs statewide. TCOMI is the only agency with expertise to deal with this specialized population. The TDCJ and TJPC appropriations would go directly to the agencies instead of to the TCOMI plan because the agencies contract with local probation offices, while TCOMI contracts with community Mental Health/Mental Retardation (MHMR) centers. Because TDCJ, TJPC, and MHMR have other priorities besides mentally ill offenders, this population does not receive the appropriate attention.

Funding the plan on an interagency and statewide level would provide a streamlined system for mentally ill offenders. Also, funding through TCOMI would be more cost-effective because TCOMI provides services through specially trained community MHMR employees, enabling the mentally ill offender population to draw down federal Medicaid funds to supplement their treatment. Although the Department of Mental Health and Mental Retardation has a program that addresses needs of the hardest-to-serve populations, this program does not target mentally ill people already in the criminal justice system.

Opponents say this type of mental health assistance could be funded better at the local level. Many counties, including Harris, Travis, and Bexar, have achieved success with this type of initiative. Pre-trial and probation services traditionally are funded at the county level, not at the state level. Among state agencies, MHMR already offers programs that address the needs of this population.

SB 1 — no increase

The Senate version of SB 1 would appropriate no funds for the TCOMI plan under Article 5. However, the funds contained in the CSSB 1 proposal appear in SB 1's Article 11 wish list.

Filed version — no increase

SB 1 as filed and the governor's budget plan proposed no appropriations for the TCOMI plan.

Article 6 Overview

Article 6 contains Texas' nine natural resource agencies: the Texas Natural Resource Conservation Commission (TNRCC), Texas Parks and Wildlife Department (TPWD), General Land Office (GLO), Texas Water Development Board (TWDB), Texas Railroad Commission, Texas Department of Agriculture (TDA), Texas Animal Health Commission (TAHC), Soil and Water Conservation Board (SWCB), and 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 76th Legislature abolished the Low-Level Radioactive Waste Authority, formerly under Article 6, and transferred its functions to TNRCC (HB 2954 by Gray).

Natural resource agencies are funded primarily by general revenue and general revenue-dedicated funds. Some, like TNRCC, 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 TNRCC, TPWD, TWDB, TRC, TAHC, and SWCB.

CSHB 1 proposes all-funds spending of $1.8 billion for Article 6 agencies in fiscal 2002-03, 4 percent less than in the current biennium. General revenue-related spending would total $1.5 billion, a 3 percent decrease from fiscal 2000-01.

Article 6 Spending Comparisons

(millions of dollars)

Type of funds	Expended/ budgeted 2000-01	Recommended CSSB 1	Biennial change	Percent change
General revenue	$539.4	$534.6	($4.8)	(0.9)%
General revenue dedicated	$1,000.9	$960.8	($40.1)	(4.0)%
Federal funds	$223.7	$209.5	($14.2)	(6.3)%
All funds	$1,911.8	$1,834.5	($77.3)	(4.0)%

Source: Legislative Budget Board, Summary of House Committee Report on Senate Bill 1, April 2, 2001

Budget Highlights

CSSB 1 would reduce funding from current levels or hold funding steady for most Article 6 agencies. The largest reduction in general revenue-related funds, affecting TNRCC, would total $94 million. Funds from the Petroleum Storage Tank Remediation Account would fall by $66 million because of the slower rate of cleanup activity expected in fiscal 2002-03 and payment of $26 million in fiscal 2000 as part of the state's legal settlement with Tejas Testing Technology. The petroleum products delivery fee, the fund's major source of revenue, was suspended in February 2000 and is scheduled to expire in March 2002. A total of $152 million in appropriations to TNRCC from the account would be contingent on enactment of legislation to reinstate the fee.

General revenue-related funding to TWDB would decline by $14 million because of the completion of water-planning activities required by SB 1, 75th Legislature, and of other projects. Other highlights of Article 6 agencies and programs are summarized below.

Brush control. Rider 5 for SWCB would continue during fiscal 2002-03 the allocation of $9.2 million of general revenue for brush-control projects aimed at increasing water yield and availability. The total would include $8.2 million for projects in the North Concho River watershed and $1 million for additional brush-control feasibility studies determined by the Legislature. An item in the Article 11 wish list would appropriate $36.3 million in general revenue to SWCB to implement the recommendations resulting from eight feasibility studies requested by the 76th Legislature.

TDA. CSSB 1 would continue the $50 million biennial appropriation of general revenue for boll weevil eradication, established by the 76th Legislature. Also, Rider 17 for TDA would allocate $1 million in general revenue to continue the "Go Texan" Partner Program, matched by $1 million from program participants. An item in Article 11 would provide an additional $2 million for the program, which is aimed at promoting Texas agricultural products. The 76th Legislature created the program and appropriated $1 million in general revenue for the program plus $120,000 in proceeds from the sale of license plates.

Veterans' programs. GLO proposes to expand existing programs to help Texas veterans buy land and obtain lower-interest mortgage loans. CSSB 1 would appropriate an additional $5.7 million to GLO for veterans' benefit programs, bringing the total to $28.6 million for fiscal 2002-03. During the current biennium, GLO will open four facilities for Texas veterans who need long-term, skilled nursing care. The first two were dedicated in Temple and Floresville in 2000, and veterans' homes are scheduled to open this year in Big Spring and Bonham. Several bills in the 77th Legislature would authorize the creation of new veterans' cemeteries and additional veterans' homes.

Other Article 6 issues. The following pages discuss these budget issues in greater detail:

- funding for the Petroleum Storage Tank program (TNRCC);
- funding for maintenance and development of the state parks system (TPWD); and
- debt service on state participation bonds for water projects (TWDB).

Cleaning up leaking underground storage tanks

Agency: Texas Natural Resource Conservation Commission (TNRCC)

Background: The U.S. Environmental Protection Agency estimates that 25 percent of the underground storage tanks in the United States have leaked, do leak, or will leak in the future. Because petroleum products migrate after release, delayed responses to known leaks increase the cost of cleanup and threaten public health.

Texas' Petroleum Storage Tank (PST) program, created in 1989, has three components. The regulatory component registers tanks, certifies compliance, provides technical support to the regulated community, performs inspection and enforcement activities, and reviews remediation (cleanup) plans for responsible party sites. The state lead program manages remediation of sites where the responsible party is unknown, unwilling, or unable to pay. The reimbursement component reviews remediation plans and reimburses approved claims. Under current law, the reimbursement component will expire on August 31, 2003. However, the state will remain liable for paying to clean up future leaking tanks through the state lead program and will have to identify alternate funding sources. The regulatory and state lead components will continue operating.

State law requires TNRCC to manage a program to reimburse tank owners for eligible costs of cleaning up sites contaminated by leaking PSTs. TNRCC may not pay reimbursement claims after August 31, 2003, regardless of when TNRCC received the invoice or work on the site was completed. The PST fund has paid out more than $815 million for remediation of 15,000 leaking tank sites. Also, the state has used $89.5 million from the fund to satisfy part of the settlement with Tejas Testing Technology, the firm that built the auto-emissions testing stations in 1995 in reliance on the state's short-lived emissions testing program. According to TNRCC, as of January 31, 2001, 6,764 PST sites were under state lead or eligible for reimbursement, 329 of which are in counties overlying the Edwards Aquifer.

The PST program is funded through the petroleum product delivery fee, assessed on the delivery of petroleum products removed from bulk storage facilities for distribution for sale in Texas. The fee, based on the capacity of the delivery tank, averages about a penny per gallon. Under current law, this fee will expire on February 28, 2002.

Current law prohibits TNRCC from collecting the fee after the unobligated fund balance reaches $100 million and prohibits reinstating collection until the fund balance drops below $25 million. As a result, TNRCC halted fee collection in April 2000. As of September 30, 2000, the unobligated balance of the fund was $125.5 million. By December 31, 2000, the unobligated balance had fallen to $93.8 million. TNRCC projects that it will cost between $422 million and $548 million to remediate the remaining eligible PST sites and that the fund will be completely obligated by July 2002.

The PST program is funded through TNRCC Strategy C.1.1, Storage Tank Administration (regulatory and state lead) and Strategy C.1.2, Storage Tank Cleanup (reimbursement). Most of the money is general revenue dedicated to the PSTR Account. The Sunset Advisory Commission has recommended reauthorizing the petroleum product delivery fee.

For fiscal 2000-01, the 76th Legislature appropriated $226.8 million to TNRCC for storage tank administration and cleanup. The amounts shown below represent proposed ***decreases*** in funding for these strategies in fiscal 2002-03.

CSSB 1	($28.6 million)
SB 1	($28.7 million)
Filed version	($180.9 million)
Other proposals	$0

CSSB 1 — ($28.6 million)

CSSB 1 would appropriate $2.1 million to Strategy C.1.1 and $43.9 million to Strategy C.1.2 for fiscal 2002-03, for a total of $46 million. Contingent on enactment of legislation to reinstate and extend the petroleum product delivery fee, Rider 14 would appropriate to Strategy C.1.1 up to $12.5 million from funds previously transferred to the Waste Management Account, and Rider 28 would appropriate to Strategy C.1.2 up to $139.5 million in revenues deposited to the PSTR Account during fiscal 2002-03. Rider 22 would appropriate to TNRCC an additional $200,000 in payments received to cover remediation costs. Appropriations for both strategies would total $198.2 million, or $28.6 million less than in the current biennium.

In addition, Rider 14 would exempt TNRCC from provisions in the general appropriations act concerning inclusion of contract and temporary workers in FTE calculations, for the purpose of storage tank administration.

SB 1 — ($28.7 million)

SB 1 would provide baseline appropriations of $2 million to TNRCC Strategy C.1.1 and $43.9 million to Strategy C.1.2 for fiscal 2002-03, for a total of $45.9 million, essentially the same as the House proposal. SB 1 contains the same contingent riders as in CSSB 1.

Filed version — ($180.9 million)

SB 1 as filed would appropriate $2 million to Strategy C.1.1 and $43.9 million to Strategy C.1.2, for a total of $45.9 million. This would reflect a decrease of $205.8 million in PSTR funds due to a projected $179.8 million shortfall in revenues caused by suspension of the petroleum product delivery fee and a $26 million payment for the Tejas settlement. The bill as filed did not contain the $152 million in contingency riders included in the House and Senate bills.

Other funding proposals — $0

For fiscal 2002-03, TNRCC requested $12.7 million for Strategy C.1.1 and $214.7 million for Strategy C.1.2, for a total of $227.3 million, roughly equal to the current biennium's funding.

Funding for the state parks system

Agency: Texas Parks and Wildlife Department (TPWD)

Background: In 1997, an agency-wide TPWD Infrastructure Task Force reported that the state parks system had a backlog of repairs totaling $75 million. A year later, the State Auditor's Office concluded that TPWD received only 80 percent of the funding it needed to operate the parks system and that the agency was running annual operating deficits of $10.1 million.

The 75th Legislature in 1997 authorized issuance of $60 million in bonds to address TPWD's repair backlog. TPWD has issued those bonds over the past four years and expects to complete the bond-financed projects by February 2004. The 76th Legislature increased appropriations for state park operations by $16.2 million for fiscal 2000-01, for a total of nearly $86 million. At the same time, the Legislature directed the agency to use $16.3 million appropriated to the agency's capital programs to develop new parks such as the World Birding Center and Government Canyon.

Amounts shown below represent proposed changes in fiscal 2002-03 from current funding for TPWD's Strategy A.2.1, Operate State Parks, and Strategy A.2.2, Capital Programs.

CSSB 1	($38.2 million)
SB 1	($38.2 million)
Filed version	($38.2 million)
Governor's proposal	($38.2 million)
Other proposals	varies

CSSB 1 — ($38.2 million)

CSSB 1 would reduce overall funding to Strategies A.2.1 and A.2.2 in fiscal 2002-03 by $38.2 million from the current biennium, reflecting the provisions of the base budget bill. The reduction would be due almost entirely to a $41.6 million decrease in funding for Strategy A.2.2, because the bond proceeds appropriated for infrastructure repairs in the current biennium have been spent. Funding for Strategy A.2.1 actually would increase by $3.4 million, to $89.2 million.

Wish list funding

An item in Article 11 of CSSB 1 would increase appropriations to the two strategies by $26 million, allocating $8 million a year to address backlogged repairs and to fund all current maintenance of state parks to prevent future backlogs, plus $5 million a year and 81.5

additional FTEs to establish or restore basic services in state parks. Another item in Article 11 would increase Strategy A.2.1 funding by $1.2 million to pay for operation of Fort Boggy State Park and Government Canyon State Natural Area. This item would provide no additional FTEs.

SB 1 — ($38.2 million)

The Senate version of SB 1 proposes the same appropriation to Strategies A.2.1 and A.2.2 as in CSSB 1. However, items in the Article 11 wish list of SB 1 would add $13 million for Strategy A.2.1 and $38 million for Strategy A.2.2.

Governor's proposal — ($38.2 million)

The governor's budget proposal recommended no additional appropriations for state park operations and capital programs in fiscal 2002-03, in line with recommendations in the base budget bill. However, the governor has proposed authorizing an additional $15 million in bonds for TPWD to complete backlogged repairs.

Other funding proposals

TPWD requested an additional $26 million for fiscal 2002-03 over the amount in the bill as filed. The agency proposed to spend $16 million of that amount on critical infrastructure repairs and $10 million to restore or establish services at existing state parks, which would require an additional 81.5 FTEs.

The committee substitutes for HJR 97, by Junell, and its enabling bill, HB 3064, both of which the House Financial Institutions Committee reported favorably on March 29, would ask voters to approve $800 million in new bonds for a number of state agencies, including $100 million for TPWD, to be used for construction and repair projects. If the bill and resolution were enacted and voters approved the bonding authority, TPWD would be in a position to ask a future legislature to authorize issuance of the bonds and to appropriate their proceeds in a future budget cycle.

Supporters say though funding for state parks has increased in the past few years, the increases have not been sufficient to alleviate the operating deficits documented by the state auditor and the repair backlogs identified by the Infrastructure Task Force. At the same time, the Legislature has ordered TPWD to develop new parks, so not all of the funding increases the agency has received have been available to repair, maintain, and operate existing parks. Furthermore, reallocating resources often is politically difficult if it involves closing underused parks or transferring them to local control.

The result of the operating budget shortfalls is that parks have reduced operating hours and seasons, and some newly developed parks cannot be opened at all. For instance, parks such as Fort Boggy State Natural Area and Government Canyon State Park are developed, but TPWD lacks the personnel and operating budget to open them to the public. Others, like Kickapoo Cavern State Park and Big Bend State Ranch, are either underdeveloped or operate on a limited-access basis, or both. This problem is especially unfortunate because the state needs more park resources to serve its rapidly increasing population. Moreover, a number of these parks are relatively close to large population centers and thus would address the widely recognized need for open spaces that are easily accessible to city residents.

Similarly, funds for repairs are critical, since many of the facilities at Texas state parks were built 50 to 70 years ago. Furthermore, Texas parks raise about half of their operating budgets through entrance fees and concessions. If the state fails to maintain parks properly, people will stop visiting them, and operating budgets will suffer as a consequence. To ensure that the state will continue to have places for Texans to experience nature and engage in outdoor activities, TPWD needs additional funding to keep park facilities in good repair.

TPWD also needs to acquire new holdings to keep open space from being swallowed by development. The longer TPWD waits, the more expensive such land will become. TPWD is laying the groundwork for prioritizing those acquisitions with a study it has commissioned from Texas Tech University surveying the recreational, historical, and cultural sites operated at all levels of government. However, the agency cannot acquire any significant new holdings until it can develop and maintain its current holdings. Thus, although the agency has bought or taken donations of tracts that are within or next to existing holdings or that have come as donations with the means to develop and operate them, TPWD has sharply limited its acquisitions over the past several years.

Opponents say TPWD does not manage the parks system efficiently. The 1998 state auditor's report criticized the way TPWD managed its appropriations. For instance, the auditor suggested that TPWD restructure the state park inventory to eliminate redundant holdings and those lacking statewide significance, thus freeing up resources for use elsewhere. A 1998 study by Texas A&M University, *Texas Outdoors: A Vision for the Future*, reached similar conclusions, as did the recent Sunset Advisory Commission staff report and the report of the Governor's Task Force on Conservation, *Taking Care of Texas*. The auditor also suggested that TPWD's strategy for dealing with operating budget shortfalls — keeping all state parks open and reducing operating hours across the board — is not the best approach, since some parks are more popular than others.

Others suggest that TPWD focuses too much on acquiring new land instead of developing existing holdings. As a result, resources that could have been used to make more parks available to the public have been used to acquire holdings that TPWD lacks funding to develop.

Moreover, TPWD has been too slow to spend the proceeds of the bonds authorized in 1997 or has not spent the money wisely. For instance, the Sunset Advisory Commission staff report published last May noted that TPWD "struggled to expend bond funds within the time frames" required to avoid penalties under federal tax law. Others have challenged TPWD's use of bond funds to commission the Texas Tech survey, especially since the survey included a public opinion poll regarding Texans' attitudes toward conservation, recreation, and other areas of TPWD's mission.

State participation bonds for water projects

Agency: Texas Water Development Board (TWDB)

Background: Since 1985, TWDB has operated the state participation program to help local entities develop water infrastructure projects. Projects eligible for the program must be of regional benefit and must be unable to be built without state participation funds. Under the program, the state retains 50 percent temporary ownership in a project. The state may co-own the property, facilities, or water. For example, the state could own 50 percent of the water in a reservoir built through the program. The program defers local sponsors' repayments to the state for three years. In the fourth year, local sponsors begin to repay the loan, i.e., buy back the state's temporary ownership. The repaid principal goes back into the state participation program.

The amounts below represent proposed appropriations in fiscal 2002-03 for debt-service payments on $50 million worth of new state participation bonds for water infrastructure projects.

CSSB 1	$0
SB 1	$0
Filed version	$0
Governor's proposal	$0
Other proposals	$4.9 million

CSSB 1 — $0

CSSB 1 would appropriate no money in fiscal 2002-03 for debt service on additional state participation bonds, reflecting recommendations in the base budget bill and in the governor's budget proposal. Rider 2 for TWDB would appropriate any funds deposited to the State Participation Program Bond Payment Account to debt service on state participation bonds that matured or became due during fiscal 2002-03. These provisions match those in SB 1 and in the bill as filed.

Wish list funding — $4.9 million

An item in Article 11 of CSSB 1, under Debt Service Payments - Non-Self Supporting G.O. Water Bonds, would authorize TWDB to issue and sell up to $50 million in state participation bonds and would appropriate $4.9 million for debt service. Article 11 in SB 1 contains the same provision.

State participation bonds for water projects

Supporters say the state participation program works well and should be expanded. It has allowed localities to benefit from water projects that otherwise would not have been built. The 76th Legislature authorized TWDB to issue $50 million in state participation bonds for fiscal 2000-01, and this appropriation would continue that commitment.

State participation bonds play an integral role in the regional water planning envisioned under SB 1. Because the state participates only up to half of the funding for any project, $50 million in state participation funds would enable completion of up to $100 million in water projects.

Without the state's participation, many projects would have to be built on a smaller scale because of local entities' financing constraints. State participation funds allow projects to be built for the future rather than for the short term.

Appropriations to the state participation program are an investment. Loan repayments go back into the program. Eventually, as more repaid principal flows back into the program, it will reach a point where it is self-sustaining and will require no legislative appropriations to operate.

Opponents of issuing additional state participation bonds say this program should not be expanded. Although it has been a success, it does not require additional funding. Eventually, enough principal will have been paid back to the program to fund new loans. The state should not expand already successful bond programs when other critical needs lack funding.

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).

CSSB 1 proposes to spend $13.8 billion for fiscal 2002-03 under Article 7, about one-eighth of the total state budget. Overall funding for these agencies would increase by $1.1 billion or about 8 percent from the current biennium, primarily because of the infusion of new federal highway funds. General revenue-related funding, however, would decline slightly.

Federal funds play a sizeable role in funding these agencies' programs, about 50 percent of fiscal 2002-03 funding as proposed by CSSB 1. Most of the federal funds are appropriated to TxDOT for highway programs. However, federal funding also accounts for a significant portion of the budgets of TDHCA and TWC. Nearly half of Article 6 spending comes from "Other" funds, including the State Highway Fund, Smart Jobs Trust Fund, interagency contracts, and appropriated receipts.

Article 7 Spending Comparisons
(millions of dollars)

Type of funds	Expended/ budgeted 2000-01	Recommended CSSB 1	Biennial change	Percent change
General revenue-related	$ 801.3	$796.5	($4.8)	(0.6)%
Federal funds	$ 5,966.1	$6,957.8	$991.6	16.6%
All funds	$12,731.1	$13,798.4	$1,067.3	8.4%

Source: Legislative Budget Board, Summary of House Committee Report on Senate Bill 1, April 2, 2001

Background

Transportation funding. TxDOT now has about $6 billion in outstanding road construction contracts, representing about 36 percent of the state's transportation needs in terms of proposed projects. TxDOT expects to have access to $4.5 billion in federal reimbursement grants for highway construction and planning during fiscal 2002-03, nearly $970 million more than in the current biennium. The construction budget could expand if the Legislature were to adopt and voters approved the requisite constitutional amendment authorizing bonded indebtedness to pay for road building, or other proposals to increase highway-dedicated revenue.

Issuing grant anticipation notes (also known as grant anticipation revenue vehicles or GARVEEs) would borrow against the state's future federal highway funds. The Senate has approved SB 241 by Lucio, authorizing the use of up to 5 percent of future annual receipts for debt service on highway bonds, and SJR 10 by Lucio, proposing to amend the Constitution for this purpose. The Senate also has approved SB 4 and SJR 16 by Shapiro, which would create the Texas Mobility Fund, a revolving highway-bond fund. Others have proposed increasing the state motor-fuels tax to raise additional revenue dedicated to highway funding. According to TxDOT, the agency could contract for another 1 percent of identified projects for each additional $150 million it receives.

Smart Jobs. The 73rd Legislature created the Smart Jobs program in 1993 to provide customized job training for businesses to increase the skills and wages of Texas workers. Since it began, the program has made more than 1,200 grants and has paid out more than $70 million. The program is managed by TDED and funded by excess unemployment-insurance tax revenues. Appropriations for the program in fiscal 2000-01, including through riders, totaled about $83 million.

In January 2000, a report by the state auditor alleged gross fiscal mismanagement of the Smart Jobs program, concluding that the program had placed state funds at risk of waste and abuse by employers who receive grants from TDED. The auditor found that grants were not awarded competitively; employers were paid for training employees who did not meet all of the program requirements; TDED had not held employers accountable for meeting the terms of the contracts; and the program's success could not be measured because TDED does not collect accurate and meaningful data. A second report by the auditor in August 2000 found that the program had trained only about one-third of the employees and created only one-third as many new jobs as promised by employers between 1995 and 1998. The audit also found that TDED had paid at least $5 million to contractors for trainees who did not meet contract requirements or never participated in the Smart Jobs program. In early 2000, lawmakers suspended the program until the problems cited in the auditor's reports could be fixed.

The Sunset Advisory Commission, which is reviewing TDED this year, recommended dividing the Smart Jobs program into two parts, the majority of which would be moved to TWC, with about 20 percent of the funds remaining at TDED for an incentive program to encourage employers to open facilities in Texas.

Supporters of keeping the program at TDED say the department has made considerable progress in redressing the problems identified in the audits and that TDED should have an opportunity to manage the reformed program. If the program is to be moved, they say, at least part of the funds should be left at TDED to continue to provide incentives for businesses to relocate or expand in Texas. Supporters of moving Smart Jobs to TWC cite the commission's emphasis on workforce development and argue that TWC has a better track record managing these types of programs. Furthermore, some have complained that, under TDED's administration, the program has not distributed funds fairly around the state and that TWC could disburse the funds more evenly.

Budget Highlights

Under CSSB 1, TxDOT's biennial appropriation would increase by $957 million as a result of increased federal highway funds. TWC would receive a net increase of $25 million (primarily federal funds) for various programs. Appropriations for other Article 7 agencies would remain stable or decline slightly. CSSB 1 would carry forward TDED's unexpended balance authority for the Smart Jobs program for fiscal 2002-03, totaling $54 million. Other Article 7 highlights are summarized below.

Market Texas program. TDED requested an additional $4 million for Strategy B.1.1 to create a marketing campaign to attract more businesses to Texas. According to TDED, Texas has fallen from first to fourth among states in attracting new and expanded business facilities. A marketing campaign could identify markets likely to be interested in moving to or expanding in Texas, advertise the state to those businesses and industries, and generate economic development leads for Texas cities. Supporters argue that California's energy crisis creates a prime opportunity for Texas to advertise itself as a premier business location. Opponents of the program say that TDED should not receive money for new programs until it demonstrates that it can manage existing programs better. CSSB 1 contains no funding for this new program, while SB 1 places the request in the Article 11 wish list.

Housing Trust Fund. CSSB 1 would appropriate $12.7 million for the Housing Trust Fund in fiscal 2002-03, roughly the same amount as in the current biennium. The fund, administered by the Texas Department of Housing and Community Affairs (TDHCA), provides loans and grants to local governments, nonprofit organizations, public housing authorities, community housing development corporations, and individuals to acquire, develop, and rehabilitate affordable housing. SB 1 contains an additional $10 million for the trust fund in the Article 11 wish list. Supporters of the additional funding say that TDHCA's mission is critical to the state, which is in the midst of an affordable-housing crisis that is likely to grow worse over the next few years. Opponents of the additional funding say TDHCA is poorly run and has not used its existing appropriation wisely. A report by the state auditor found that TDHCA's programs do not serve Texans with the greatest need, funds were not awarded objectively, and housing units contracted and paid for were not always provided.

Texas Lottery Commission. The commission asked for $1.2 million for each year of fiscal 2002-03 to build, furnish, and operate its own broadcast studio, maintaining that this would reduce future costs, since the current contract for an outside broadcast studio costs $2.1 million per year and the annual operating cost for an in-house studio would be only $600,000. The commission considers live broadcasts of lottery drawings essential to ensure public credibility of the lottery. An in-house studio also would enable the commission to broadcast the drawing over its Internet website. CSSB 1 would fund this request under the Lottery Commission's capital budget rider.

Automobile theft prevention. Under CSSB 1, TxDOT would receive $31 million for its Automobile Theft Prevention Authority (ATPA), a $7 million biennial increase for this matching-grants award program. SB 1 would hold the ATPA appropriation at $24 million, although the bill's Article 11 wish list contains an additional $7 million for the program. ATPA is funded by a $1 annual fee on insured motor vehicles, which is generating more revenue than expected because of rapid growth in the number of insured vehicles. Rider 47 for TxDOT would set aside $3.5 million in fiscal 2002-03 for areas now without grant programs.

Other Article 7 issues. The following pages discuss these Article 7 budget issues in greater detail:

- TxDOT appropriations for state highway programs;
- increased funding for TWC's Choices program;
- increased child-care assistance funding for TWC; and
- funding for the Aerospace Commission for engineering and environmental studies to encourage a spaceport to locate in Texas.

Increasing funding for highway construction

Agency: Texas Department of Transportation (TxDOT)

Background: TxDOT's primary function is to contract on behalf of the state to build and maintain state and federal highways. The agency averages $3 billion a year in outstanding construction-related contracts. Despite an increase in annual federal funding of more than 50 percent, however, TxDOT officials say that, as of spring 2000, they can contract for only about 36 percent of the projects in TxDOT's 10-year plan. Population growth, traffic congestion, safety concerns, pavement deterioration, problems in meeting federal clean-air standards, and increased truck traffic attributable to the North American Free Trade Agreement (NAFTA) have prompted calls for more spending on major roads and highways.

TxDOT is among Texas' largest state government agencies and one of the few with a constitutionally dedicated revenue source. The Texas Constitution (Art. 8, Sec. 7-a) reserves three-fourths of net state motor-fuels tax (MFT) revenue for acquisition, construction, maintenance, and policing of highways and for administering traffic and safety laws on highways. The remaining one-fourth goes to the Available School Fund to support the Foundation School Program. Not all transportation-related revenue is deposited into the highway fund. Motor-vehicle sales and rental taxes and fees collected by the Department of Public Safety (DPS) for driver's license issuance and renewal, motor-vehicle inspections, and driver record information go into general revenue.

The State Highway Fund (Fund 6) comprises federal and state tax and fee revenue. About 90 percent is appropriated to TxDOT, which shares the fund with DPS, the Attorney General's Office, and the Public Integrity Unit of the Travis County District Attorney's Office. For fiscal 2000-01, the Legislature appropriated to DPS slightly more than $540 million directly from Fund 6, about 80 percent of the department's budget.

Almost two-thirds of TxDOT's current $8.6 billion biennial budget comes from MFT revenue, motor-vehicle registration fees (counties keep one-third for roads and bridges), sales tax on lubricants, and other miscellaneous revenue. More than one-third of TxDOT's budget comes from federal gasoline-tax revenues appropriated by Congress through the Transportation Equity Act for the 21st Century (TEA-21). Less than 1 percent of TxDOT's budget is general revenue.

TEA-21 is a six-year federal appropriation providing reimbursement grants for highway construction expenditures. States generally are reimbursed for 80 percent of their costs, but are reimbursed for 90 percent of costs for interstate highway projects. For fiscal 2002-03, TxDOT expects to have available about $4.5 billion in federal highway construction and planning money, an increase of more than $968 million over the current biennium.

SB 1 as filed would allocate almost $5.9 billion plus unexpended balances to TXDOT's highway construction strategy in fiscal 2002-03, about $870 million more than in fiscal

2000-01. The filed version does not contain the "estimated" feature for Strategy A.1.3, Highway Construction, or the Fund 6 method of finance.

CSSB 1

CSSB 1 would not provide additional money for highway construction above the $5.9 billion in SB 1 as filed. In effect, however, it would authorize at least $50 million more in construction spending by reducing the amounts TxDOT could spend on capital items and by requiring that they be spent on highway construction and construction-related strategies.

TxDOT's Legislative Appropriations Request included $309 million for capital items, such as buildings, equipment and vehicles. The LBB recommended $255 million, but SB 1 as filed also contained about $53 million in additional capital expenditures included within various strategies. CSSB 1 includes $152.4 million for capital items.

The project planning, design, and management P/D/M strategy is expected to receive a $90 million bond repayment from the Texas Turnpike Authority during fiscal 2002-03. All or part of that sum could be transferred into one of three other strategies: right-of-way acquisition, highway construction, or contracted maintenance (major repair and rehabilitation). Monies transferred into those strategies may be shifted among the three strategies, but not transferred elsewhere in the TxDOT budget.

CSSB 1 also would increase DPS funding from Fund 6 by about $10 million for the biennium. Unlike SB1, it would not appropriate any money to TxDOT from Fund 6 that DPS currently receives.

CSSB 1 would retain the "estimated" feature for Strategy A.1.3, Highway Construction, and the Fund 6 method of finance. This would allow any additional money that becomes available above and beyond appropriated amounts, including unexpended balances, to be spent on highway construction. In fiscal 2000-01, state revenue is expected to exceed appropriations by an estimated $450 million.

Supporters say use of the estimated feature would give TxDOT needed flexibility to adapt to unanticipated revenue increases, such as an influx of MFT revenue. Without this capability, TxDOT might have to halt projects or delay contractor payments until the next fiscal year because available money had not been appropriated. Similarly, TxDOT could not start new projects if additional funds were available but not appropriated.

Opponents say TxDOT should have to use the "sum certain" budgeting method like most other agencies. Not doing so makes legislative oversight more difficult. Scrutiny of TxDOT's capital expenditures has shown how problematic it can be to hold the agency accountable. Ambiguity in such a large budget can create opportunities to spend money on priorities other than road building.

Wish list funding

The only highway construction item in Article 11 of CSSB 1 is a contingency rider for an unspecified amount for a pilot design-build project if SB 298 by Madla is approved.

SB 1

The Senate version of TxDOT's budget would allocate almost $5.9 billion plus unexpended balances to the highway construction strategy in fiscal 2002-03, about $870 million more than in fiscal 2000-01. Like CSSB 1, SB 1 retains the "estimated" feature for highway construction spending and Fund 6 appropriations. An item in Article 11, but not in CSSB 1, would appropriate up to an additional $100 million for highway construction from DPS' share of Fund 6, if offsetting general revenue becomes available.

Governor's proposal

As outlined in his budget proposal, *Moving Every Texan Forward*, the governor recommends selling up to $1.5 billion in grant anticipation revenue vehicles, or GARVEE bonds, contingent on constitutional and statutory changes. The proposal projects spending $248.3 million (11 percent of anticipated annual federal revenues of about $2.3 billion) on debt service in fiscal 2002-03, based on a 10-year payout. The governor predicts that bonding at that level would generate $1.7 billion in contracts and construction of 726 lane-miles of increased roadway capacity.

The governor also proposes a $30 million bond package called the Border Transportation Initiative, which would appropriate general revenue to County and Road District Highway Fund Number 57 to be distributed among the 22 counties in TxDOT's El Paso, Laredo, and Pharr districts. Counties could pool their resources to issue up to $175 million in bonds. The proceeds could be spent on improving county roads and access for colonias, including right-of-way acquisition, construction, and utility adjustments.

Other funding proposals

- **GARVEEs.** Under a proposal now being considered by the Legislature, the state could issue GARVEE bonds to borrow federal highway money expected in future years, with the federal funds actually received being used to repay the bonds. This money would be used to expedite pending highway projects. The Comptroller's Office estimates bond payments would be about $55 million in fiscal 2002 and $110 million each year thereafter. On March 29, the Senate approved SB 241/SJR 10 by Lucio, which would allow issuance of bonds backed by either federal or state revenue, not to exceed 5 percent of anticipated receipts. HB 52/HJR 13 by Oliveira as filed would cap the bonding amount at 15 percent of federal highway revenue and would limit eligibility to projects costing at least $50 million and would give priority to NAFTA corridors. HB 52, pending in the House Transportation Committee, would require annual progress reports and would terminate the program in 2005. Both measures would require approval of a constitutional amendment to authorize state bond debt for highways.

  Supporters say GARVEEs are secured by a stable source of funding. They would accelerate highway construction to relieve traffic congestion sooner and reduce inflation costs.

  Opponents say GARVEEs could jeopardize the federal highway funding stream and ultimately would increase project costs because of interest and bond charges without generating any additional money.

- **Texas Mobility Fund.** SB 4/SJR 16 by Shapiro would create a self-sustaining, revolving bond fund to pay for building and expanding highways and toll roads. The fund would issue bonds backed by unspecified sources and amounts of undedicated general or miscellaneous revenue appropriated by the Legislature. Proponents have suggested $50-100 million per year. Maturity dates could not exceed 30 years. Deposits would have to exceed outstanding obligations by at least 10 percent. Like GARVEEs, these bonds also would require a constitutional amendment. The Senate approved SB4/SJR 16 on March 20.

  Supporters say state bond proceeds would supplement current "pay-as-you-go" construction without reducing federal funding for future needs.

  Opponents say state-secured bonds would not generate enough money to solve major traffic problems and would be a drain on general revenue.

! **MFT increase.** HB 3106 by Alexander/Averitt would increase state taxes on gasoline, diesel fuel, and liquefied petroleum gas (LPG) by five cents a gallon. The current rates are 20 cents for gasoline and diesel and 15 cents for LPG. The bill would allocate one-fourth of the net revenue derived from the increase to funding group health benefits for active school employees. Were the Legislature not to enact such a benefits program, one-fourth of the increase instead would go to the Available School Fund and three-fourths to Fund 6, the same as the current allocation. An additional five cents a gallon on the MFT would generate about $527 million per year for Fund 6, as of fiscal 2003. HB 3106 is pending in the House Ways and Means Committee.

Supporters say the MFT is the closest thing to a highway user fee available and this needed increase would generate new construction money above current revenue levels.

Opponents say MFTs are the most regressive taxes imposed by the state and are a fluctuating revenue source bearing little relation to highway construction costs.

! **Fee collections.** Two bills by Shapiro would reroute revenue from several fees and penalties from general revenue to Fund 6.

SB 411 would require deposit of motor-vehicle inspection fees, driver's license fees, driver record information fees, and motor-carrier penalties into Fund 6 instead of general revenue. These fees are collected by DPS, which is funded primarily out of Fund 6.The bill also would repeal the $5 deposit into the Motorcycle Education Account from each motorcycle driver's license issuance and renewal fee. Fund 6 would gain almost $488 million for the biennium, according to the fiscal note on the bill as introduced. SB 411 is pending in the Senate Finance Committee.

SB 412 would revise the state/county allocation formula used for motor-vehicle sales taxes and registration fees. It would end the requirement that counties withhold from vehicle registration fees, which are deposited into Fund 6, the equivalent of 5 percent of the previous year's vehicle sales-tax collections, which are general revenue. Counties would revert to the pre-1992 procedure of recouping collection costs by withholding 5 percent of vehicle sales taxes and penalties collected and sending all of their vehicle registration fee collections to the state. They also would retain amounts equal to 5 percent of taxes the comptroller collected the previous year on seller-financed vehicle sales. The bill would require counties to spend the monies on county roads and bridges. The fiscal note on the bill as introduced estimates that Fund 6 would gain $263 million during fiscal 2002-03, while counties would gain slightly more than $1 million. SB 412 is pending in the Senate Finance Committee.

Increasing funding for highway construction

The Article 11 wish list in SB 1 includes riders that would appropriate unspecified additional amounts for highway construction, contingent upon enactment of SB 411 and SB 412.

Increased funding for child-care assistance

Agency: Texas Workforce Commission (TWC)

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 subsidized child care, including children of parents involved in specific 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. TWC is required to give priority in awarding child-care funds to recipients of Temporary Assistance to Needy Families (TANF).

Funding for child-care assistance comes from both state monies and federal block grants. To draw federal funds, state matches can come from general revenue, local funds, or in-kind donations. In addition to federal block grants for child care, up to 30 percent of a state's TANF block grant can be converted to child-care funds. (See the Article 2 overview for more information on TANF.)

In fiscal 2000-01, TWC funds budgeted and spent for child care will total $796.5 million, serving an average 97,000 children per day. This total includes about 80 percent federal funds, 19 percent state funds, and 1 percent local funds. Spending is expected to exceed the amount appropriated by about $30 million because of the receipt of additional federal funds. Children in the at-risk category account for about 76 percent of all children served in this biennium. About 40,700 children are on the waiting list for child-care assistance.

In 2002, the state's TANF waiver, which allowed additional exemptions from federal workforce participation requirements, will expire, increasing the caseloads for TWC's workforce development programs. (See the accompanying issue on Choices program funding.) Accordingly, demand will increase for child-care assistance for these program participants, who are required to receive priority under state law. To meet this need, TWC either will have to receive additional child-care assistance funds or will have to redirect some of the money now serving at-risk children to the children of TANF recipients, displacing many children who now receive subsidized care.

The amounts shown below represent proposed ***increases*** in funding for child-care assistance over the $796.5 million budgeted and spent in fiscal 2000-01.

CSSB 1	$83.4 million
SB 1	$99.9 million
Filed version	$14.1 million
Governor's proposal	$115.8 million
Other proposals	$145.8 million

CSSB 1 — $83.4 million

CSSB 1 would appropriate an additional $83.4 million for child-care assistance for fiscal 2002-03. In addition to funds in the bill as filed, CSSB 1 would appropriate $69.3 million in federal discretionary Child Care Development Funds (CCDF) expected to become available during the next biennium. According to the bill's estimate, this level of funding would serve an average 111,700 children in fiscal 2002 and 109,500 children in fiscal 2003. TWC's current estimates are slightly lower. This amount would maintain child-care assistance for about 16,600 at-risk children who otherwise would be displaced due to caseload increases in the mandatory service population. About 12,500 at-risk children still would be displaced, according to TWC. At this level of funding, the waiting list would total about 34,000, according to TWC's Legislative Appropriations Request (LAR).

Wish list funding

Article 11 of CSSB 1 contains an additional $15.6 million in general revenue to draw down $29.4 million in CCDF matching funds. This money would fund care for almost 13,000 at-risk children now receiving care who may be displaced because of TANF caseload increases.

SB 1 — $99.9 million

The Senate version of SB 1 would appropriate an additional $99.9 million for child-care assistance funding. In addition to the increase contained in the filed version, the bill would draw down $60.7 million in discretionary CCDF funds that are expected to become available in the next biennium and would appropriate an additional $10 million of general revenue in fiscal 2003 to draw down about $15 million of CCDF matching funds. According to the bill's estimate, this funding level would serve an average 109,500 children in fiscal 2002 and 114,500 children in fiscal 2003. TWC's current estimates are slightly lower. This amount would maintain child-care assistance for about 21,600 at-risk children who otherwise would be displaced due to caseload increases in the mandatory service population. About 8,000 at-risk children still would be displaced, according to TWC. At this level of funding, the waiting list would total about 34,000. An item in Article 11 of SB 1 would appropriate another $24.6 million in general revenue to draw down CCDF matching funds.

Filed version — $14.1 million

SB 1 as filed would appropriate an additional $14.1 million for child-care assistance by drawing down more federal CCDF discretionary and matching funds. For this to occur, local in-kind donations for child-care match would have to increase by $4.2 million. These funds would be used to subsidize child-care for an estimated 110,000 children in fiscal 2002 and 123,000 children in fiscal 2003. According to LBB, these estimates in TWC's LAR could not be validated because the agency did not supply the methodology it used to calculate the number of children served. TWC says that at this level of funding, about 25,000 at-risk children now receiving care would be displaced by TANF caseload increases.

Governor's proposal — $115.8 million

The governor's budget proposal would increase child-care assistance funding by $115.8 million over the fiscal 2000-01 level. In addition to the increase contained in the filed version, this proposal would draw down $95.7 million in discretionary CCDF funds that the Governor's Office expects to become available during the next biennium and remained unbudgeted in the filed version, and would certify certain state expenditures as matching funds to draw down additional CCDF funds. The proposed level of funding would increase child-care assistance by an estimated 22,300 children.

Other funding proposals — $145.8 million

TWC requested an additional $145.8 million over fiscal 2000-01 levels to meet increased child-care assistance demand due to the TANF waiver expiration, maintain service for at-risk children, and assist about 2,500 children now on the waiting list in each year of fiscal 2002-03. In addition to the funds in the filed version, the request includes an additional $69.3 million in discretionary CCDF funds expected to be available during the next biennium, $15.6 million of general revenue to draw down $29.4 million of CCDF match, and $17.4 million in TANF dollars converted to CCDF funds. TWC says the first two requests would fund services for about 109,400 children in fiscal 2002 and about 115,800 in fiscal 2003, with no at-risk children displaced by increases in the mandatory service population. The $17.4 million in TANF funds would reduce the waiting list by 2,500 children in each year of the biennium.

Supporters say this funding level is necessary to ensure that no at-risk children now receiving child-care assistance are bumped from the rolls to accommodate the caseload increases due to the TANF waiver expiration. At the funding level in the filed bill, about 30,000 at-risk children now receiving child-care assistance would be displaced.

Increased funding for the Choices program

Agency: Texas Workforce Commission (TWC)

Background: In 1996, Congress enacted the Personal Responsibility and Work Reconciliation Act, which established the Temporary Assistance for Needy Families (TANF) block grant program. TANF, which replaced Aid to Families with Dependent Children and other public assistance programs, is designed to move aid recipients into work and to limit the period for which families can receive aid. Federal program rules require that a certain percentage of each state's TANF recipients be engaged in allowable work activities, which include employment, community service, job search and job readiness assistance, and limited vocational education. States that fail to meet the federal participation rate are subject to a monetary penalty. (For more information on TANF, see the Article 2 overview.)

TWC began its Choices program in 1998 to fulfill the work requirements of the state's TANF grant. This program, supported entirely by federal TANF funds and administered by local workforce development boards, provides job-related activities and information, including job-readiness preparation (such as resume and cover letter writing and job market information), help with job searches, and education and job training. All TANF recipients in Texas must participate in the Choices program.

Texas received a temporary waiver from some of the TANF requirements to allow the state to continue welfare-reform policies that the state had enacted before the federal act. This waiver, which allowed additional exemptions from the federal work requirements, will expire in 2002, resulting in an increase in the Choices caseload. In February 2001, the Texas Department of Human Services released updated TANF caseload projections for fiscal 2002-03. On the basis of the new projections, TWC estimates that the Choices caseload will increase 7 percent more in fiscal 2002 and 10 percent more in fiscal 2003 than projected at the time of TWC's Legislative Appropriations Request (LAR).

In addition to funding for Choices, the appropriations act specifies target participation rates for the Choices program. For fiscal 2000-01, the target participation rate was 30 percent.

The amounts shown below represent proposed ***increases*** in funding for the Choices program over the fiscal 2000-01 appropriation of about $128.5 million.

CSSB 1	$35.1 million
SB 1	$35.1 million
Filed version	$35.1 million
Governor's proposal	$35.1 million
Other proposals	$48.7 million

CSSB 1 — $35.1 million

Both CSSB 1 and the Senate version of SB 1 would appropriate an additional $35.1 million in TANF funds for the Choices program over the fiscal 2000-01 amount to accommodate caseload increases, primarily due to the expiration of the federal waiver. This matches the LBB recommendation in SB 1 as filed. LBB also recommended raising the participation rate to 32 percent in 2002 and to 35 percent in 2003, as requested in TWC's LAR.

Supporters say this increase is necessary to keep Texas in compliance with the federal participation requirements as the state's waiver expires. The participation-rate increases would be possible through the co-enrollment of Choices clients in TWC's Welfare-to-Work program, which would provide an additional $31.7 million for services to Choices clients in fiscal 2002, according to LBB.

Although caseload projections have increased since SB 1 was filed, not all of these clients will be referred to TWC for placement in the Choices program. TWC's revised caseload projections overestimate the likely increase. Furthermore, the state has a considerable cushion in meeting the federal participation rates because the state receives a caseload reduction credit for having reduced its overall caseload, which effectively reduces the number of people that TWC must serve through Choices to remain in compliance with federal law. Thus, even if TWC were unable to meet all of the new caseload demand, the state still could meet the federal participation-rate requirements.

Wish list funding

An item in Article 11 of SB 1 would provide an additional $13.6 million, as requested by TWC, to fund caseload increases in the Choices program that are projected to result from the increased caseload projections released in February.

Governor's proposal

The governor's original budget proposal matched the recommendation in SB 1 as filed. However, according to the Governor's Budget Office, the governor would support providing an additional $13.6 million in TANF funds to cover the projected caseload increases.

Other funding proposals — $48.7 million

Following release of the revised caseload projections in February, TWC requested an additional $13.6 million in TANF funds for fiscal 2002-03 above the recommendation in the base budget bill to cover the resulting increase in the Choices caseload.

Supporters say this funding is necessary to cover the increased Choices caseload indicated by the updated caseload projections. These projections represent the best estimate of the number of DHS clients who will have to participate in Choices on the basis of historical trends. Certainly some portion of the projected DHS caseload increase will have to enroll in Choices, requiring more funding for the program.

Even without the most recent caseload increases, TWC could not meet the 32 percent and 35 percent participation rates without this additional funding. Although the agency's LAR recommended increasing the participation rate, it also included a request for an additional $31.7 million in funding to pay for these rate increases. The bill as filed excluded that additional funding. The co-enrollment of Choices clients in the Welfare-to-Work program is not as high as calculated by LBB, and TWC could not meet these new participation rates at the funding level in the bill as filed. Rather than increase the agency's budget, TWC recommends that the participation rate remain at 30 percent.

Although the state previously has received a significant caseload reduction credit, expected caseload increases due to the waiver expiration will reduce that credit, placing more responsibility on the state to move Choices clients into work. Furthermore, it is possible that Congress will change the performance standards when it reauthorizes the TANF program in 2002, potentially resulting in more stringent requirements. Together, these factors suggest that without additional funding, the state will fall to the bottom of the state rankings in meeting the federal participation rates. Besides losing the opportunity for high-performance bonus funds, which earned Texas an extra $40 million in fiscal 1998 and 1999, the state could slip below the federal participation-rate requirement and become subject to a financial penalty.

Attracting a spaceport to Texas

Agency: Texas Aerospace Commission

Background: In 1999, the 76th Legislature enacted HB 3029 by Oliveira, et al. and SB 1092 by Brown, authorizing the creation of development corporations for spaceport facilities and granting these corporations the power of eminent domain and the authority to issue revenue bonds. Since then, a corporation has been created or is in the process of being created in each of the three Texas counties (Kenedy, Brazoria, and Pecos) that are pursuing a spaceport facility. Two companies, Space Access and Kistler Aerospace Corp., have expressed interest in locating commercial spaceports in Texas.

Similar in concept to an airport, a spaceport is a facility from which commercial companies launch satellites and cargo into space. Until 1998, commercial launches in the United States took place from federal facilities, such as the Kennedy Space Center in Florida and Vandenberg Air Force Base in California. Since 1998, four non-federal commercial launch sites have provided an alternative to the federal facilities, which do not consider commercial launches a priority and sometimes “bump” commercial launches to fulfill their other duties. All of these facilities use expendable launch vehicles, which jettison part of the spacecraft during the flight and cost about $10,000 per pound of cargo to launch.

Space Access and Kistler Aerospace, as well as several other private companies and the National Air and Space Administration (NASA), are working to develop a reusable launch vehicle (RLV), which could reduce launch costs to as little as one-tenth of what they are today. A launch facility could be financed in a variety of ways, ranging from all private funds to all public funds (local, state, and federal), but probably would be financed with some combination thereof. To raise the necessary capital, the companies are seeking federal loan guarantees or investment tax credits.

The Texas Aerospace Commission has requested a new appropriation of $3.1 million to help the three interested communities in Texas conduct the necessary initial analyses to demonstrate the suitability of their sites as potential locations for a spaceport and to persuade Space Access or Kistler to locate its facility in Texas.

CSSB 1	$3.1 million
SB 1	$0
Filed version	$0
Governor’s proposal	$0

CSSB 1 — $3.1 million

CSSB 1 would appropriate $3.1 million in general revenue to the Aerospace Commission for fiscal 2002-03 to conduct analyses necessary to demonstrate the viability of the Texas sites as potential locations for a spaceport. The commission would make the money available in the forms of grants to the three local communities pursuing a spaceport to conduct environmental impact studies, spaceport licensing, RLV technology studies, and site engineering design and development plans. Each community would have to provide a $300,000 match to receive the full $1 million for fiscal 2002-03. Rider 3 would require the comptroller to participate in developing guidelines for the grant application process and contract awards before any funds could be spent, and all grants or contracts would be subject to the comptroller's approval. The appropriation also would include $100,000 for an additional employee at the commission to administer the funds and grant process.

Supporters say the studies this appropriation would support are necessary for Texas to remain a candidate for a spaceport site by demonstrating the suitability of the Texas sites and the state's commitment to the project.

Attracting a spaceport to Texas would result in a tremendous benefit for the state, creating several thousand new jobs and adding hundreds of millions of dollars to the state economy. Since 1993, the number of commercial space launches worldwide has more than tripled, from 10 in 1993 to 36 in 1999, and is estimated to increase to almost 40 launches by the end of 2001, according to the Federal Aviation Administration. Texas has an opportunity to capture part of this new industry and its associated employment and revenue gains. In 1999 alone, the commercial space industry was responsible for $61.3 billion in economic activity in the United States.

Although a fully reusable launch vehicle has not been created yet, the project involves little technical risk. The technology that Space Access plans to use has been evaluated thoroughly and approved by several groups, including the Air Force, the Aerospace Corp., and financial underwriters. Space Access already has tested elements of the propulsion system and the engine and has patented the vehicle concept.

Congress already extends loan guarantees to other forms of transportation and is likely to approve loan guarantees or tax credits for investments in space transportation.

Opponents say the state should not risk taxpayers' money pursuing a project based on an unproven technology. The state is setting itself up for a loss not unlike that associated with the cancelled Super Conducting Supercollider project, into which the state sank millions of dollars. An RLV does not yet exist, and in the competitive space industry, there is no way of knowing which companies will survive the race to develop one and secure funding. Also, arranging financing for a spaceport could be risky, as Congress has not approved federal loan guarantees and has indicated considerable skepticism as to whether this kind of project is safe enough to risk millions in taxpayer dollars.

Other opponents say while a spaceport could have a positive economic impact on Texas, the state has other, more important funding priorities for fiscal 2002-03.

Attracting a spaceport to Texas

SB 1 — $0

SB 1 places this funding request in Article 11.

Filed version — $0

SB 1 as filed would appropriate no funds toward the pursuit of a spaceport in Texas, and the governor’s budget proposal requested no funding for this purpose.

Article 8 contains the budgets of 37 state agencies that regulate a wide range of mostly service industries and professional occupations: health-care professionals (11 agencies), various professions and service industries (10), financial services and professionals (eight), insurance- and workers' compensation-related agencies (four), utilities (two), and general administration (two). Most of the agencies are relatively small except for the Public Utility Commission (PUC), the Department of Insurance, and the Workers' Compensation Commission.

Most Article 8 agencies obtain their revenue from fees paid by the professionals and workers they regulate, typically for registration, licensing, and examinations. Some also derive revenue from sales of goods and services and through interagency contracts.

Fiscal 2002-03 appropriations for Article 8 as proposed in CSSB 1 would total $775 million, almost all from general revenue-related funds. This would represent less than 1 percent of the overall state budget. However, Article 8 appropriations would increase by $246 million, or almost 47 percent from fiscal 2000-01, largely to address the PUC's new duties related to restructuring of the state's electricity utility industry.

Article 8 Spending Comparisons
(millions of dollars)

Type of funds	Expended/ budgeted 2000-01	Recommended CSSB 1	Biennial change	Percent change
General revenue-related	$515.1	$756.7	$241.6	46.9%
All funds	$528.8	$774.9	$246.1	46.5%

Source: Legislative Budget Board, Summary of House Committee Report on Senate Bill 1, April 2, 2001

Budget Highlights

For fiscal 2002-03, CSSB 1 would fund most Article 8 agencies at fiscal 2000-01 levels or would increase their budgets slightly, primarily for information technology (IT) expenditures related to licensing and database maintenance and for additional staff positions, including investigators and IT support personnel.

However, CSSB 1 would more than triple general-revenue funding for the PUC, to about $340 million in fiscal 2002-03. This increase would reflect the commission's increased duties associated with electric utility restructuring and the System Benefit Fund as a result of the 76th Legislature's enactment of SB 7 by Sibley. In addition, the Banking, Savings and Loan, and Credit Union departments could receive up to $10 million in additional funds and 81.5 new FTEs under contingency riders in the event that these agencies need additional resources to regulate the financial industry.

System Benefit Fund. SB 7 by Sibley, restructuring the electric utility industry, created the System Benefit Fund to pay for programs to assist low-income electric customers, customer education programs, and a school funding-loss mechanism. The low-income programs are to help reduce these customers' electric bills by 10 to 20 percent and finance residential energy-efficiency improvements. The customer education programs are to inform consumers of what to expect under utility restructuring. The school funding-loss mechanism is to compensate school districts for lost revenue due to property-wealth reductions related to restructuring — specifically, the expected declines in property values in districts whose jurisdictions include nuclear power plants.

Money for the System Benefit Fund is to come from a fee assessed by the PUC on utilities that have opted into restructuring. The fee cannot exceed 50 cents per megawatt-hour, except that the commission can set the fee as high as 65 cents between January 1, 2002, and December 31, 2006, to the extent necessary to fund the required 10 percent reduction in electric bills for low-income customers.

Budget issues related to the System Benefit Fund include the amounts to be appropriated for each of the fund's target programs and whether the school funding-loss mechanism will require a continuing annual payment or what would amount to a one-time payment with subsequent minor adjustments. The following pages discuss these issues in more detail.

Texas Funeral Service Commission (FSC). The FSC, undergoing sunset review again this session, would receive an appropriation of $1.4 million under CSSB 1, up from $1 million in current biennium, reflecting additional fee-generated general revenue for a new licensing system. The appropriation would be contingent on continuation of the agency. If the agency is not continued, the funds would be used to phase out agency operations.

Paying for the System Benefit Fund

Agency: Public Utility Commission (PUC)

Background: SB 7 by Sibley, the electric utility restructuring law enacted by the 76th Legislature, created the System Benefit Fund to pay for programs to assist low-income electric customers, customer education programs, and a mechanism to compensate school districts for lost revenue due to property-wealth reductions related to restructuring of the electric utility industry. Money in the fund comes from a fee, assessed on utilities, which cannot exceed 65 cents per megawatt-hour between January 1, 2002, and December 31, 2006.

LBB has estimated that the school funding-loss mechanism, designed to assist school districts hit hardest by reduced property values for utility plants due to the restructuring, requires $40 million in both fiscal 2002 and fiscal 2003. The PUC has estimated that the low-income discount program requires about $130 million in fiscal 2002 and $143 million in fiscal 2003. At maximum assessment rates, the System Benefit Fund could not pay for both programs. However, these estimates depend on the determination of legislative intent under SB 7 and the number of customers eligible and applying for low-income discounts. The relatively minor costs for weatherization and customer education programs are not significant factors in the funding disparity.

Amounts shown below represent proposed general-revenue appropriations for the System Benefit Fund for fiscal 2002-03 under PUC's Goal C, Electric Utility Restructuring.

CSSB 1	$293 million
SB 1	$316 million
Filed version	$317 million
Governor's proposal	$317 million

An important issue is whether the school funding-loss mechanism requires an annual payment or what would essentially be a one-time payment. Utilities Code, sec. 39.901(a) requires the comptroller to determine property-value reductions due to electric utility restructuring by "taking the difference between current year and prior year appraisals." According to one view, this determination is required each year in relation to the previous year, resulting in a large one-time payment and subsequent minor adjustments for property-value differences from year to year. Another view asserts that the determination is based on the difference between the current year and 1999, which would require an annual payment based on the gap between the property values in the year of the payment and their value in 1999. The school funding-loss mechanism is scheduled to expire on August 31, 2007.

Supporters of the current-year-versus-prior-year interpretation say that intent of the law is clear as written. They say the school funding-loss mechanism was intended to make up for any drop in property values following restructuring, not as an annual appropriation to certain school districts. Moreover, they say, the System Benefit Fund cannot pay for both the estimated costs of the low-income discount program at the required 10 percent rate reduction and a multiyear payment for the school funding-loss mechanism without exceeding the statutory rate assessment cap.

Supporters of the current-year-versus-1999 interpretation say the affected school districts cannot adjust to the drop in property-tax revenue in one year. They say a multiyear payment is necessary to compensate districts for annual losses in property-tax revenue due to electric restructuring through August 31, 2007, when the funding-loss mechanism expires.

CSSB 1 — $293 million

CSSB 1 would appropriate $293.2 million to PUC for electric utility restructuring in fiscal 2002-03. This funding level would include $273 million for the low-income discount program, $18 million for customer education, and about $2 million for administrative costs. This proposal assumes that the weatherization program would be funded through an appropriation of $24 million to the Texas Department of Housing and Community Affairs (Rider 22 for TDHCA). CSSB 1 would appropriate no funds for the school funding-loss mechanism. This proposal, like the Senate proposal, assumes that the PUC will assess the maximum rate of 65 cents per megawatt-hour.

Under Rider 9, the appropriation would be contingent on the PUC's assessing a rate sufficient to generate the estimated needs of the System Benefit Fund. The PUC would have to submit information about the fund's projected revenues to the comptroller, who would have to support the projections before the appropriation could be made available. Rider 4 would prohibit the PUC from transferring money to or from any item under Goal C, except for administrative costs.

SB 1 — $316 million

The Senate version of SB 1 would appropriate about $316 million in general revenue to PUC's Goal C in fiscal 2002-03. The total would include $174 million for the low-income discount program, $130 million for the school funding-loss mechanism, and $12 million for consumer education. SB 1 would not fund the weatherization program.

Paying for the System Benefit Fund

Filed version — $317 million

SB 1 as filed would have appropriated $317 million to the PUC for System Benefit Fund programs in fiscal 2002-03. The governor's budget proposal reflected this recommendation.

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;
- capital budgets;
- board and commission per-diem payments;
- contract workers;
- publications;
- information resource projects; and
- workers' compensation payments.

Article 9 also includes general provisions on state employment policies, use of federal funds and revenues from the sale of surplus property and other goods and services, transfer of funds between capital items, and budget performance and accounting requirements.

CSSB 1 would delete from Article 9 many provisions of past appropriations acts — such as those relating to state rules on equal opportunity employment, historically underutilized businesses, and use of telecommunications — that were codified in statute by the 76th Legislature.

In addition, Article 9 would contain an appropriation of $200 million to the comptroller for the state's "emergency or contingency needs," discussed below. In the current budget, no money was appropriated under Article 9.

Major Provisions

Salary schedules. Article 9 of CSSB 1 would adopt the state auditor's recommendations for changes to the salary classification plan, except for a recommendation to reallocate almost 30 salary classes to higher salary groups. The changes would include adding new classes, reducing the number of unused, underused, and redundant classes, revising outdated and inconsistent class titles, and adjusting the correctional officer classification schedules, including making permanent the position of Correctional Officer IV. Gov. George W. Bush created the Correctional Officer IV position by executive order during the interim before the 77th Legislature convened, when adult correctional officers and some other employees of the Texas Department of Criminal Justice received salary increases. CSSB 1 also would add the new positions of Correctional Officer V and Juvenile Correctional Officer VI.

Salary cap. Sec. 3.05 of both CSSB 1 and SB 1 would eliminate the current cap on merit salary increases and promotions, which under law equals 1.7 percent of the total amount spent by the agency in the preceding fiscal year for classified salaries.

Emergency contingency reserve. Sec. 10.06 of both CSSB 1 and SB 1 both would appropriate $200 million in general revenue to the comptroller to meet "emergency or contingency needs." Such needs could include those related to youth and adult correctional population, health and human services caseload and costs, and the Foundation School Program. Under language in CSSB 1, the comptroller would have to transfer funds for an emergency at the direction of the governor and LBB. SB 1 would require a transfer by the comptroller with the prior approval of the LBB and governor. If the comptroller certified that sufficient general revenue was estimated to be available, another $200 million would be appropriated to the comptroller for emergency or contingency needs.

The fiscal 1998-99 appropriations bill contained a similar but more restrictive provision in Article 9, sec. 198, which appropriated $165 million in general revenue to the Texas Education Agency for increases in student enrollment growth greater than those projected by other provisions in the act. The comptroller was authorized to allocate the funds with the prior approval of the governor and LBB.

Article 11 of the Senate version of SB 1 would add a provision to Article 9 that would appropriate funds to the comptroller from the economic stabilization ("rainy day") fund for state emergency needs if the LBB determined that available funds were insufficient for the state's emergency and contingency needs. Such needs could include those related to correctional populations, health and human services caseloads, the Foundation School Program, and transportation. CSSB 1 does not include this provision.

Eligibility for retention bonuses. Sec. 3.08 of CSSB 1 and sec. 3.07 of SB 1 would allow agency executives to award a retention bonus of up to $3,000 to any employee in a position deemed necessary to the continuation of the agency. The employee would have to agree to remain with the agency for 12 months after the execution of the bonus contract, and agency executives would have to document to the comptroller the need for the employee. For fiscal 2000-01, these bonuses were reserved for information-technology employees. The bonus plan was adopted first in fiscal 1998-99 to retain critical information-resource staff for the "Y2K" technology rollover.

Notice to LBB of settlement of large lawsuits. Under sec. 6.26 of CSSB 1, state government entities that received more than $500,000 as part of the settlement of a lawsuit could not spend the money unless they notified the LBB of the terms of the settlement and of any plans to use the money at least 10 days before the settlement was approved. SB 1 would require that the LBB be notified at least 14 days in advance. These requirements would not apply to litigation resulting from a state entity's duties as receiver, liquidator, or liquidating agent of an insolvent entity, including certain actions relating to insurance and financial institutions.

Travel expense limitation. Sec. 5.09 of CSSB 1 would require state agencies to file annually with the LBB and the comptroller a plan for travel expenditures. The plan would have to identify categories of travel necessary to the agency's duties, such as new or expanded programs, law enforcement, regulatory purposes, and delivery of services. CSSB 1 would cap travel expenses at fiscal 1999 levels instead of at fiscal 1998 levels, as in the current budget, unless otherwise authorized by LBB. The Senate bill does not include the requirement that agencies file an annual travel plan, and it would cap travel expenses at fiscal 2000 levels.

Limit on capital budget transfers. CSSB 1 would change Article 9, sec. 6.17 to limit agencies' current authority to transfer appropriations from one capital budget item to another. The amount transferred could not exceed 25 percent of either the item from which funds were transferred or the item to which funds were transferred. For fiscal 2000-01, transfers are limited only to 25 percent of the item from which the funds are transferred. CSSB 1 would authorize agencies to transfer funds from a non-capital budget item to a capital budget item as long as the capital item was in the agency's bill pattern. SB 1 does not include this change.

Notifying legislators before state agency press releases. Sec.7.04 of CSSB 1 would require state agencies to make "every reasonable attempt" to disclose to legislators the contents of planned press releases if the contents of the release could affect the member's district. SB 1 does not include this requirement.

TANF contingency appropriation. Sec. 10.03 of both CSSB 1 and SB 1 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 spend TANF funds to meet fiscal penalties, caseload growth, or other program needs.

Article 12 Overview

The 76th Legislature added Article 12 to the general appropriations act for fiscal 2000-01 to allocate settlement funds from the state's successful lawsuit against the tobacco industry. In 1998, the final settlement agreement awarded the state a stream of payments totaling more than $17.3 billion over 25 years. The terms of the settlement do not restrict the state's use of settlement proceeds.

Lawmakers used tobacco-settlement proceeds to establish 21 health-related permanent trust funds and higher-education endowments listed under Article 12. In so doing, they "locked in" the corpus and the earnings of those funds to support the programs for which they were established. The transfer and distribution of dedicated earnings on tobacco-settlement funds are governed by spending rules enacted by the 76th Legislature in HB 1676 and HB 1945, both by Junell. SB 445 by Moncrief designated the first money left over from the permanent funds and endowments to support the Children's Health Insurance Program (CHIP). Tobacco-settlement money also funds 100 percent of the State Kids Insurance Program (SKIP), benefiting the dependents of low-income state employees and some higher education employees.

Because tobacco companies make their payments at the end of each calendar year, the tobacco-settlement appropriations in Article 12 are capitalized with general revenue with the expectation that future payments from tobacco companies will reimburse the general revenue fund. The actual payments the state receives reflect adjustments based on national cigarette sales, inflation, and tobacco industry profits.

For fiscal 2002-03, CSSB 1 would appropriate $597.2 million in tobacco funds, reflecting a conservative estimate of settlement receipts in addition to actual interest earnings and distributions from the new endowment and trust funds. According to the comptroller, substantial additional settlement receipts outlined in the court-ordered payment schedule could become available during the biennium. SB 1 as approved by the Senate would appropriate $586.8 million (see discussion of "Other direct program costs" under the Budget Highlights).

Article 12 Spending Comparisons

(millions of dollars)

Type of funds	Expended/ budgeted 2000-01	Recommended CSSB 1	Biennial change	Percent change
General revenue-related	$326.3	$505.8	$179.6	55.0%
All funds	$418.2	$597.2	$179.0	42.8%

Source: Legislative Budget Board, Summary of House Committee Report on Senate Bill 1, April 2, 2001

Background

County and hospital district agreement. CSSB 1 does not reflect the distribution of tobacco funds to counties and hospital districts, which are receiving allotments directly through a permanent trust account outside the treasury. As part of Texas' final settlement, counties and hospital districts are to receive a total of almost $2.3 billion, including about $678 million during fiscal 2002-03. According to the 1998 memorandum of understanding (MOU) between Attorney General Dan Morales and the chairs of the Senate Finance and House Appropriations committees, this amount is subject to adjustment for tobacco sales and inflation. The MOU also arranged an advance transfer of $143 million from general revenue to counties and hospital districts. These entities now are making their scheduled repayments of this amount, adding an extra $143 million to general revenue for fiscal 2002-03.

CHIP and SKIP. Last session, SB 445 designated the first money left over from the permanent funds and endowments to support CHIP, a state-federal program for children of low-income families whose incomes are too high to qualify for Medicaid, yet are below 200 percent of poverty. CHIP enrollment, now almost 300,000 children, is projected to rise to 428,500 during fiscal 2002-03. State funds dedicated to CHIP leverage $3 of federal money for every $1 of state money spent. This compares to a roughly 2-to-1 federal-state match leveraged through Medicaid. Should federal funding or tobacco-settlement funds cease, the CHIP budget would not be replaced with general revenue, and the program would be shut down as required by the legislation that created it.

The 76th Legislature created SKIP (SB 1351 by Barrientos) to help low-income state employees and some higher education employees provide insurance for their children. Because federal guidelines exclude state employees from qualifying for CHIP, SKIP subsidizes 80 percent of the insurance premium for eligible dependent coverage through the Employees Retirement System (ERS). SKIP funding flows through HHSC to ERS, which manages the program. ERS estimates that SKIP now ensures 12,200 children at a cost of $2.5 million in fiscal 2001. As with Medicaid and CHIP, many more children are eligible for SKIP than are enrolled.

Federal recoupment. In May 1999, Congress enacted H.R. 1141, which permanently protected all states' tobacco-settlement funds from federal recoupment (P.L.106-31). Many states had been concerned that the federal government might seize a portion of tobacco-settlement funds, which are intended to reimburse states for medical costs attributable to smoking. Because the federal government pays at least half of states' Medicaid costs (in Texas, about 60 percent), the Clinton administration had sought to reclaim part of each state's recovery from the tobacco industry under a section of Medicaid law that allows the federal government to recoup costs from third-party payers.

Budget Highlights

Permanent trust funds. Of the $597.2 million in tobacco funds proposed for fiscal 2002-03 appropriations under CSSB 1, $80.6 million would be placed in the permanent trust funds created by the 76th Legislature, including:

- $2.25 million for minority health research and education;
- $18 million for tobacco education and enforcement;
- $9 million for children and public health;
- $9 million for emergency medical services and trauma care;
- $4.5 million for rural health-facility capital;
- $2.25 million for small urban hospitals;
- $31.5 million for health-related higher education institutions; and
- $4.05 million for nursing, allied health, and other health-related programs.

Endowment funds. CSSB 1 proposes to appropriate $53.55 million for existing endowment funds for higher education and medical research, including:

- $18 million to University of Texas (UT) Health Science Center-San Antonio;
- $9 million to UT M.D. Anderson Cancer Center;
- $4.5 million to UT Southwestern Medical Center-Dallas;
- $2.25 million each to UT Medical Branch-Galveston, UT Health Science Center-Houston, UT Health Center-Tyler, UT-El Paso, Texas A&M University System Health Science Center, University of North Texas Health Science Center-Fort Worth, Texas Tech University Health Science Center-El Paso, Texas Tech University Health Science Center (other than El Paso), and Baylor College of Medicine; and
- $1.8 million to the Lower Rio Grande Valley Regional Academic Health Center Endowment.

Rider 2 would allow the reappropriation of unexpended balances from higher education endowment funds from one fiscal year to the next. This provision would address an accounting problem at universities created by the timing of quarterly distributions from their endowment funds. Currently, amounts appropriated before August 31 may not be carried forward to September 1.

CHIP. CSSB 1 proposes to allocate about $354 million of tobacco-settlement funds to CHIP for fiscal 2002-03, an increase of $198 million over the current biennium. The proposed increase is based on projected 2001 end-of-year caseloads, with all costs being held at 2001 levels. Because CHIP is not an entitlement program, the state is not required to adjust the budget upward for caseload growth, despite the projection of significant growth during fiscal 2002-03. Mainly because of increased advertising of the program, an estimated additional 37,000 children per month could be added to CHIP in the coming biennium.

Rider 5 would appropriate tobacco funds for CHIP to the Health and Human Services Commission (HHSC) and would direct the commission to allocate necessary amounts to the appropriate agencies for CHIP Phase I and Phase II, Medicaid spillover, Immigrant Children's Health Insurance, and SKIP. CHIP Phase I provides Medicaid services to children aged 15 to 18 whose families earn at or below the federal poverty level. CHIP Phase II provides non-entitlement health coverage to children up to age 19 whose families earn at or below 200 percent of the federal poverty level. Medicaid spillover occurs when people apply for CHIP but actually are eligible for Medicaid. The federal government requires the state to sign up Medicaid-eligible people who apply for CHIP. Some have estimated that spillover could add 34,000 new Medicaid recipients to the state's rolls. Immigrant Children's Health Insurance provides 100 percent state-funded insurance for the children of certain legal immigrants.

Other direct program costs. CSSB 1 would allocate the remaining $109 million of tobacco-settlement funds to support other programs, including:

- $30.5 million for new-generation medications through the Department of Mental Health and Mental Retardation (MHMR);
- $5.4 million for Medically Dependent Children's Program waiver services through the Department of Human Services (DHS) and $3.6 million through the Texas Department of Health (TDH);
- $5.4 million for children's immunizations through TDH;
- $1.24 million for newborn hearing screening through TDH;
- $1 million for respite care through the Interagency Council on Early Childhood Intervention;
- $15 million for MHMR's mental health community services for children;
- $12 million for DHS' CLASS waiver program for community long-term care;
- $4.8 million for MHMR's Home and Community-Based Services waiver; and
- $30 million for the South Texas Chest Hospital and the Texas Center for Infectious Disease through TDH.

Rider 9 would carry forward unexpended balances remaining in TDH's budget for chest hospitals as of August 31, 2001, estimated at about $10 million. This authorization, not included in SB 1, accounts for the difference in the total appropriations proposed by the two bills. TDH would have to submit a plan for allocating these funds between the two projects by September 1, 2001. The final allocation plan would be subject to the approval of LBB and the governor.

Contingent on the collection of outstanding and disputed claims from tobacco companies, **Rider 10** would appropriate an amount not to exceed $6.2 million for fiscal 2002-03 to the HHSC to develop a “211” information and referral project. The rider also would appropriate to TDH up to $6.2 million to increase Medicaid reimbursements for the air ambulance transportation program. If by September 1, 2001, the comptroller had not certified funds for these appropriations as available, HHSC could transfer projected unspent balances from 11 health and human services agencies for fiscal 2002-03.

Wish list. A high-priority request of $45.2 million to cover caseload growth and provider reimbursement increases for CHIP was moved to the Article 11 wish list, along with a number of other requests for new spending of tobacco-settlement funds, including:

- $300 million for veterans’ programs, including the creation of a permanent fund for veterans’ care, contingent on enactment of HB 515 by Wise et al.;
- $150 million through TDH to increase the corpus of the Permanent Fund for Children and Public Health;
- $50 million through TDH to create a permanent fund for tobacco education and prevention, which would focus on preventing young people from smoking;
- $5 million through the Center for Rural Health Initiatives to create a Rural Communities Health Care Investment Program, contingent on enactment of SB 126 by Madla;
- $6.7 million to establish an umbilical-cord blood bank at the South Texas Blood and Tissue Center, contingent on enactment of HB 3572 by George;
- $5 million for El Milagro Community Oriented Primary Care Clinic in Hidalgo County; and
- funding for health care initiatives at Texas Tech-El Paso and UT-El Paso.