HOUSE
RESEARCH
ORGANIZATION
Texas House of Representatives

State Finance Report   No. 81-3   April 15, 2009

CSSB 1:

The House Appropriations Committee's Proposed Budget for Fiscal 2010-11

The House Appropriations Committee reported CSSB 1 by Ogden (Pitts), the general appropriations bill for fiscal 2010-11, on April 7 by the following vote:

27 ayes – Pitts, Raymond, Aycock, F. Brown, Button, Chavez, Cohen, Creighton, Crownover, Darby, Driver, Dukes, Edwards, Eiland, Flores, Giddings, Herrero, Hochberg, Isett, S. King, McClendon, D. Miller, Morrison, Otto, Riddle, Villarreal, Zerwas

0 nays

The proposed state budget would appropriate $178.4 billion in all funds, an increase of 5.1 percent from the amount currently estimated to be spent in fiscal 2008-09. The general revenue and general revenue-dedicated portion, $87.2 billion, would be about 1.7 percent less than in fiscal 2008-09. Article 12 of the bill would appropriate $11.0 billion in federal stimulus funds made available by the American Recovery and Reinvestment Act of 2009.

This report presents an overview of the proposed state budget and of each article of CSSB 1 and highlights significant budget issues, including different proposals for funding individual agencies and programs. For further background on the state budget, see HRO State Finance Report 81-2, *Fiscal 2010-11 State Budget: Background on the Issues*, March 11, 2009, and State Finance Report 81-1, *Writing the State Budget: 81st Legislature*, February 2, 2009.

Fiscal 2010-11 Budget Overview

CSSB 1, the House Appropriations Committee version of the fiscal 2010-11 state budget, would authorize total spending of $178.4 billion, an increase of 5.1 percent from fiscal 2008-09. General revenue and general revenue-dedicated spending would be $87.2 billion, a decrease of $1.5 billion, or 1.7 percent. This includes $80.6 billion of undedicated or "pure" general revenue.

CSSB 1 would increase spending in fiscal 2010-11 by $3.7 billion in all funds for Health and Human Services, $1.7 billion for higher education, $176.6 million for natural resources, $101.8 million for regulatory agencies, $57.3 million for general government agencies, and $40.3 million for the judiciary. The proposal would decrease overall spending by $2.8 billion for business and economic development, $284.3 million for public education, and $42.8 million for public safety and criminal justice. These totals do not include federal stimulus funds.

Article 12 of CSSB 1 identifies $11.0 billion in federal stimulus funds available through the American Recovery and Reinvestment Act of 2009 and appropriates those funds for a variety of purposes.

The Senate-passed budget proposal would spend $182.2 billion in all funds, a $12.5 billion, or 7.3 percent, increase from fiscal 2008-09. The Senate budget would spend $87.5 billion in general revenue and general revenue-dedicated funds, a decrease of $1.2 billion, or 1.4 percent, from fiscal 2008-09.

The House base budget proposal issued in January 2009 by the LBB for fiscal 2010-11 proposed spending $170.8 billion in all funds and $83.4 billion in general revenue and general revenue-dedicated funds.

Biennial spending comparisons

(millions of dollars)

Type of funds	Expended/budgeted Fiscal 2008-09	Recommended Fiscal 2010-11	Biennial change	Percent change
CSSB 1				
General revenue and general revenue-dedicated	$88,676.1	$87,170.7	($1,505.4)	(1.7%)
Federal	52,147.6	63,616.7	11,469.1	22.0
Other	28,930.3	27,641.4	(1,288.9)	(4.5)
All funds	169,754.0	178,428.8	8,674.8	5.1

Source: Legislative Budget Board, Summary of Committee Substitute for Senate Bill 1, *April 2009*

The Senate base budget spending recommendations included about $740 million more in all funds and $452 million more in general revenue and general revenue-dedicated funds than the House base budget, due to a contingent appropriation to revise the system of care for individuals with developmental disabilities, an increase in teacher incentive pay programs, and making permanent spending for the Higher Education Performance Incentive Initiative.

Federal stimulus funds

CSSB 1 would appropriate a total of $11.0 billion in federal stimulus funds to 17 state agencies for a variety of purposes. Of this amount, the bill would appropriate $5.5 billion to eight state agencies that would make available general revenue funds that the Legislature might otherwise have appropriated to those agencies for fiscal 2010-11. The bill would appropriate the remaining $5.5 billion in Recovery Act funds to 14 state agencies, including $2.3 billion for the Texas Education Agency, $1.6 billion for the Texas Department of Transportation, $565.2 million for Texas Department of Housing and Community Affairs, and $436.8 million for the Texas Work Commission.

CSSB 1 also contains provisions on how stimulus funds should be spent and the reporting requirements recipient agencies would have to observe. The bill contains a number of conditions in Article 12, including provisions:

- stating the intent of the Legislature that agencies receiving stimulus funds not adopt programs or policies that cannot reasonably be eliminated after stimulus funds are exhausted or that create ongoing obligations on the state;
- requiring agencies with stimulus funds to provide to the governor and the LBB a plan for discontinuing funding for services and programs funded through stimulus funds;
- limiting agency spending of stimulus funds received to purposes set forth in CSSB 1 unless they receive the written permission of the LBB and the governor to spend the funds for other purposes; and
- directing that the Office of the Governor, when awarding federal Byrne Justice Grants, give priority to projects related to border security.

A provision in Article 9 in the Senate-passed proposal, but not in the House proposal, would require any agency receiving an additional federal appropriation larger than $10 million after the Legislature approves the budget act to report the amount and proposed use of the funds to the LBB, the governor, and the comptroller. The comptroller would be instructed to release the funds if neither the governor nor the LBB issued a written disapproval of the expenditure within 10 days of receiving notification.

Permanent School Fund distributions

During fiscal 2008-09, distributions from the Permanent School Fund to the Available School Fund accounted for about $1.4 billion in public education funding. The comptroller's biennial revenue estimate indicates that the Available School Fund will not receive distributions from the Permanent School Fund in fiscal 2010-11 because the fund has failed to produce adequate investment returns as required by the Texas Constitution to permit monthly transfers.

Both CSSB 1 and the Senate-passed budget proposal would make certain appropriations for instructional programs and materials contingent upon distributions from the Permanent School Fund, and federal Recovery Act funds would be set aside to pay for these appropriations in the likely event that Permanent School Fund distributions do not occur. If market conditions improve enough to permit Permanent School Fund distributions in fiscal 2011, HB 4590 by Pitts, reported favorably by the House Appropriations Committee on April 6, would allow increased Permanent School Fund distributions in fiscal 2011 that could include some or all of the fiscal 2010 distribution amounts authorized by the State Board of Education but not transferred that year.

Employee compensation

In Article 9, CSSB 1 includes $557.0 million in all funds for one-time bonuses for most state employees and a 5 percent increase in annual salary for adult and youth correctional employees.

CSSB 1 would authorize $94.9 million in all funds for a single bonus payment of $1,000 to most state employees. Part-time employees would receive a bonus payment of $500. The bonus would not apply to employees of institutions of higher education, statewide elected officials, financial auditors, judges, prosecutors, most other employees of the court system, employees of the Texas Department of Criminal Justice (TDCJ) or the Texas Youth Commission (TYC), or any other group otherwise receiving a pay increase. State employees who earn more than $100,000 per year would not be eligible for this bonus. CSSB 1 also would authorize $332.4 million in general revenue funds for a one-time thirteenth check of $1,000 to retired state employees and retired public school employees.

CSSB 1 also would provide $129.7 million in general revenue funds for a 5 percent annual pay raise to correctional officers, correctional food service managers, correctional laundry service managers, correctional officer ranking staff, parole officers employed by TDCJ, and juvenile correctional officers employed by TYC.

The Senate proposal would appropriate $244.3 million for 10 percent annual pay raises for TDCJ correctional officers, parole officers, and juvenile correctional officers at TYC. The Senate proposal would not provide bonuses to current state employees or retired state or public school employees.

Article 11

CSSB 1 includes an Article 11 list, sometimes referred to as a "wish list." It is an informational listing of the Appropriations Committee's priorities for spending beyond what is in the proposed budget. Both the House and the Senate proposals include the list, which will be considered by the conference committee and could result in the funding of some items. The Article 11 list in CSSB 1 totals $14.6 billion. The Article 11 list in the Senate budget proposal totals $4.6 billion.

Spending and revenue

An appropriations bill may become law only if the comptroller certifies that sufficient revenue will be available to pay for it (Texas Constitution, Art. 3, sec. 49a). The comptroller's estimate of available general revenue is the major limit on state appropriations. In January 2009, Comptroller Susan Combs estimated that general revenue funds available for certification would total $77.1 billion during fiscal 2010-11. The comptroller may revise the pre-session revenue estimate at any time. The revenue projection that applies is the one the comptroller will use to determine whether to certify that the state budget as finally approved does not exceed available revenue.

At $80.6 billion and $80.8 billion respectively, both the House and Senate budget proposals would appropriate general revenue funds in excess of the comptroller's January revenue estimate. Other bills under consideration by the 81st Legislature could change the revenue assumptions on which the biennial revenue estimate is based, which also could change the amount of revenue available for certification when the comptroller receives the appropriations bill in June. For example, if CSHB 4586, the supplemental appropriations bill reported by the House Appropriations Committee, were enacted, it could make available additional general revenue and general revenue-dedicated funds. Federal Recovery Act funds also will "free up" additional general revenue.

Supplemental appropriations for fiscal 2009

CSHB 4586 would make supplemental appropriations to some state agencies and reduce appropriations to others for fiscal 2009 and fiscal 2010. For fiscal 2009, the appropriations in the bill would generate a net savings in general revenue and general revenue-dedicated funds of $407.2 million. For fiscal 2010, the bill would cost $117.1 million in general revenue and general revenue-dedicated funds. The two-year net impact of the bill would be a net gain to general revenue and general revenue-dedicated funds of $290.1 million.

One major provision of CSHB 4586 is an appropriation of $1.6 billion in federal funds to the Health and Human Services Commission due to an increase in the Texas FMAP authorized by the federal Recovery Act. The FMAP is the rate at which the federal government matches state spending for the Texas Medicaid program. The addition of these federal funds made available a corresponding $1.6 billion in general revenue funds that previously had been appropriated to three health and human services agencies for Medicaid-funded services because the amount of state matching funds for Medicaid spending is now lower than previously required.

Another major provision in CSHB 4586 is an appropriation of $153.0 million in general revenue funds to community colleges to reimburse them for costs associated with the governor's veto of fiscal 2009 health insurance appropriations to community colleges.

In addition, CSHB 4586 would appropriate $698.9 million to state agencies and institutions of higher education for costs and reimbursements related to natural disasters, including Hurricane Ike, that occurred in fiscal 2008-09.

General Government — Article 1

The 21 agencies in Article 1 perform some of the core operations of state government and include:

- offices of the governor, secretary of state, attorney general, and comptroller;
- agencies charged with general operations of state office buildings and bond issues; 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 about $3.9 billion in all funds for fiscal 2010-2011 or 2.1 percent of the total state budget, including $2.9 billion in general revenue and general revenue-dedicated funds. Total appropriations would increase by $57.2 million, or 1.5 percent, over fiscal 2008-09. The Senate-passed proposal would appropriate $4.4 billion in all funds to Article 1 agencies for fiscal 2010-11, an increase of $537.8 million, or 14 percent, over fiscal 2008-09.

Restoring the Governor's Mansion

State Preservation Board

- **CSSB 1: $16.9 million in general revenue funds (plus $8.3 million in Article 11 and CSHB 4586)**
- **Senate: $13.5 million in general revenue funds**
- **Agency request: $25.3 million in general revenue funds and general revenue-dedicated funds; $2 million in private funds**

CSSB 1 would appropriate $16.9 million in general revenue funds to restore the Governor's Mansion, which was damaged by arson. The initial request by the State

Article 1 spending comparisons
(millions of dollars)

Type of funds	Expended/budgeted Fiscal 2008-09	Recommended CSSB 1	Biennial change	Percent change
General revenue and general revenue-dedicated	$2,825.7	$2,853.2	$27.5	1.0%
Federal	682.5	622.5	(60.0)	(8.8)
Other	337.0	426.8	89.8	26.7
All funds	3,845.1	3,902.4	57.3	1.5

Source: Legislative Budget Board, Summary of Committee Substitute for Senate Bill 1*, April 2009*

Preservation Board was for $21.2 million to repair damage. Building a two-story addition and closing Colorado Street in front of the mansion would cost $2.7 million, and security upgrades would cost $3.3 million.

Supporters of the CSSB 1 appropriation to restore the Governor's Mansion say the State Preservation Board's initially proposed price, $2,000 a square foot, was unacceptably high and included more than restoration. The request included unnecessary components, such as a two-story addition and the closure of Colorado Street, both of which should be eliminated to save costs. CSSB 1 would pay for basic restoration, not additional projects or improvements.

Critics of the CSSB 1 appropriation to restore the Governor's Mansion say the mansion is an historic and architecturally significant building and a treasured state asset. The Legislature should adopt the State Preservation Board's initial plan, which not only would restore the mansion but make other necessary improvements. Closing Colorado Street would address security concerns and mitigate traffic noise heard by the mansion's occupants. Expanding the mansion is necessary to create more residential space and for vital mechanical, electric, and plumbing systems. Further, the two-story addition would be privately funded.

Notes: As reported by the House Appropriations Committee, CSHB 4586, the supplemental appropriations bill, would provide $8.3 million for restoration of the Governor's Mansion, in addition to the amount that would be appropriated in CSSB 1.

Issuing bonds for cancer prevention and research

Cancer Prevention and Research Institute of Texas

- **CSSB 1: $300 million in bond funding and $27.2 million in general revenue funds for debt service**
- **Senate: $600 million in bond funding and $45.0 million in general revenue funds for debt service**

CSSB 1 would appropriate the proceeds of $300 million in general obligation bonds for the Cancer Prevention and Research Institute. Of this amount, $199.1 million would be used for cancer research grants, $85.4 million for cancer prevention grants, and $15.5 million for agency administrative costs and 48 new FTEs. CSSB 1 would appropriate $27.2 million in general revenue funds to pay the debt and interest on the bonds for fiscal 2010-11.

Supporters of the CSSB 1 proposal for bond funding say state lawmakers should be mindful of how much general obligation debt the state issues. The Texas Constitution prohibits issuing additional state debt if the percentage of debt service payable by general revenue in any fiscal year exceeds 5 percent of the average of unrestricted general revenue for the past three years.

Issuing all $600 million would move Texas too close to the 5 percent cap. State revenue is expected to decline in the future, which could lower the three-year average of unrestricted general revenue and the allowable dollar amount of debt.

The state should not immediately rush to award the full $600 million in available cancer bonds because the institute still must hire staff, set procedures, and locate worthy grant recipients. It would be better to reserve some of the available funds for later so that research proposals could be fully formed, vetted, and considered. The constitutional amendment authorizing these bonds requires that researchers provide 50 percent matching funds, which the recent economic recession will make increasingly difficult to come by, and likely would further narrow the field of grant-worthy research proposals.

Critics say budget writers should authorize the Cancer Prevention and Research Institute to issue all $600 million of general obligation bonds available to it during the biennium because that was the amount submitted to the voters when they approved Proposition 15 and authorized the Institute in 2007. Texas has the resources now and should spend them to hasten the discovery of a cure for cancer and maximize the number of lives saved. Authorizing all $600 million still would leave the state with hundreds of millions of dollars of available debt and well below the cap on state debt.

Funding for the Employee Retirement System

Employee Retirement System (ERS)

- **CSSB 1: $723.1 million in general revenue and general revenue-dedicated funds (plus $336.3 million in Article 11)**
- **Senate: $723.1 million in general revenue and general revenue-dedicated funds and contingent appropriation of $26.3 million in all funds (plus $336.3 million in Article 11)**
- **Agency request: $1.06 billion, a $336.3 million increase in all funds, including $208.8 million increase in general revenue and general revenue-dedicated funds and $127.5 million increase in federal and other funds**

Under CSSB 1, the state contribution to ERS would remain at the current 6.45 percent of the total compensation of all members of the retirement system per year, with the employee contribution rate remaining at the current 6 percent, for a total of $723.1 million in general revenue and general revenue-dedicated funds. This total would be an increase of 4.7 percent over fiscal 2008-09 due to higher state payrolls. In the Senate-passed proposal, the state and employee contribution rates also would remain unchanged, except that under ERS rider 14, the state and the employee contribution rates each would be raised to 6.685 percent, contingent on enactment of legislation authorizing the increase. This would increase the overall ERS appropriation by $26.3 million in all funds.

Supporters say raising the state contribution rate above the current 6.45 percent would be financially unfeasible in a recessionary environment and would cause other important and more pressing budgetary needs to go unmet. A state contribution rate of 6.45 percent would provide enough funds to ERS to meet its obligations for the next 20 years. The state should strengthen the fund when state finances are more robust. In the meantime, CSSB 1 in Article 9 would appropriate funds to provide all state retirees with a bonus payment of up to $1,000.

Critics say that the current budget proposals would not provide ERS with adequate funds to make it actuarially sound. A pension is actuarially sound if it can amortize all of its liabilities over 31 years. Actuarial soundness aside, the budget proposals would fail even to fund ERS at the level of 7.4 percent required by Government Code, sec. 815.403. At current funding levels, ERS will have trouble making additional funds available to retirees should it ever try to make cost-of-living adjustments. The proposed budgets would cause ERS to continue accruing liabilities.

Health and Human Services — Article 2

Article 2 includes the five Texas health and human services (HHS) agencies, which constitute Texas' second-largest budget function after education. CSSB 1 would appropriate to HHS agencies $58.3 billion in all funds for fiscal 2010-11, 6.8 percent more than in fiscal 2008-09. The general revenue and general revenue-dedicated funds portion, $24.9 billion, would be a 10.7 percent increase from fiscal 2008-09. The general revenue and general revenue-dedicated funds increase is primarily due to caseload growth in the Medicaid program and increasing the capacity of community-based services.

The Senate-passed proposal would appropriate to HHS agencies $60.4 billion in all funds for fiscal 2010-11, including $25.7 billion in general revenue and general revenue-dedicated funds. This is $800 million more in general revenue and general revenue-dedicated funds than in CSSB 1 because of higher appropriations in the Senate proposal for Medicaid cost growth, community attendant wages, health care provider rates, and state school reform.

In addition to funding in Article 2, Article 12 would appropriate $2.5 billion in federal funds to the Health and Human Services Commission (HHSC) because of an increase, authorized by the federal Recovery Act, in the Texas FMAP — the rate at which the federal government matches state spending on the Texas Medicaid program. These federal funds would make available $2.5 billion in general revenue funds that could be appropriated in Article 2 or elsewhere in the budget. In total, HHS agencies would receive $2.7 billion in federal Recovery Act funds for fiscal 2010-11, with only $197.3 million not used to make general revenue funds available for other appropriations.

Article 2 spending comparisons

(millions of dollars)

Type of funds	Expended/budgeted Fiscal 2008-09	Recommended CSSB 1	Biennial change	Percent change
General revenue and general revenue-dedicated	$22,465.4	$24,868.3	$2,402.9	10.7%
Federal	31,596.0	32,978.5	1,382.5	4.4
Other	480.6	418.8	(61.8)	(12.9)
All funds	54,542.0	58,265.5	3,723.5	6.8

Source: Legislative Budget Board, Summary of Committee Substitute for Senate Bill 1*, April 2009*

Caseload, cost-growth projections for Medicaid program

Health and Human Services Commission

- **CSSB 1: No increase over LBB projections for Medicaid caseload and cost growth ($450 million for consideration in Article 11 for Medicaid cost growth)**
- **Senate: $750 million in general revenue funds for Medicaid cost growth over LBB projections**
- **Agency: $821 million in general revenue funds for Medicaid caseload growth and $1.0 billion in general revenue funds for Medicaid cost growth over LBB projections**

LBB has projected that Medicaid caseloads will increase to 3,017,673 in fiscal 2011, while HHSC projects they will increase to 3,093,784 for the same year. HHSC also anticipates a more costly mix of clients in fiscal 2011. In that year, LBB anticipates average monthly costs per Medicaid client of $244, while HHSC projects this figure will be $288. HHSC has requested $821 million in general revenue funds for Medicaid caseload growth and $1.0 billion in general revenue funds for Medicaid cost growth in excess of the LBB projections.

CSSB 1 includes no increase in funding for Medicaid cost growth beyond LBB's projection, but added $450 million in general revenue funds for consideration in Article 11 for that purpose. The Senate-passed proposal would appropriate $750 million in general revenue funds for Medicaid cost growth beyond LBB's projection.

Supporters of not providing an increase for Medicaid cost growth projections say LBB's projections of caseload and cost growth typically are close to, yet below, the actual figures, while HHSC's projections typically are too high. Medicaid is an entitlement program, so everyone eligible for Texas Medicaid services will receive the services they need regardless of the amount of Medicaid funding appropriated. If LBB's projections turn out to be less than actual Medicaid caseload and cost growth, the Legislature can compensate for this shortfall through supplemental appropriations at the beginning of the next legislative biennium. Having to appropriate later for a shortfall for Medicaid is preferable to appropriating more funds than the program requires because excess appropriations could tie up funding that could be used for other purposes.

Critics of not providing an increase for Medicaid cost growth projections say that the full HHSC requests for both Medicaid caseload and cost-growth increases should be funded. Failing to fund adequately caseload and cost-growth increases requires the Legislature to make supplemental appropriations to HHS agencies each session, which reduces budget certainty. Without the infusion of federal Recovery Act funds, HHSC projected the Medicaid program would have experienced a significant shortfall for fiscal 2008-09. It does not make sense to elect the most conservative estimates of Medicaid caseload and cost-growth when the state is facing challenging economic times that could increase demand for public assistance.

Funding for human embryonic stem cell research

- **CSSB 1: No prohibition on state funding for human embryonic stem cell research**
- **Senate: Rider prohibiting state funding for human embryonic stem cell research**

CSSB 1 does not include any directives regarding the use of funds for human embryonic stem cell research. The Senate-passed budget proposal includes a rider in Article 9, sec. 17.13, that would prohibit funds appropriated in the general appropriations act from being used "in conjunction with or to support research which involves the destruction of a human embryo."

Supporters of CSSB 1 say that the Article 9 rider in the Senate-passed budget proposal that would prohibit appropriations in the budget bill for embryonic stem cell research would violate the constitutional prohibition against changing substantive law in a general appropriations bill. The broadly worded rider effectively could ban embryonic stem cell research at any institution that receives state funding.

Embryonic stem cells can differentiate into any kind of cell or tissue, which can lead to medical advances that replace diseased tissue with newly grown tissue. Research on adult stem cells is not an adequate substitute for embryonic stem cell research because adult stem cells are more limited in their ability to differentiate into different kinds of tissue.

Texans have worked hard to demonstrate commitment to advanced medical research, including the recent authorization of the Cancer Prevention and Research Institute, but the rider in the Senate bill would place Texas at a competitive disadvantage with other states in attracting science, industry, and new jobs. The rider also would undermine the great potential the Cancer Prevention and Research Institute could have in advancing stem cell therapies for cancer research.

Critics say that the rider in the Senate-passed budget proposal that would prohibit state funding for the destruction of human embryos for research is critical because the federal government recently lifted a ban on federal funding for research on new lines of embryonic stem cells. State legislatures now must fill the void left by the federal government in preventing government support for a research practice that poses moral questions. This practice destroys human embryos in the hopes of scientific break-throughs that may or may not occur. Researchers already could gain a great deal of knowledge by researching adult stem cells without destroying human embryos.

The rider would not change general law on embryonic stem cell research — it only would prohibit funding for this purpose, but not prohibit the research. In addition, it is not the intent of this rider to prohibit embryonic stem cell research just because the facility in which the research takes place receives a small amount of state funding. The intent only is to ban state funding directly involved in human embryonic stem cell research.

Children's Health Insurance Program (CHIP)

Health and Human Services Commission (HHSC)

- **CSSB 1: $113.9 million increase in general revenue funds from fiscal 2008-09, plus funding necessary to increase program eligibility if authorized by legislation**
- **Senate: $113.9 million increase in general revenue funds from fiscal 2008-09**

Both the House and Senate proposals would provide $113.9 million in additional general revenue funds to continue the CHIP program at the current eligibility level of 200 percent of the federal poverty level, for a total of $757.3 million in general revenue and $2.3 billion in all funds. This would address projected caseload growth of CHIP and CHIP Perinatal Program enrollees to 557,508 in fiscal 2011. In CSSB 1, HHSC Rider 59 also would fund individuals eligible up to 300 percent of the federal poverty level should legislation authorize this expansion of program eligibility.

The 2009 federal CHIP program reauthorization signed by President Obama in February increases the federal funds allotted to state CHIP programs, permits coverage of pregnant women, and permits increases of income eligibility criteria to 300 percent of the federal poverty level. Numerous bills this session would raise CHIP eligibility to 300 percent of federal poverty or provide funding for a CHIP buy-in program that would permit parents to pay a share of the CHIP premium to receive coverage for their children.

Supporters of the CSSB 1 proposal say that the general revenue appropriation combined with HHSC Rider 59 could provide funding for CHIP eligibility expansion if any such legislation were to be enacted. The federal CHIP reauthorization increased Texas' federal allocation from $549.6 million to $945.5 million for fiscal 2009. HHSC indicates that if Texas adopted all of the CHIP program reforms permitted by the federal reauthorization, including increasing eligibility to 300 percent of the federal poverty level, Texas could serve 615,993 enrollees in fiscal 2011 at a biennial cost of $650.2 million in general revenue funds.

Critics of the CSSB 1 proposal say the Legislature should not provide mechanisms in the general appropriations act to expand eligibility for CHIP beyond the current 200 percent of the federal poverty level. The favorable federal match rate should not be used to justify a CHIP program expansion, because Texas still must pay the state share for any increased program costs associated with eligibility increases. Families above 200 percent of the federal poverty level do not have the critical need for assistance that families below this income level have.

Limited state funds should be reserved for only the most in need in the CHIP program and other state assistance programs.

Continuing Frew strategic initiatives funding

Health and Human Services Commission (HHSC)

- **CSSB 1: $150 million in general revenue funds for Frew strategic initiatives in fiscal 2010-11**
- **Senate: $117 million in general revenue funds for Frew strategic initiatives in fiscal 2010-11**

Among other appropriations to settle the *Frew v. Hawkins* lawsuit, which alleged that Texas failed to provide certain federally mandated health benefits to Children's Medicaid patients, HHSC agreed to spend $150 million in general revenue funds on strategic dental and medical initiatives. Of the $150 million in general revenue funds appropriated for this purpose in fiscal 2008-09, CSHB 4586, the supplemental appropriations bill, would appropriate the unexpended balance of $117 million to fund *Frew* strategic initiatives in fiscal 2010.

In CSSB 1, HHSC Rider 54 would appropriate $150 million in general revenue funds for *Frew* strategic initiatives in fiscal 2010-11. Expenditures for the CSSB 1 proposal would be limited to "initiatives to improve access to services for Medicaid recipients under the age of twenty-one." In the Senate-passed proposal, HHSC Rider 53 would appropriate the estimated fiscal 2008-09 unexpended balance of $117 million in general revenue funds for *Frew* strategic initiatives in fiscal 2010-11. Expenditures for the Senate-passed proposal would be limited to "evidence-based initiatives that improve services."

Supporters of CSSB 1 say the $150 million proposal in HHSC Rider 54, particularly when combined with the CSHB 4586 carry-forward of the unexpended fiscal 2008-09 balance, would meet the terms the state agreed to in its settlement with the *Frew* plaintiffs. Rider 54 also would allow the state to use all the fiscal 2010-11 appropriation during that biennium because the requirements to undertake an initiative would be less restrictive than the current "evidence-based initiative" requirement that the state has said prevented timely approval of more initiatives in fiscal 2008-09. Any less funding than the CSSB 1 proposal would put the state out of compliance with the settlement agreement and could subject Texas to further legal action.

Critics of CSSB 1 contend that the state agreed only to a $150 million total appropriation for strategic initiatives, and HHSC has funded in the current biennium as many initiatives as the agency concluded would meet the "evidence-based initiative" requirement. The $117 million appropriation in the Senate proposal's HHSC Rider 53 would fulfill the remainder of the state's obligations for strategic initiatives for the *Frew* plaintiffs. The state should continue to pursue "evidence-based initiatives" because decisions made under such a model lead to a wiser allocation of resources.

Increases for community care attendant wages

Department of Aging and Disability Services (DADS)
Health and Human Services Commission (HHSC)

- **CSSB 1: No additional funding for community care attendant wages**
- **Senate: $129.5 million in general revenue funds for community care attendant wages**

The Senate-passed budget proposal would appropriate $119.1 million in general revenue funds to DADS and $10.4 million to HHSC for hourly wage increases for employees at these agencies who provide direct care to people with disabilities in the community. CSSB 1 would not provide increased funding for this purpose.

Supporters of the CSSB 1 proposal not to provide additional funding for community care attendant wages say a wage increase is a worthy cause but would be too costly this session. Lower wages among this type of caregiver are appropriate because these positions do not require a highly skilled workforce.

Critics of CSSB 1's lack of additional funding for community care attendant wages say the approach in the Senate-passed budget bill would be preferable. The Senate-passed proposal would appropriate $129.5 million in general revenue funds to provide the lowest-paid community attendant workers with a significant wage increase. Direct-care delivery staff have a difficult but highly responsible job because they care for some of the state's most vulnerable citizens. Programs at DADS and HHSC should adequately fund these caregivers to retain high quality staff who will ensure the safety and well-being of the disabled and elderly Texans in their care. In addition, if the Legislature does not increase wages for these caregivers, many may have to find other employment because they no longer can live on their wages.

Moving people from state schools to the community

Department of Aging and Disability Services (DADS)

CSSB 1:
- **$38.2 million increase in general revenue and general revenue-dedicated funds over fiscal 2008-09, to maintain 2009 staffing and salary levels**
- **$4.6 million in general revenue funds for inflation costs for client services**
- **$4.7 million in general revenue funds to add 142 FTEs**
- **$65.3 million in general revenue funds to increase number of HCS waiver slots by 3,833**

Senate:
- **$38.2 million increase in general revenue and general revenue-dedicated funds over fiscal 2008-09, to maintain 2009 staffing and salary levels**
- **$16 million in general revenue funds, contingent on enactment of legislation to strengthen oversight of state schools, and 111 new FTEs for these purposes**
- **$200 million in general revenue funds, contingent on legislation to reshape the system of care for people with cognitive disabilities, including increasing the number of HCS waiver slots by at least 6,000**

State schools provide campus-based, long-term care for those with cognitive disabilities. Almost all who "waive off" their Medicaid entitlement to residence in state schools to receive alternative services join the Home and Community-based Services (HCS) waiver program. HCS provides individualized services to people with cognitive disabilities who are living with their family, in their own home, or in other community settings, such as small group homes.

CSSB 1 and the Senate-passed proposal would increase spending over fiscal 2008-09 to maintain 2009 staffing levels and a 2009 salary increase. CSSB 1 also would include $4.6 million in general revenue funds to address cost inflation for client services. These appropriations would fund state schools services for 4,637 residents in fiscal 2010 and 4,539 residents in fiscal 2011.

CSSB 1 would provide an additional $4.7 million in general revenue funds to add 142 state school employees to strengthen night shift campus supervision and professional oversight. The Senate-passed proposal includes Art. 2, Special Provisions, Rider 53 to provide an additional $16 million in general revenue funds, contingent on enactment of legislation to strengthen oversight of state schools. Measures addressed in such legislation could include increasing background checks and training for state school employees, implementing surveillance measures and enhancing investigations to address resident abuse, establishing an independent ombudsman to respond to state school issues, and establishing a single state school to house high-risk residents.

Both CSSB 1 and the Senate proposal would permit DADS to transfer to community-based programs any savings from legislatively approved downsizing of state schools. CSSB 1 would include $65.3 million in general revenue funds to increase the number of HCS waiver slots by 3,833 for a total of 19,399 slots in fiscal 2011.

The Senate proposal would provide DADS an additional $200 million in general revenue funds, contingent on enactment of legislation to reshape the system of care for persons with cognitive disabilities that would limit, in the long-term, the total number of state school residents to 3,000 and the total number of residents at each state school to 350 (Art. 2, Special Provisions, Rider 48). The rider would increase the number of HCS waiver slots by 6,000 and would provide additional HCS waiver slots for specific populations, such as people moving out of state schools or children aging out of the foster care system.

Supporters of CSSB 1 say the funding provided for state schools and more HCS waiver slots would enhance the quality of care and safety of state school residents and provide more opportunities for those with cognitive disabilities to access care in the community.

A U.S. Department of Justice study of Texas' state schools found "serious problems and deficiencies of care" and, in a December 2008 report, cited 450 reports of abuse and 53 preventable deaths in 2007 and 800 direct-care staff firings or suspensions since 2004. CSSB 1 would provide 142 more state school employees, who could provide oversight to help reduce the cases of abuse and neglect in the state school system.

Supporters say that community-living services as provided through the HCS waiver are often better for people with cognitive disabilities, and CSSB 1 would fund 3,833 more HCS waiver slots that could be used both for those transitioning from state schools and those still living in the community. Community services allow for more individualized services to people with cognitive disabilities because the larger number of people supervised in state schools can limit the attention caregivers are able provide to individual residents. In addition, people receiving HCS waiver services can benefit from more interaction with their communities, and community members can play a role in identifying instances of abuse.

Critics of CSSB 1 say that while the intent of increased appropriations for state schools and HCS waiver slots is good, the Senate-passed proposal would provide more total funding to address more specific concerns if the contingent legislation were enacted.

The Senate proposal would more adequately fund specific measures to enhance state school resident safety. Depending on contingent legislation, the proposal could fund better employee background checks, training, and oversight. In addition, surveillance equipment could be installed in these facilities and funding provided for enhanced investigations of abuse and neglect.

The Senate proposal also would fund broader revisions to the system of care for those with cognitive disabilities, increasing HCS waiver slots beyond those in the House proposal, and would support reducing the total state school population to 3,000 or fewer from the current population of about 4,800. It also would cap the census at each state school at 350 people to ensure that staff did not have to supervise too many residents at once.

Other critics express concern with the emphasis in both CSSB 1 and the Senate proposal on funding the transition of individuals out of state schools. They say that state schools are the most appropriate source of care for many people with cognitive disabilities because state schools can help people with greater needs and provide an environment in which many residents have grown comfortable. They say resident safety could be addressed by funding safety measures within the schools and with more staffing to reduce supervision ratios. Critics say the over-emphasis on community options could risk under-funding state schools in the future or support changes that would close some state schools to reduce costs. No state schools should be closed, as this would disrupt the lives of long-time residents, move many residents further from their families, and disrupt local economies through loss of state-school jobs.

Public Education — Article 3

The public education agencies in Article 3 oversee the state's public education system. They set curriculum standards, approve instructional materials, certify educators, provide employee health care, and manage retirement pensions. For fiscal 2010-11, CSSB 1 would appropriate $49.2 billion in all funds to public education agencies, including the Texas Education Agency (TEA), the School for the Blind and Visually Impaired, and the School for the Deaf.

Most of the all-funds public education appropriation, $49.1 billion, would be for TEA, representing a 0.8 percent decrease from fiscal 2008-09. The general revenue and general revenue-dedicated portion of the TEA budget proposal, $31.9 billion, would be a 2.1 percent decrease from fiscal 2008-09. Proposed spending for public education would be lower in fiscal 2010-11 because in fiscal 2008-09 the Legislature made a one-time appropriation of $1.5 billion for one extra month's contribution to the Foundation School Program to reverse a one-month deferral that had been made in 2003 to allow the budget to be certified. CSSB 1 would appropriate $37.0 billion in all funds to the Foundation School Program, an increase of 0.5 percent from fiscal 2008-09. The general revenue funds portion of the Foundation School Program budget proposal, $29.0 billion, would be a 1.6 percent increase from fiscal 2008-09.

The Senate-passed budget would appropriate $48.6 billion in all funds to public education agencies for fiscal 2010-11, including $48.5 billion in all funds for the Texas Education Agency. The Senate proposal would appropriate $36.9 billion in all funds to the Foundation School Program.

CSSB 1 and the Senate-passed proposal would appropriate about $4 billion in all funds to the Teacher Retirement System (TRS) for fiscal 2010-11, an increase of $235.9 million from fiscal 2008-09. This increase would reflect the larger public education payroll, but also would reflect a decrease in the state contribution rate to 6.4 percent of payroll, compared to the fiscal 2008-09 contribution rate of 6.58 percent.

In addition to funding in Article 3, Article 12 would appropriate $4.7 billion in federal Recovery Act funds to TEA, of which $2.4 billion would make available general revenue funds that could be appropriated in Article 3 or elsewhere in the budget.

Public education spending comparisons

(millions of dollars)

Type of funds	Expended/budgeted Fiscal 2008-09	Recommended CSSB 1	Biennial change	Percent change
General revenue and general revenue-dedicated	$35,880.6	$35,382.3	($498.2)	(1.4%)
Federal	8,518.7	9,076.6	557.9	6.5
Other	8,578.3	8,234.3	(344.0)	(4.0)
All funds	52,977.5	52,693.2	(284.3)	(0.5)

Source: Legislative Budget Board, Summary of Committee Substitute for Senate Bill 1*, April 2009*

Both CSSB 1 and the Senate-passed proposal would appropriate $2.75 billion in fiscal 2010 and $2.8 billion in fiscal 2011 from the Property Tax Relief Fund to TEA to reimburse local school districts for property tax reductions mandated by the 79th Legislature during the 2006 special session. The Legislature ensured that the state would hold school districts financially harmless by reimbursing them for the revenue lost by those tax cuts.

Funding instructional materials

Texas Education Agency (TEA)

- **CSSB 1: $758 million in general revenue funds, contingent on a Permanent School Fund distribution or $758 million in federal Recovery Act funds**
- **Senate: ($895 million for consideration in Article 11)**

CSSB 1 would set aside, in TEA Rider 84, $758 million to purchase instructional materials. The bill would direct federal Recovery Act funds to this purpose if general revenue funds were not available because adverse market conditions prevented a distribution from the Permanent School Fund to the Available School Fund.

The Senate-passed proposal includes $895 million for instructional materials for consideration in the Article 11 "wish list."

The LBB base budget recommendation for instructional materials anticipated fiscal 2010-11 instructional material costs of $895 million, including $547.5 million to fund 2010 instructional materials and $347.6 million for continuing contracts with providers of instructional materials.

Supporters of the CSSB 1 appropriation say it would maintain the funding needed for continuing contracts for instructional materials. Providing less funding to purchase 2010 instructional materials would not jeopardize the ability of school districts to obtain all the new materials they need. It would direct school districts to purchase instructional materials at a lower price and encourage a move toward electronic materials. The appropriation would move public schools forward in the technological age and provide savings to the state. School districts still would have the resources to provide free textbooks for each student regardless of the school district's property wealth. Other state programs and grants ensure school districts are able to purchase needed educational technology.

Funding instructional materials with federal Recovery Act funds is a permissible use of this funding source, and this one-time funding would not expand government but simply replace funding from the Permanent School Fund due to lower investment gains.

Critics of the $758 million instructional material appropriation in CSSB 1 say it would represent a 25 percent reduction in funding for new materials that could adversely affect many students. Less funding would not encourage economically disadvantaged school districts to buy electronic textbooks, which are more up-to-date than printed materials, because these districts do not have the money to buy the necessary technology. Other students learn better from traditional textbooks, and adequate funds are needed to buy more up-to-date materials. The Legislature should not assume that if less money is provided for instructional materials, the vendors will reduce their prices. In addition, school districts already have an incentive to buy instructional materials at lower prices because a school district keeps a portion of unspent appropriations for instructional materials.

There is disagreement over whether funding instructional materials is an acceptable use of federal Recovery Act funds, so the state should pay for instructional materials another way to avoid the risk that the federal government would require the state to pay back the funds.

Funding the technology allotment

Texas Education Agency (TEA)

- **CSSB 1: $271 million in general revenue funds, contingent on a Permanent School Fund distribution, or $271 million in federal Recovery Act funds**
- **Senate: $271 million in general revenue funds, contingent on a Permanent School Fund distribution, or appropriations from federal Recovery Act funds**

CSSB 1 would set aside, in TEA Rider 84, $271 million to fund the technology allotment with funds from the federal Recovery Act if general revenue funds are not available because adverse market conditions prevent a distribution from the Permanent School Fund to the Available School Fund. In the Senate-passed proposal, TEA Rider 90 would appropriate $271 million for the Technology Allotment, contingent on a Permanent School Fund distribution. The CSSB 1 and Senate-passed budget proposals would set aside in Article 12 $2.0 billion in federal Recovery Act funds for the Foundation School Program and technology allotment.

Supporters of the CSSB 1 proposal say it is imperative that the state provide adequate funding to allow school districts to invest in technology and electronic programs to promote innovative teaching strategies and to train teachers to use technology effectively in the classroom. There likely will not be a transfer from the Permanent School Fund to the Available School Fund, so CSSB 1 would provide a necessary secondary funding mechanism.

Critics of the CSSB 1 proposal say the critical technology allotment should not be funded by such uncertain sources as federal Recovery Act funds. A Permanent School Fund distribution is highly unlikely, and federal Recovery Act funds are a risky source because Texas could lose this funding if the federal government did not agree that technology allotment funding was congruent with the intent of the federal act.

New Instructional Facilities Allotment grants

Texas Education Agency (TEA)

- **CSSB 1: $87 million in general revenue for new grants in fiscal 2011**
- **Senate: $75 million in general revenue for new grants in fiscal 2010-11 (plus $75 million for consideration in Article 11)**
- **Agency request: $150 million for new grants in fiscal 2010-11**

CSSB 1 would appropriate $87 million in general revenue funds in fiscal 2011 for new Instructional Facilities Allotment grants, which help school districts pay debt service on bonds or lease-purchase agreements used to build or renovate instructional facilities. The Senate-passed proposal would appropriate a total of $75 million for new grants made in fiscal 2010 and fiscal 2011 and would include $75 million in Article 11 for further consideration.

Supporters of the CSSB 1 proposal say it would provide significant funding for new Instructional Facilities Allotment grants. Also, by making additional grants only in fiscal 2011, rather than over both fiscal years, it would prevent the total appropriation from being diminished by payments and interest owed on grants awarded in fiscal 2010. As a result, more grants could be awarded to help more school districts. This would promote equity among school districts sooner, while delaying increases in interest costs for new grants until 2011.

Critics of the CSSB 1 proposal say more funding should be provided for Instructional Facilities Allotment grants because there is significant demand for these funds among the state's low property-wealth districts. In addition, appropriations should be made in both the first and second years of the biennium to avoid worsening the structural deficit the state will face in fiscal 2012-13. If appropriations were made only for the second year of the biennium, construction cost inflation and further degradation of buildings would increase the cost of the delayed projects.

Rolling forward eligibility for the Existing Debt Allotment

Texas Education Agency (TEA)

- **CSSB 1: $68.9 million in general revenue funds**
- **Senate: $68.9 million in general revenue funds**

In addition to appropriations needed to fulfill current program obligations, CSSB 1 and the Senate-passed proposal both would appropriate $68.9 million in general revenue funds to the Existing Debt Allotment program, which helps districts pay for existing bond debt issued to fund instructional facilities. The $68.9 million appropriation would fund the "rolling forward" of eligibility so that it included recently issued bonds on which school districts have made payments during fiscal 2008-09. This appropriation would help school districts pay the debt on these additional bonds.

Supporters say that rolling forward eligibility for the Existing Debt Allotment would provide much-needed help to school districts in paying more recent bond debt. The roll-forward would promote equity among school districts by providing debt relief to property-poor districts that otherwise might be unable to afford new classrooms. School districts need additional and renovated instructional facilities because of rapid population growth and demand for specialty classrooms, such as science laboratories.

Funding a return to formula-driven school finance

Texas Education Agency (TEA)

- **CSSB 1: $1.87 billion in Foundation School Funds to return to formula funding, contingent on statutory change**
- **Senate: $1.87 billion in Foundation School Funds to return to formula funding, contingent on statutory change**

TEA rider 83 in CSSB 1 and TEA rider 89 in the Senate-passed proposal both would allocate $1.87 billion from the funds appropriated to the Foundation School Program for a return to a formula-driven public school finance system, contingent upon enactment of authorizing legislation for this purpose. A formula-driven public school finance system would direct state funding for school district operations using weights and adjustments based on student and district characteristics to account for the varying costs of educating different types of students.

Supporters say that a return to a formula-based school finance system would provide more adequate funding to school districts that have struggled the last three years with the consequences of school finance reform legislation enacted in 2006 that has effectively bound most school districts to their 2005-06 funding levels. The CSSB 1 contingent appropriation for a return to formula funding would more adequately and equitably fund school districts, and the Legislature also could increase teacher salaries and the transportation allotment through a comprehensive school finance bill.

Teacher incentive pay programs

Texas Education Agency (TEA)

- **CSSB 1: No increase from fiscal 2008-09 ($342 million for consideration in Article 11)**
- **Senate: $147.8 million increase from fiscal 2008-09 ($85.4 million for consideration in Article 11)**
- **Agency Request: $342 million increase from fiscal 2008-09**
- **Governor's proposal: $622.5 million total appropriation, an increase of $280.5 million from fiscal 2008-09**

In fiscal 2008-09, the District Awards for Teacher Excellence (DATE) program received $147.8 million in fiscal 2009 and the Teacher Educator Excellence Grant (TEEG) program received $97.5 million in each year of the biennium. CSSB 1 would provide the same level of funding to DATE and TEEG as in fiscal 2008-09. The Senate-passed proposal would increase spending by a total of $147.8 million over fiscal 2008-09 for the DATE program by appropriating $147.8 million for each year in fiscal 2010-11, for a total of $295.6 million.

Supporters say failing to sustain funding for the DATE and TEEG incentive programs at fiscal 2008-09 levels would send the wrong message to Texas teachers about their value. Teacher incentive pay programs reward innovative and effective teachers and encourage teachers to work in low-performing schools and with student populations that are largely of lower socio-economic status. Incentive pay programs do not negate the need for teacher salary increases, but these programs reward highly effective teachers and provide incentives for teachers to work with students who need the most help.

Critics say DATE and TEEG already are the largest incentive-funding experiment in the nation, and the programs lack evidence to prove a positive effect on student achievement. Appropriations for these programs instead should fund pay raises for all teachers because Texas is ranked 48th in the nation in teacher salaries.

Other critics say that increasing funding for DATE and TEEG by $342 million would double the appropriation provided in fiscal 2008-09, fully funding the programs at the intended level of $1,000 per teacher. The current funding provides only $750 per teacher. The additional $342 million would provide DATE incentives to 60,000 more teachers at between 135 and 250 more districts and would provide TEEG incentives to an additional 26,000 teachers and 750 campuses.

Expanding pre-kindergarten expansion grant program

Texas Education Agency (TEA)

- **CSSB 1: $25 million increase in general revenue funds from fiscal 2008-09 (plus $40 million for consideration in Article 11)**
- **Senate: $32.5 million increase in general revenue funds from fiscal 2008-09 (plus $32.5 million for consideration in Article 11)**
- **Agency request: $65 million increase from fiscal 2008-09**

CSSB 1 would appropriate an additional $25 million in general revenue funds over fiscal 2008-09 for more pre-kindergarten expansion grants, for a total of $208.6 million, which would serve an additional 17,100 children. The Senate-passed proposal would appropriate an additional $32.5 million in general revenue funds from fiscal 2008-09, for a total of $216.1 million, which would expand pre-kindergarten to about 22,500 more children.

Supporters of funding to expand the number of children served in pre-kindergarten say the program has lasting academic and social benefits for students. Students who attend state pre-kindergarten programs are less likely to fail a grade or need special education services. Pre-kindergarten programs also reduce dropout rates and recidivism.

Critics say pre-kindergarten programs are not a good investment for the state because some studies have shown that the benefits of pre-kindergarten programs disappear by the end of elementary school.

Other critics say that because of the lasting academic and social benefits afforded to students by pre-kindergarten programs, appropriations should be made to reach the most Texas children possible. An appropriations increase of $65 million over fiscal 2008-09 would serve another 42,000 to 45,000 students in fiscal 2010-11.

Expanding the Virtual School Network

Texas Education Agency (TEA)

- **CSSB 1: $3 million increase from fiscal 2008-09 (plus $18 million in Article 11)**
- **Senate: No increase from fiscal 2008-09 ($18 million in Article 11)**
- **Agency request: $18 million increase from fiscal 2008-09**

CSSB 1 would appropriate $5.3 million to the virtual school network, an increase of $3 million from fiscal 2008-09, to fund tuition subsidies and an administrative budget to expand the Virtual School Network. The Senate-passed proposal would not increase funding for the

Virtual School Network from fiscal 2008-09, although $18 million for the program has been included for funding consideration in Article 11.

Supporters of CSSB 1 say that the Virtual School Network, which allows students to earn course credit through on-line classes, is a beneficial program that merits expansion because of the flexible learning environment it provides, but the $18 million agency request exceeds what the state should appropriate for a non-essential program in tight budgetary times.

Critics of CSSB 1 say virtual schools provide students the opportunity to enroll in courses that the students' home districts do not offer, such as rural students who otherwise may not have the opportunity to take four years of a foreign language. If an additional $18 million were appropriated, 15,000 more students could be served for $400 per course or 30,000 more could be served for $200 per course. An increase in the number of students participating in the network would decrease the per-course rate.

Random steroid testing of high school athletes

Texas Education Agency (TEA)

- **CSSB 1: No funding for random steroid testing in fiscal 2010-11**
- **Senate: $6 million in general revenue funds for random steroid testing in fiscal 2010-11**

In fiscal 2008-09, the Legislature appropriated $6 million to conduct random steroid testing on high school athletes. CSSB 1 did not include funding to continue this program. The Senate-passed proposal would appropriate $6 million in general revenue funds for this purpose.

Supporters of eliminating funding say steroid testing is an unnecessary drain on state resources because among the nearly 29,000 students tested between February and December of 2008, there were only 11 confirmed positive tests. Steroid use among athletes is not the problem the Legislature believed it to be when this program was enacted in SB 8 by Janek in 2007.

Critics say random testing helps prevent steroid abuse, and it would be short-sighted to end the program in only its second year. These tests are designed to deter steroid use, not just measure the number of students taking these drugs. Despite few positive confirmations of steroid use, Olympic athletes are tested numerous times within a year or sometimes even a single competition.

Higher Education — Article 3

CSSB 1 would fund public institutions and agencies of higher education at $22.8 billion in all funds for fiscal 2010-11, 7.9 percent more than in fiscal 2008-09. The general revenue and general-revenue dedicated funds portion, $15.8 billion, would be an 8.1 percent increase from fiscal 2008-09. The increase in Article 3 funding in CSSB 1 would be due mostly to a 4.5 percent increase in formula funding for all institutions of higher education, including community colleges, and increases in student financial aid.

The bill would allocate $6.5 billion in all funds for general academic institutions, university system offices, Lamar State Colleges, and Texas State Technical College, an increase of 3.6 percent from the current biennium. General revenue funds would increase by $239.8 million, including an increase of $81.0 million to fund a 2.35 percent growth in enrollment and an additional $172.6 million for formula enrichment. The bill would shift $46 million to formula funding from incentive funding previously appropriated to the Texas Higher Education Coordinating Board (THECB). It also would shift $34 million from institutions' institutional enhancement strategies, which can be used for a variety of purposes, to formula funding.

CSSB 1 also would appropriate $7.9 billion in all funds to health-related institutions, an increase of 8.6 percent from fiscal 2008-09. General revenue funds would increase by $191.5 million, including an increase of $61.0 million to fund an 8 percent rate of enrollment growth. Community colleges would receive $1.8 billion in general revenue funds, an increase of 8.4 percent from fiscal 2008-09. This includes an additional $65.8 million for enrollment growth and $79.7 million for formula enrichment. The bill would redirect $110 million from formula funding to fund health insurance premiums for staff working in jobs that are eligible for state funding.

The Senate-passed proposal would fund higher education institutions and agencies at $22.7 billion in all funds for fiscal 2010-11, a 7.1 percent increase from fiscal 2008-09. This includes $15.7 billion in general revenue and general revenue-dedicated funds, a 7 percent increase from fiscal 2008-09. The Senate-passed

Higher education spending comparisons

(millions of dollars)

Type of funds	Expended/budgeted Fiscal 2008-09	Recommended CSSB 1	Biennial change	Percent change
General revenue and general revenue-dedicated	$14,668.0	$15,857.5	$1,189.5	8.1%
Federal	309.0	304.4	(4.5)	(1.5)
Other	6,197.4	6,677.4	480.0	7.7
All funds	21,174.3	22,839.3	1,665.0	7.9

Source: Legislative Budget Board, Summary of Committee Substitute for Senate Bill 1, *April 2009*

proposal would appropriate $165.7 million less in general revenue and general revenue-dedicated funds than is recommended in CSSB 1, the major differences being that CSSB 1 would include a larger increase in formula funding and student financial aid.

Community college health insurance benefits

Community colleges

- **CSSB 1: $16 million increase in state contributions for Higher Education Group Insurance (proportionality provisions not adopted)**
- **Senate: $93.9 million decrease in state contributions for Higher Education Group Insurance; $110 million redirected to formula funding, contingent on sustaining proportionality provisions (plus $100 million in Article 11)**

CSSB 1 would increase funding for group insurance contributions for community college employees to a total of $328.0 million for fiscal 2010-11, an increase of about $16 million, or 5 percent, from fiscal 2008-09. Of that amount, $110 million would be used to fund health insurance benefits for those employees whose salaries were not paid with state funds. The bill would fund health insurance benefits for employees whose job function was eligible for state general revenue funding, regardless of whether their salaries were paid with state funds. This would be directed through Article 9, sec. 6.08, and Article 12 would appropriate federal stimulus funds for this purpose.

The Senate-passed proposal would decrease funding for group insurance contributions for community college employees to a total of $218.0 million for fiscal 2010-11, a decrease of about $93.9 million. It also would direct to formula funding $110 million, contingent on sustaining the proportionality provisions that are included in the Senate-passed proposal, and Article 12 would appropriate federal stimulus funds for this purpose.

Supporters of the CSSB 1 proposal for funding community college employee health insurance benefits say that it would maintain the state's historical commitment to fund health care insurance for college faculty and administrators without the confusion that would arise by adopting the principle of proportionality. Proportionality is a budgetary principle under which only employees paid with state funds are entitled to state-funded health insurance benefits. Health insurance benefits are a critical component of hiring and retaining teachers, and funding should be stable and predictable. The state has fully funded health benefits to community colleges in the past and not applied proportionality.

College officials say that applying proportionality to health benefits and distributing the funding through the formula would cause some colleges to lose funding for health insurance benefits that they would not get back through formula funding. The costs for employee benefits are fixed and formula funding is driven by student contact hours, so fast-growing, larger districts would draw down more formula funding than other districts. If the state does not pay for eligible employee health insurance benefits, community colleges would be forced to raise local taxes, increase tuition, or cut programs and services to pay for the benefits.

Critics of the CSSB 1 proposal for funding community college employee health insurance benefits say that all state agencies and public higher-education institutions determine the proportional cost-sharing split for employee benefit costs and that community colleges should not be treated differently. Using state funds to pay for health insurance benefits of non-state paid employees would be contrary to state law. In fact, Gov. Perry in June 2007 line-item vetoed $154 million from the fiscal 2009 budget that would have funded group insurance for community colleges, saying they should have not have received the funding because under state law if the salaries of community college employees are paid from locally raised funds, their health insurance must be paid from that same local source. The state leadership agreed to restore the funding but only as a transition to using proportionality for this funding in the future.

Increasing student financial aid

The Texas Higher Education Coordinating Board (THECB)

- **CSSB 1: $249.0 million increase in general revenue funds (plus $76.0 million in Article 11 for TEXAS Grants and $168.5 for TEOG)**
- **Senate: $106.2 million increase in general revenue funds (plus $20 million in Article 11 for TEOG)**
- **Governor's proposal: $110 million increase in funding for TEXAS Grants and an additional $28 million for TEOG**

The Texas Higher Education Coordinating Board (THECB) has recommended an increase of $300 million for TEXAS Grants, to support about 70 percent of eligible students or about 40,000 additional students, and $193 million more for Texas Educational Opportunity Grants (TEOG) to support at least 33 percent of eligible students or about 98,000 additional students.

Student financial aid funding in CSSB 1 would total just over $1 billion, an increase of $249 million over fiscal 2008-09. The increase would be due mostly to increased funding for TEXAS Grants and TEOG. CSSB 1 would increase funding for TEXAS Grants by $224.0 million, for a total of $652.4 million. An increase of $25 million would be allocated to TEOG, for a total of $39 million.

The Senate-passed proposal would appropriate a total of just over $900 million for student financial aid programs, an increase of $106.2 million in general revenue funds over fiscal 2008-09. The increase would be due mostly to $85.9 million more for TEXAS Grants and $18.6 million more for B-On-Time Loans.

Supporters of CSSB 1 say the funding level in the bill would help many more needy students and target the state's money toward proven outcomes. The TEXAS Grant program has a significant influence on college-going success. Although the state cannot provide financial aid for every eligible student, the additional funding would be higher than for fiscal 2008-09 and crucial to keeping college affordable for many needy students. To fully fund grants for all eligible students would cost around $940 million. Balanced with other priorities and competition for limited state dollars, the funding in CSSB 1 would be a significant boost to student financial aid. The maximum amount for federal Pell Grants for low-income undergraduates will increase by more than $600 in the 2009-2010 award year, from $4,731 to $5,350. This will help keep college affordable for needy Texas students, including community college students.

Critics of CSSB 1 say that the proposed level of funding would not provide many eligible students with the financial aid they need to attend college. At a time when college tuition has seen dramatic increases, more should be done for needy college students, especially community college students. More than 55 percent of students in higher education attend a community college, and that number will rise to 70 percent by 2015. It is important to use the state's investment in higher education more strategically to help these students succeed, thereby ensuring the state's economic success.

Reallocating incentive funding

The Texas Higher Education Coordinating Board (THECB)

- **CSSB 1: $100 million eliminated from the Higher Education Performance Incentive Initiative ($54 million shifted to the fund top ten percent scholarships; $46 million to the general academic funding formula)**
- **Senate: $100 million increase over fiscal 2008-09**
- **Governor's proposal: $168.9 increase in incentive funding**
- **Task Force on Higher Education Incentive Funding recommendation: increase of $370 million for general academic institutions**

CSSB 1 would eliminate the Higher Education Performance Incentive Initiative by reallocating its funds. The initiative was established in 2007 by the 80th Legislature, which appropriated $100 million in general revenue funds for fiscal 2009 to develop an incentive program based on student and institutional outcomes at public general academic institutions. A portion of the funding was authorized for scholarships for undergraduate students who graduated with a GPA in the top ten percent of their high school graduation class.

The bill would appropriate $54 million to fund scholarships for undergraduate students graduating in the top 10 percent of their high school class. Rider 46 would change the name of the performance initiative to Top Ten Percent Scholarships. About $46 million would be allocated to the general academic funding formula.

The Senate-passed proposal would increase general revenue funds for the incentive initiative by $100 million, to a total of $200 million.

Supporters of the approach in CSSB 1 say it would address the fact that the performance initiative is essentially two separate programs. Not all of the $100 million originally appropriated for the initiative currently goes to incentive funding. The current method allocates $80 million to general academic institutions and $20 million to fund top ten percent scholarships. If the current disbursement method were maintained, the cost for fiscal 2010-11 for current and new scholarships would be $54 million, leaving only $46 million for incentive funding. CSSB 1 would maintain the commitment to fund scholarships for those students who are automatically admitted to a Texas public university.

CSSB 1 would adopt the governor's incentive point system, which builds incentives into the structure of the funding formulas to reward institutions for degrees awarded in critical fields and to at-risk students. This would be a more targeted approach for incentive funding.

Critics of the approach in CSSB 1 say that incentive funding should be continued and enhanced to reward institutions for improving teaching and educational excellence. Targeted incentive funding, which was the intent of the initiative, would reward universities for improving student retention and shortening the time students take to earn a degree. Institutions also would receive larger rewards for awarding more degrees in critical fields and to at-risk students, which would improve educational attainment in groups that reflect the state's changing demographics.

Special item funding/ institutional enhancement funding

General academic institutions

- **CSSB 1: no funding for new special-item requests (new requests in Article 11); shift of excellence funding to institutional enhancement strategy; 1 percent of each institution's institutional enhancement funds, a total of $34 million, reallocated to formula funding**
- **Senate: $65.9 million in special-item general revenue funding reallocated to formula funding, with a deduction from each institution's excellence and institutional enhancement funds equal to its increase in formula funding; ($10 million in Article 11 for each institution to be used according to their priorities for special items)**
- **Governor's proposal: reallocation of $645.7 million of special-item and excellence funding to student financial aid and other priorities**

CSSB 1 would not fund any new special item requests for higher education institutions. Special-item funding supports specific programs or activities that are not paid for with formula funding. Examples include the Texas Center for Border Economic Development at the University of Texas at Brownsville and the Obesity, Diabetes, and Metabolism research program at The University of Texas Southwestern Medical Center at Dallas. The bill would fund only existing special items.

CSSB 1 would shift excellence funding to the institutional enhancement strategy, then reallocate 1 percent of each institution's enhancement funding to formula funding. Special-item funding through the institutional enhancement strategy usually is not tied to a particular program or activity and is used for a variety of purposes. Institutions report using this funding for programs such as freshman retention, math clinics, and hiring more student counselors or to cover the cost differential when Texas Tomorrow Fund contracts do not cover the full cost of tuition.

THECB and the LBB would be directed to study the relevance and appropriateness of each existing special item before the 2011 legislative session.

Supporters of CSSB 1 say the bill would not expand the amount the state spends on special-item funding because once funded, many special items continue indefinitely, even after a project has terminated. CSSB 1 would not eliminate funding for existing special items or institutional enhancement funding. However, not funding new requests and shifting some institutional enhancement funds to formula funding would direct more of each institution's budget toward its core mission.

Critics of CSSB 1 say that the Legislature should continue to consider special-item requests, which pay for programs or activities that cannot be paid for with formula funding. Some institutions could not operate all of their on-going programs to support students or advance the institution without special item funding. For example, it would be difficult to start a new campus — such as the Regional Academic Health Center (RAHC) in the lower Rio Grande Valley — without special-item funding to bridge the gap until enrollment was sufficient to sustain it.

Shifting funds from institutional enhancement to formula funding could negatively affect some institutions, particularly smaller ones, in the future. Larger institutions draw down a higher percentage of formula funding at the expense of smaller institutions, so some would lose more in institutional enhancement funding than they receive in increased formula funding. Also, if an institution grew more slowly than average, or not enough formula funding was appropriated to support growth, formula funding would be redirected to a faster-growing institution. As a result, the funds each institution puts into the formula from their institutional enhancement would be used to fund other institutions' operations.

Judiciary — Article 4

Article 4 covers the Texas court system. CSSB 1 would fund Article 4 agencies at $664.4 million in all funds for fiscal 2010-11, 6.5 percent more than in fiscal 2008-09. The general revenue and general revenue-dedicated funds portion, $493.5 million, would be an 8.1 percent increase from the current biennium. The biennial increase largely is due to a one-time expenditure to fund basic civil legal services programs in Texas and one-time expenditures for technology improvements.

Increased funding for basic civil legal services

Supreme Court of Texas

- **CSSB 1: $22 million in general revenue**
- **Senate: $14.4 million in general revenue**
- **Agency request: $37 million in general revenue**

CSSB 1 and the Senate-passed proposal both would provide funds to the Texas Access to Justice Foundation, which is overseen by the Supreme Court. This one-time appropriation would be used to keep local civil legal aid programs operating during a funding shortfall. Basic civil legal services normally are funded by Interest on Lawyers' Trust Accounts (IOLTA). Because of historically low benchmark interest rates, the funding generated through this mechanism has fallen from $20 million in fiscal 2007 to $12.2 million in fiscal 2008 and is estimated to be only $1.5 million in fiscal 2009.

Supporters of the funding in CSSB 1 for the Texas Access to Justice Foundation say it would help fund civil legal aid that helps people below 125 percent of the poverty line with issues such as housing, family law, health care, and nursing home conditions and evictions.

Article 4 spending comparisons
(millions of dollars)

Type of funds	Expended/budgeted Fiscal 2008-09	Recommended CSSB 1	Biennial change	Percent change
General revenue and general revenue-dedicated	$456.7	$493.5	$36.9	8.1%
Federal	3.6	5.0	1.4	37.2
Other	163.9	165.9	2.0	1.2
All funds	624.2	664.4	40.3	6.5

Source: Legislative Budget Board, Summary of Committee Substitute for Senate Bill 1, *April 2009*

Civil legal aid is more important than ever because those least able to fend for themselves are even more vulnerable during times of economic hardship.

Critics say that if the state is having difficulty funding existing obligations and current programs, it cannot afford to create new funding streams for programs it does not normally support.

Increased funding for technology and research

Office of Court Administration (OCA)

- **CSSB 1: $1.1 million in general revenue funds**
- **Senate: No funding for special projects; $6.8 million for 14.5 FTEs and pay raises for appellate court staff**
- **Agency request: $4.8 million in general revenue funds**

CSSB 1 would appropriate $1.1 million in general revenue to the Office of Court Administration, which provides resources and information to support administration of the judicial branch of Texas government. Funding of about $600,000 would go to the OCA's Judicial Emergency Data Infrastructure (JEDI) system to provide for data backup and continuity during emergencies or disasters. About $300,000 would be spent for a trial court interactive assistant website to assist litigants representing themselves. CSSB 1 also would fund two targeted research programs, allocating $80,000 to a program to help identify offenders with mental illness and divert low-level offenders into treatment when appropriate and $185,000 for a Weighted Caseload Study to examine the number and kinds of cases handled by constitutional and statutory county courts. It would fund OCA's request for the Texas Interactive Court Assistance program for litigants who represent themselves, providing a website that would walk litigants through various court scenarios and detail the steps necessary to process certain common civil actions.

Supporters of the $1.1 million appropriation for the OCA in CSSB 1 say the OCA's JEDI program is necessary to respond adequately to natural disasters. As recent hurricanes have shown, a natural disaster can severely disrupt a court's ability to hear cases and resolve them in a timely manner. If courts could access electronically their case notes, a displaced court could continue work in another location, minimize disruption, and resume normal operations sooner.

The studies funded by CSSB 1 also would improve administration of justice in Texas by studying the impact that the mentally ill have on the system and finding ways to reduce recidivism. The Weighted Case Load study would provide essential data on the workloads of courts and statistical data crucial for planning. These are one-time costs that would not create new and on-going obligations, unlike adding new FTEs or granting pay increases to court staff.

Critics of the $1.1 million appropriation for the OCA in CSSB 1 say that a better way to support the efforts of the judiciary would be to increase their workforce. The Senate budget would appropriate several new FTEs to the courts for more staff attorneys and place some of the technology and research funding into Article 11. The courts themselves have asked for more staff, arguing that they could dispose of more cases in less time.

Increased funding for visiting judges

Judiciary Section, Comptroller's Department

- **CSSB 1: $10.4 million in general revenue funds; $0.4 million in other funds**
- **Senate: $10.4 million in general revenue funds; $0.4 million in other funds**

Both CSSB 1 and the Senate-passed proposal would increase the available funding for visiting judges by $1.9 million, of which $1.3 million would fund pay raises authorized by HB 3135 by Hughes, enacted by the 80th Legislature. The remaining $600,000 would fund a 7 percent increase in case assignments to visiting judges. The Visiting Judge Program allows the use of former and retired judges to help elected judges with heavy dockets.

Supporters of the funding for visiting judges say the base funding levels are inadequate and the nine administrative judicial regions tend to run out of funds to pay visiting judges by mid-year. Increasing these funds would allow the presiding judges to assign more cases to visiting judges in order to fill temporary absences stemming from recusals and routine and emergency leave. This would create a more uniform and efficient court schedule with fewer delays and faster case turnaround.

Critics of the funding for visiting judges say that the state should not expand its reliance on unelected visiting judges. Too many judges who lost an election become visiting judges and no longer have to worry about accountability to the local electorate. If not enough local judges are available, the state should create additional courts to fill the need.

Criminal Justice — Article 5

Article. 5 covers agencies responsible for criminal justice and public safety. CSSB 1 would fund Article 5 agencies at $10.6 billion in all funds for fiscal 2010-11, 0.4 percent less than in fiscal 2008-09. CSSB 1 would appropriate $8.3 billion in general revenue and general revenue-dedicated funds for Article 5, an increase of $264.3 million, or 3.3 percent from fiscal 2008-09. CSSB 1 would not appropriate to Article 5 agencies any funds from the American Recovery and Reinvestment Act.

The Senate-passed budget would appropriate $10.8 billion in all funds and $8.6 billion in general revenue and general revenue-dedicated funds to Article 5 agencies.

Pay raise for correctional and parole officers

Texas Department of Criminal Justice (TDCJ)

- **CSSB 1: $112.1 million in general revenue funds (plus $350.2 million in Article 11)**
- **Senate: $228.6 million in general revenue funds (plus $223.3 million in Article 11)**
- **Agency request: $453.3 million**

CSSB 1 would appropriate $112.1 million for pay raises for adult correctional and parole officers and would place $350.2 million for the raises in Article 11. The funds also would be used to give a 5 percent raise to juvenile correctional officers.

Supporters say a 5 percent pay raise for correctional officers is needed for the state to recruit and retain staff. These staff members are crucial to ensuring public safety by operating

Article 5 spending comparisons
(millions of dollars)

Type of funds	Expended/budgeted Fiscal 2008-09	Recommended CSSB 1	Biennial change	Percent change
General revenue and general revenue-dedicated	$8,072.7	$8,336.9	$264.3	3.3%
Federal	899.3	618.4	(280.9)	(31.2)
Other	1,653.5	1,627.2	(26.2)	(1.6)
All funds	10,625.4	10,582.6	(42.8)	(0.4)

Source: Legislative Budget Board, Summary of Committee Substitute for Senate Bill 1, *April 2009*

safe and secure prisons and supervising released offenders. TDCJ currently is authorized to hire 26,302 correctional officers, but about 2,247 of these jobs are unfilled. About 40 of TDCJ's 1,278 field parole officer jobs are vacant. An average 5 percent pay raise would make the current starting correctional officer annual salary of $26,016 and the maximum annual salary after seven and one-half years of $34,634 more attractive to employees. This could reduce turnover and, in the long run, save the state money by reducing the costs of re-training. It also could make Texas prisons safer by retaining experienced staff.

Critics say the appropriation for salary increases in CSSB 1 would not be enough to address the problem with recruitment and retention of correctional officers. CSSB 1 should fund the agency's request for an average 20 percent salary increase, which would cost $453.3 million during fiscal 2010-11 and raise the starting correctional officer salary from $26,016 to $30,179. Under that proposal, the maximum salary for parole officers after 10 years would increase from $36,363 to $43,636. CSSB 1 also should include funds to meet the agency's request to use annual retention bonuses for officers who stay in or take jobs at certain units that are short-staffed.

Notes. CSSB 1 includes a 5 percent pay raise for juvenile correction officers with the Texas Youth Commission. Supporters of the raise say that it is needed to minimize differences between adult and juvenile corrections officers. The Senate-passed budget proposal includes $15.7 million for raises for juvenile corrections officers.

Increased funding for contraband screening

Texas Department of Criminal Justice (TDCJ)

- **CSSB 1: $15.6 million in general revenue funds**
- **Senate: no funding**
- **Agency request: $66 million**

CSSB 1 would appropriate $15.6 million to the TDCJ to detect contraband.

Supporters of the $15.6 million in CSSB 1 say it is needed to expand TDCJ efforts to detect contraband, including cell phones and narcotics, smuggled into prisons. The agency recently instituted new search procedures for those entering prisons but continues to find contraband. These funds would allow the agency to place more screening equipment, such as metal detectors, x-ray machines, and video surveillance equipment, in about nine units where more than 90 percent of cell phone contraband has been discovered since the agency stepped up its screening efforts. It would be more fiscally prudent to prioritize funding for contraband detection than to fund the agency's $66 million request for detection equipment at all units. As funding becomes available, equipment can be put in all units.

Critics of the CSSB 1 funding level for contraband detection say the agency's full request for $66 million should be approved so that surveillance cameras and screening devices could be put in all prison units. A small amount of contraband at one unit can pose a significant problem and a danger to public safety, even if that unit does not contribute significantly to the overall problem.

Implementing offender treatment and diversion

Texas Department of Criminal Justice (TDCJ)

- **CSSB 1: No funding beyond base bill ($22.4 million in general revenue over base bill funding in Article 11)**
- **Senate: $20 million in general revenue over base bill funding**
- **Agency request: $28.6 million**

CSSB 1 does not include funding to continue all of the offender treatment and diversion programs initiated in 2007 by the 80th Legislature. The Senate-passed budget proposal includes this funding. The programs were created and expanded in response to a projected need at that time for more prison space. The filed versions of the budget bills did not include funding for 408 of the 1,500 substance abuse felony treatment beds authorized in 2007 or for 316 of the 1,400 intermediate sanction facility beds for probationers and parolees.

Supporters of CSSB 1 say it would fund adequately the treatment and diversion programs created and expanded by the 80th Legislature by continuing about three-quarters of the programs. This proposal, combined with other agency programs, would meet the state's needs for the biennium.

Critics of CSSB 1 say that the agency request should be met so that TDCJ could finish implementing the treatment and diversion programs initiated by the 80th Legislature. The programs have helped reduce the need for prison beds. Projections now show that the expected adult prison population in fiscal 2010-11 could be housed within existing state capacity. Although TDCJ requested $28.6 million for this item, agency recalculations now show that $20 million would be enough to fund in fiscal 2010-11 the beds not funded by the base budget bills.

Other critics say neither of the budget proposals would go far enough and that they should fund other agency requests for treatment and diversion, including a proposed $10.4 million, 400-bed expansion of the In-prison Therapeutic Community (IPTC) and $10 million for outpatient substance abuse treatment for about 3,000 more probationers annually.

Increased funding for prison health care

Correctional Managed Health Care Committee (CMHCC), through Texas Department of Criminal Justice (TDCJ)

- **CSSB 1: $5.7 million increase in general revenue over base bill recommendations (plus $111.2 million in Article 11)**
- **Senate: $86.8 million in general revenue over base bill recommendations (plus $25.7 million in Article 11)**
- **Agency request: $181.1 million over base bill recommendations**

CSSB 1 would appropriate $5.7 million to the Correctional Managed Health Care Committee for inmate health care and psychiatric care beyond the $841.1 million in the House and the Senate base budget proposals.

Supporters say the $5.7 million increase in funding for inmate health care in CSSB 1, plus consideration of additional funding later in the budget process, would be adequate to provide a constitutional level of care for inmates. Although CSSB 1 would not fund the entire request of the CMHCC, it would address a critical need for equipment, such as x-ray and dialysis machines, dental chairs, and medical transportation.

Critics of the funding level for prison health care in CSSB 1 say the state should meet the CMHCC's budget request of $181.1 million to ensure that the state maintains a constitutional prison health care system and to avoid renewed costly litigation and the potential reimposition of court oversight. The request by the CMHCC includes $56.8 million to bring its base funding in line with its expenditures. University providers say that despite cost-saving measures, they consistently must spend more than their appropriation to provide the minimum required level of health care. Without an adjustment, operating losses could be managed only by reducing services, which might compromise quality of care.

The state also should fund the agency's request for:

- $46.3 million to increase salaries to reflect market rates and for drug and medical supplies;
- $29.4 million for hospital and speciality care;
- $4.4 million to treat hepatitis C patients;
- $35.2 million to hire more staff to meet recommendations of a staffing study; and
- $3.2 million for more staff, work space, and equipment.

Other critics prefer the Senate approach of providing the CMHCC $86.8 million above the base budget recommendations, which would meet the most critical needs for increased health care. It would fund the $56.8 million request by the CMHCC to adjust its base spending, allow $20 million for market adjustments to retain staff, and provide $10 million for increasing hospital and speciality care costs.

Notes. The CMHCC also has requested $39.0 million in supplemental appropriations for fiscal 2008-09 for expenses incurred above its fiscal 2008-09 appropriation for salaries, drugs, pharmacy services, medical supplies and services, and hospital care. This amount is included in CSHB 4586 by Pitts, the supplemental appropriations bill.

Texas Youth Commission capacity and programs

Texas Youth Commission (TYC)

- **CSSB 1: TYC general revenue and general revenue-dedicated total funding of $425.3 million, a decrease of $36.4 million, or 8 percent, from fiscal 2008-09**
- **Senate: TYC general revenue and general revenue-dedicated total funding of $376.6 million, a decrease of $85.1 million, or 18 percent, from fiscal 2008-09**

Under CSSB 1, TYC's general revenue and general revenue-dedicated appropriation for fiscal 2010-11 would be $425.3 million, about 8 percent less than the agency's funding in fiscal 2008-09. CSSB 1 would fund several items that would affect the agency's structure and treatment programs for juvenile offenders, including:

- a reduction of $40.9 million, or 10 percent, in general revenue and general-revenue dedicated funds for residential services, resulting in lower capacity at some facilities;

- an increase of $6.7 million in general revenue and general-revenue dedicated funds to add two, 48-bed state-operated leased facilities, increasing capacity by 96 beds;

- transferring to fiscal 2010-11 $25.0 million in general obligation bond authority, originally appropriated to the agency for fiscal 2008-09 to build one new facility in a metropolitan area, and allowing the bonds to be used to build three facilities in metropolitan areas;

- $20.7 million in general revenue and general revenue-dedicated funds to operate the facility at Victory Field Correctional Academy in Vernon and the West Texas State School in Pyote;

- $4.1 million in general revenue and general-revenue dedicated funds to fund 171 special treatment beds for youths in fiscal 2011 at existing facilities, which would not change state capacity; and

- $888,000 in general revenue and general revenue-dedicated funds to develop a regional pilot program for services and aftercare for youths returning to the community.

Supporters say the funding in CSSB 1 would move TYC toward smaller, regional facilities with more specialized treatment but would not significantly change its state-operated capacity. The projected average daily population is projected to be 2,557 in fiscal 2010 and 2,546 in fiscal 2011. New beds added under CSSB 1 would be coupled with reduced numbers of youth at other facilities. These changes would help to better rehabilitate youths and serve their families.

Adding two new state-operated, leased facilities and allowing TYC to use bond funds for three new facilities in metropolitan areas would allow youths to be housed closer to their homes and to have access to more specialized treatment providers. Funding operations at Victory Field and the West Texas facility would allow these units to serve as regional facilities for their areas and other units to operate with fewer youths. The agency did not receive funding for these facilities for fiscal 2008-09, but has continued to operate them. The funds in CSSB 1 would allow the units to remain open in fiscal 2011-12.

The 171 treatment slots funded in CSSB 1 would pay for more services for youths, such as sex offender and substance abuse treatment. The bill also would fund two pilot programs, modeled after successful programs in other states, that would increase treatment and aftercare to youths returning to the community.

Critics of CSSB 1 say it would provide too much funding for an expensive, overly bureaucratic agency that should be downsized. A better approach would be to cut the agency's funding, reduce its FTEs and capacity, and send funding to the counties to handle some of the offenders. This approach would keep some juvenile offenders near their homes and families and spur local investments in alternatives to state incarceration and youth treatment. These alternatives often are less expensive than state incarceration and can be more effective.

The Senate-passed version of the budget would reduce the agency's funding for residential services by $78.9 million, or 19 percent, in general revenue and general revenue-dedicated funds. This primarily would include a reduction of 1,496 in TYC's capacity and a reduction of 717 FTEs. The Senate version also would provide $35.0 million in additional funding to the Texas Juvenile Probation Commission for pilot programs in Dallas and Travis counties to handle youths locally and divert them from TYC. The Senate-passed proposal also includes an agency rider prohibiting appropriated funds from being used to operate the Victory Fields and West Texas facilities after September 1, 2009.

Implementing a juvenile case management system

Texas Juvenile Probation Commission (TJPC)
Texas Youth Commission (TYC)

- **CSSB 1: $4.3 million in general revenue and general revenue-dedicated funds to TJPC and $500,000 to TYC**
- **Senate: no funding for TJPC ($2.0 million in Article 11 for TYC for juvenile case management and other management systems)**
- **Agency request (TJPC): $4.5 million**

CSSB 1 would appropriate $4.3 million in general revenue and general revenue-dedicated funds to TJPC and $500,000 to TYC for a juvenile case management system.

Supporters say the CSSB 1 proposal would fund a comprehensive web-based juvenile justice information and case management system. The current system does not provide a seamless sharing of juvenile-specific data among counties and state juvenile justice agencies. County-level electronic information does not follow a youth who may move through the juvenile justice system in different counties. The funding in CSSB 1 would help create a system that allowed common data collection, reporting, and management and the sharing of information. Data collection would be increased, which would help state and local officials make more informed decisions. There would be better use of limited treatment resources, resulting in youths being placed in more effective programs and services. The funds for TYC would allow the agency to consolidate its data and prepare to interface with the larger system.

More personnel for DPS

Department of Public Safety (DPS)

- **CSSB 1: No funding ($113.7 million in Article 11, with $4.8 million from general revenue and general revenue-dedicated funds and $108.9 million from Fund 6)**
- **Senate: $39.8 million in general revenue and federal funds**
- **Agency request: $113.7 million ($4.8 million from general revenue and $108.9 million from Fund 6)**

CSSB 1 would place into Article 11 DPS's highest-priority exceptional item request of $113.7 million to fund more personnel, staff recruitment, and salary increases. The request would cover 380 new FTEs in fiscal 2010 and 388 FTEs in 2011 at a cost of $46.6 million, salary increases for commissioned officers at a cost of $48.4 million, salary increases for non-commissioned personnel for $17.8 million, and recruitment efforts for $504,000. The new employees would include narcotics officers, crime lab personnel, regulatory personnel, information management, and staff services.

The Senate-passed proposal would include $39.8 million for this item in fiscal 2010-11. This proposal would include $11.2 million in general revenue funding for 16 new commissioned officers and 79 new non-commissioned personnel, $504,000 for staff recruitment, and $28.1 million for commissioned and non-commissioned pay increases.

Supporters of the CSSB 1 proposal say the Legislature should carefully evaluate requests for more personnel or pay increases for any state agency. Placing the DPS request into Article 11 provides legislators with the flexibility to fund the item should more revenue be identified later in the budget process.

Critics of the CSSB 1 proposal say DPS' request should be funded because providing for public safety should be a high priority, especially in tough economic times and especially with increased concerns about criminal activity moving into Texas from Mexico. The agency needs more staff in many areas, and a state auditor's report showed that DPS salaries are not competitive with comparable states or larger city and county law enforcement agencies in Texas. Raising pay scales would enhance retention of experienced troopers and civilian employees. The Senate proposal, while short of the agency's full request, would be a step in the right direction.

Civilian management model for driver's license division

Department of Public Safety (DPS)

- **CSSB 1: $45.0 million from Fund 6**
- **Senate: $32.7 million in general revenue**
- **Agency request: $62.5 million**

CSSB 1 would appropriate to DPS $45.0 million and would approve 395.5 FTEs to restructure the driver's license division of DPS to a civilian management model. The Senate-passed version of the budget would fund this item at $32.7 million and 223 FTEs.

Supporters say that CSSB 1 would allow DPS to implement the Sunset Advisory Commission and Deloitte Consulting recommendations that DPS driver's license and regulatory divisions adopt a customer-focused business model run by civilians, while keeping oversight within the state's law enforcement agency. Adoption of best practices and other changes could remedy complaints about long lines, unclear directions to services, limited hours, and waits to receive driver's licenses and ID cards. It also would free commissioned officers from the bulk of the driver's license operations and make them available for law enforcement duties.

Critics say that adoption of a customer-friendly management model would not remedy all complaints about driver's license operations. DPS is under Sunset review, and decisions about the structure of driver's license division are best left to the agency's Sunset bill.

Border security

Department of Public Safety (DPS) and other agencies

- **CSSB 1 $23.4 million from Fund 6; $56.7 million from Account 99**
- **Senate: $23.4 million from Fund 6; $63.7 million from Account 99**
- **Governor's request: $135 million for the border program with three priorities: combating transnational gangs; providing more investment in local law enforcement; and preventing border corruption.**

CSSB 1 and the Senate-passed budget proposal would require DPS to use $23.4 million from State Highway Fund 6 for border security operations. Many of these same activities were funded in fiscal 2008-09 with Fund 6 money, and the appropriation in CSSB 1 would be a reduction of about $21.1 million from fiscal 2008-09. The reduction would be mostly because start-up costs for these activities in fiscal 2008-09 no longer are needed. Agency Rider 50 would require the money to be spent in six areas:

- $9.8 million to the highway patrol;
- $2.3 million for narcotics enforcement;
- $1.8 million for vehicle theft enforcement;
- $1.8 million for criminal intelligence service;
- $955,230 for the Texas Rangers; and
- $6.7 million for aircraft operations.

DPS Rider 53 in CSSB 1 would appropriate $43.7 million to the Governor's Division of Emergency Management, which is co-located with DPS, for local border security. The appropriation would come from the general revenue-dedicated Operators and Chauffeurs License Account 99. The rider would require the money be spent in the following way:

- $6.5 million for the Joint Operations and Intelligence Centers and the Border Security Operations Center;
- $20 million for overtime, per diem, and travel expenses for peace officers or National Guard cooperating in a surge operation; and
- $17.2 million for grants to local law enforcement agencies for overtime and per diem when cooperating with a surge operation or for training, equipment, and technology.

The Senate-passed proposal, in Art. 9, sec. 17.07, would require these funds to be used for an increase of 56 DPS troopers along the border and 10 Rangers, increased patrol and investigative capacity for DPS and local peace officers, and the Joint Operations and Intelligence Center and the Border Security Operations Center.

Two DPS riders in CSSB 1 would make additional appropriations to DPS from the general revenue-dedicated Operators and Chauffeurs License Account 99. Rider 55 would appropriate an additional $641,308 for enhanced border security operations, and Rider 56 would appropriate $12.4 million to be used as follows:

- $5.5 million in fiscal 2010 to create Regional Emergency Operations Center in Laredo; and
- $6.9 million for fiscal 2010-11 to construct, equip, and operate a DPS crime lab in Laredo.

The Senate-approved proposal does not include these items.

Article 12 of CSSB 1 would appropriate to the Trusteed Programs of the Governor $90.3 million in federal Byrne Justice Assistance Grants, which are targeted at crime control and prevention and improving the criminal justice system. Article 12, sec. 15 would require the governor to give priority to border security-related projects when awarding the grants.

The Senate-approved proposal includes a proposal, not found in CSSB 1, that would appropriate to DPS another $20 million from Account 99 for border security operations. The money is appropriated in Agency Rider 55, and Art. 9, sec. 17.07 would require the funds to be spent on certain border security activities and programs, including $6.6 million for the Joint Operations and Intelligence Center and the Border Security Operations Center. About $13.4 million of the funds would be transferred to other state agencies, with most of it going to the Trusteed Programs of the governor.

Article 12 in the Senate-approved proposal, as in CSSB 1, would appropriate $90.3 million in federal Byrne Justice Assistance Grants to the Trusteed Programs of the Governor. However, the Senate's Article 12, sec. 10 would outline the intent of the Legislature that those funds be spent as follows:

- $3.6 million to DPS and $500,000 to Texas Parks and Wildlife for overtime and operational costs for increased patrol and investigative capacity for local and DPS peace officers;
- $6.5 million to DPS for border-wide crime mapping and surveillance;
- $1.5 million to DPS to establish a multi-agency gang intelligence section in the Texas Fusion Center;
- $1.2 million to the Texas Parks and Wildlife Department for boats; and
- $10.5 million to the Trusteed Programs of the Governor to expand radio communications and night vision capabilities, equipment and training to support patrol operations, overtime to expand gang enforcement patrols, and multi-jurisdictional gang investigations.

Natural Resources — Article 6

Article 6 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. CSSB 1 would fund Article 6 agencies at $3.5 billion in all funds for fiscal 2010-11, 5.3 percent more than in fiscal 2008-09. The general revenue and general revenue-dedicated funds portion, $2.3 billion, would represent a 6.7 percent increase from fiscal 2008-09. An appropriation of $21.8 million in federal stimulus funds would be made to the Texas Department of Agriculture for the emergency food assistance program and for equipment for the national school lunch program.

Complying with federal air quality standards

Texas Commission on Environmental Quality (TCEQ)

- **CSSB 1: $10.3 million in general revenue-dedicated funds**
- **Senate: $10.3 million in general revenue-dedicated funds**
- **Agency Request: $10.3 million in general revenue-dedicated funds**

CSSB 1 would provide the Texas Commission on Environmental Quality (TCEQ) a total of $10.3 million to bring Texas cities into compliance with air quality standards established by the federal Clean Air Act. About $7.3 million would be used for 52 FTEs and for purchasing eight to 10 new ambient monitoring stations. The new funds and FTEs would be used to revise and carry out the State Implementation Plan (SIP), which explains how Texas intends to abide by the Clean Air Act, including in the four new areas of the state where air pollution levels are expected to exceed federal limits. An additional $3 million would be dispersed to El Paso, Waco, and Beaumont, where pollution levels are close to violating federal standards. These cities would use the funds to prevent their pollution levels from reaching EPA non-attainment status.

Article 6 spending comparisons
(millions of dollars)

Type of funds	Expended/budgeted Fiscal 2008-09	Recommended CSSB 1	Biennial change	Percent change
General revenue and general revenue-dedicated	$2,144.6	$2,288.2	$143.6	6.7%
Federal	978.0	1,009.8	31.8	3.3
Other	221.4	222.5	1.2	0.5
All funds	3,344.0	3,520.6	176.6	5.3

Source: Legislative Budget Board, Summary of Committee Substitute for Senate Bill 1*, April 2009*

Supporters of increased funding say it is necessary because recent tightening of federal air quality standards from 85-parts-per-billion (ppb) to 75-ppb will change the status of four urban areas from attainment to non-attainment, increasing the number of Texas cities that exceed acceptable ozone standards from three to seven. The funding would provide resources to develop the required State Implementation Plans (SIPs). Failure to submit a SIP that brings all Texas cities into compliance with federal standards could result in federal sanctions, including the loss of federal highway funds.

Critics say that bringing non-attainment areas into compliance would place burdensome regulations on businesses, making Texas a less desirable place to locate. It also could lead to mandatory vehicle emissions testing in much of the state.

Debt service for the State Water Plan

Texas Water Development Board

- **CSSB 1: no funding ($89.6 million in general revenue for debt service for $994 million in general obligation bonds in Article 11)**
- **Senate: $89.0 million in general revenue for debt service for $890 million in general obligation bonds**
- **Agency request: $89.6 million in general revenue for debt service for $994 million in general obligation bonds**

CSSB 1 would not fund the Texas Water Development Board's request for $89.6 million in general revenue for debt service for an additional $994 million in general obligation bonds for the three parts of the State Water Plan — the economically distressed areas program, the water infrastructure fund, and the state participation program. The bonds would fund grants and loans to build water and wastewater systems, as well as other water facilities and projects. CSSB 1 places the agency's request in Article 11 for later consideration.

Supporters of not funding debt service for general obligation bonds for the state water plan say the state should not create additional debt by issuing more bonds. General obligation bonds would be an ongoing expenditure of general revenue funds that the state should not take on at this time.

Critics of CSSB 1 say the bonds are necessary for the Texas Water Development Board to continue funding projects in the State Water Plan. As the population of the state increases, so will the demand for water resources. By not providing funding for the State Water Plan, the state will fall behind in completing the projects to meet future demand. Because the state water plan is a multi-year plan, it would be appropriate to take a long-term approach to funding it and to use general obligation bonds.

Repairs and construction for TPWD facilities

Texas Parks and Wildlife Department (TPWD)

- **CSSB 1: $28 million in general revenue funds**
- **Senate: $28 million in proceeds from sale of general obligation bonds; $2.8 million in general revenue funds for debt service ($19.8 million total in Article 11)**
- **Agency request: $36 million in proceeds from sale of general obligation bonds**

CSSB 1 would provide $28 million in general revenue for the Texas Parks and Wildlife Department for repairs to the agency's infrastructure, including headquarters, field offices, state parks, natural areas, historic sites, wildlife management areas, and hatcheries.

Supporters of funding the TPWD repairs say the ongoing investment in TPWD's facility infrastructure is needed to ensure proper upkeep of sites and avoid further costs of deferred maintenance. The much-needed repairs and construction would provide quality visitor experiences and ensure the safety and efficiency of operations. Using general revenue for this purpose is preferable to creating additional debt with general obligation bonds, as the Senate-passed budget would do.

Critics say using general obligation bonds would be a more appropriate, long-term approach to funding the capital repairs and improvements of the TPWD facilities and infrastructure. Due to lack of funding in the past, these facilities have not received the necessary maintenance and have spent years in disrepair. Although $28 million in general revenue would be helpful, there needs to be a more long-term funding approach to bring the TPWD facilities back up to acceptable standards as well as to provide maintenance.

No increase from sporting goods tax for coastal erosion

The Texas General Land Office (GLO)

- **CSSB 1: no additional funding ($25 million in general revenue from sporting goods sales tax in Article 11)**
- **Senate: no additional funding**
- **Agency request: $25 million in general revenue from sporting goods sales tax**

CSSB 1 would not provide the GLO with an additional $25 million in general revenue funds that it requested from the sporting goods sales tax for its coastal programs. The coastal programs provide funds for beach nourishment projects and restoration projects in Texas bays, including critically eroding beaches in the most populated and visited areas of the state.

For fiscal 2008-09, the GLO received $25.2 million of sporting goods sales tax revenue through an interagency contract between the TPWD and GLO, which is included in the base bill for fiscal 2010-11. SB 539 by Estes would authorize use of the tax for direct funding for this purpose.

Supporters of the CSSB 1 proposal not to increase funding from the sporting goods sales tax for coastal programs say that although funding for coastal erosion control projects is needed, diverting even more funds from the sporting goods sales tax away from the TPWD would increase the burden on an already overstretched budget for state and local parks.

Critics of the CSSB 1 proposal not to increase funding from the sporting goods sales tax for coastal programs say that without it, the GLO's coastal erosion control projects would go largely unfunded, leaving them even further behind in meeting local funding demands, especially following Hurricane Ike.

Increased funding for dam safety

Texas State Soil and Water Conservation Board (TSSWCB)
Texas Commission on Environmental Quality (TCEQ)

- **CSSB 1: $20.2 million in general revenue funds ($17.7 million to TSSWCB; $2.5 million to TCEQ)**
- **Senate: $17.5 million in general revenue funds ($15 million to TSSWCB; $2.5 million to TCEQ)**
- **Agency requests: $20.2 million in general revenue funds ($17.7 million to TSSWCB; $2.5 million to TCEQ)**

CSSB 1 would fund a request by the Texas State Soil and Water Conservation Board for $17.7 million and a request by the Texas Commission on Environmental Quality for $2.5 million in general revenue funds to augment their respective dam safety programs. TSSWCB would use the money for three FTEs to provide operations and maintenance, structural repair, and rehabilitation to flood control dams across the state. TCEQ would fund 26 more FTEs, who would conduct more inspections of the state's high-risk dams.

Supporters of the increased funding in CSSB 1 say it would improve public safety by allowing the state to better regulate its high-risk dams. Population growth and urban expansion require that many dams be reclassified as high-hazard dams as downstream development continues. TSSWCB's inability to maintain the dams across the state and repair structural defects will pose a safety risk to the growing downstream population.

Also, a State Auditor's Report in May 2008 determined that TCEQ's dam safety program was not robust enough to meet the state's needs. The report found that TCEQ had inspected only 43 percent of the state's high-risk dams in the past five years, a rate of inspection well below standards established by the Association of Dam Safety Officials and the National Dam Safety Act.

No additional funding for feral hog abatement

Texas Department of Agriculture (TDA)

- **CSSB 1: no additional funding ($2.8 million in Article 11)**
- **Senate: no additional funding**
- **Agency request: $2.8 million in general revenue**

CSSB 1 would not fund a Texas Department of Agriculture (TDA) request for an additional $2.8 million in general revenue above the $1 million in the base bill for its statewide feral hog abatement program.

Supporters of the CSSB 1 proposal not to provide additional funding say the Legislature already is providing TDA with $1 million to continue its feral hog abatement project and that Texas does not have the resources to provide an additional $2.8 million. Others say the project should not receive additional funding because it is inhumane.

Critics say the state has an estimated 2 million feral hogs, and the Texas AgriLife Extension Service estimates these hogs are responsible for $50.1 million in statewide damage each year. Feral hogs devastate agriculture by trampling crops, tearing down fences, spreading diseases to livestock, and eating seeds and livestock feed. The Statewide Feral Hog Abatement Pilot Project, funded by the 80th Legislature, was successful in removing 3,799 feral hogs by aerial hunting, trapping, and snaring, but more funding is needed to expand and continue the project.

Economic Development — Article 7

Article 7 includes agencies that support business and economic development, transportation, and community infrastructure — including the Texas Department of Transportation (TxDOT), Texas Workforce Commission (TWC), Texas Department of Housing and Community Affairs (TDHCA), Texas Lottery Commission, and Office of Rural and Community Affairs (ORCA). CSSB 1 would appropriate to Article 7 agencies $18.7 billion in all funds, including $7.9 billion in federal funds, $9.9 billion in other funds, mostly from Fund 6, and $879.7 million in general revenue and general revenue-dedicated funds.

CSSB 1 also would appropriate $1.6 billion in federal stimulus funds in Article 12 to TxDOT for building highways, $565.2 million for TDHCA, mostly for weatherization assistance, $436.8 million to the TWC, and $19.5 million to ORCA for fiscal 2010-11. CSSB 1 would represent a decrease in all funds of 13.2 percent for Article 7 agencies from fiscal 2008-09, when $21.5 billion was appropriated. The decrease would be due in part to a one-time federal appropriation in fiscal 2008-09 of $485.2 million in disaster-related funds to TDHCA and ORCA for Hurricanes Katrina and Ike.

The Senate-passed proposal would appropriate $20.7 billion in all funds for Article 7 agencies, which would include $7.9 billion in federal funds, $11.8 billion in other funds, and $895.7 million in general revenue and general revenue-dedicated funds.

Article 7 spending comparisons
(millions of dollars)

Type of funds	Expended/budgeted Fiscal 2008-09	Recommended CSSB 1	Biennial change	Percent change
General revenue and general revenue-dedicated	$1,072.1	$879.7	($192.4)	(17.9 %)
Federal	9,156.3	7,929.1	(1,227.2)	(13.4)
Other	11,281.9	9,853.5	(1,428.4)	(12.7)
All funds	21,510.3	18,662.3	(2,848.0)	(13.2)

Source: Legislative Budget Board, Summary of Committee Substitute for Senate Bill 1, *April 2009*

Issuing general obligation bonds for highway projects

Texas Department of Transportation (TxDOT)

- **CSSB 1: $20.2 million in general obligation bond proceeds for TxDOT; $1.3 million in general revenue funds for debt service**
- **Senate: $2.0 billion in general obligation bond proceeds for TxDOT; $100 million in general revenue funds for debt service**

CSSB 1 includes a rider that would appropriate $20.2 million in general obligation bond proceeds to TxDOT, contingent on enactment of HB 2116 or SB 263 or similar legislation authorizing issuance of these bonds for state highway improvement projects. In addition, $1.3 million in general revenue funds would pay for debt service on the bonds for fiscal 2010-11. The bill includes $2.1 billion in general obligation bond proceeds in Article 11. The Senate-passed proposal would appropriate $2.0 billion in general revenue bond proceeds, contingent on authorizing legislation, and $100 million in general revenue funds for payment of debt service on the bonds. In November 2007, voters approved issuing up to $5 billion in general obligation bonds for transportation purposes through Proposition 12 (SJR 64 by Carona).

Supporters say issuing the general obligation bonds would help finance desperately needed highway projects, thus alleviating traffic congestion, enhancing productivity, and improving safety. Supporters note that while the Texas Constitution prohibits state-supported debt from exceeding 5 percent of uncommitted general revenue, state debt currently is well below that maximum, leaving room for more general obligation bonds backed by state general revenue. Issuing the bonds would not significantly affect the state’s fiscal standing, and Texas still would have a low debt burden compared to other states.

Improving mobility would aid economic development and job creation in the midst of a national economic recession. Issuing the general obligation bonds soon is critical in light of diminishing availability of Fund 6 revenue bonds and Texas Mobility Fund (TMF) bonds and in view of recent highway funding shortfalls. Significant federal stimulus funds available to TxDOT for building and maintaining highways, however, have reduced the need to appropriate a large portion of the general obligation bonds at this time. A smaller appropriation would be more prudent in this period of fiscal uncertainty and with the $1.6 billion in federal stimulus funds that CSSB 1 would appropriate for highway construction in fiscal 2010-11. The overall $2.3 billion in stimulus funds the state will receive for highway and bridge construction is sufficient to offset any pressing need to authorize large sums of general obligation bonds.

Critics say CSSB 1 would not appropriate sufficient general obligation bond funds to undertake any significant highway construction or maintenance projects. TxDOT received $5.1 billion in fiscal 2008-09 for transportation construction, which still falls far short of the annual highway funding needs identified by the 2030 Commission report issued in February

2009. The general obligation bond proceeds of just over $20 million that CSSB 1 proposes to appropriate would have no significant impact on TxDOT's fiscal 2010-11 budget. The $2.0 billion appropriated in the Senate proposal is a more appropriate amount that would provide critical highway construction projects to improve Texans' quality of life in the near future.

Other critics of issuing more bonds say long-term borrowing to pay for highway improvements through general obligation bonds would require general revenue appropriations that the state cannot afford to spend on debt service. Borrowing money for construction increases overall costs because interest must be paid on the bond proceeds, and these costs are passed along to future taxpayers and legislatures. Texas should continue to pay for the highway construction it can afford, rather than obligate scarce general revenue and drive up the cost of already expensive projects with interest payments. Adding even more debt would increase the general revenue needed for debt financing and limit the state's ability to meet other needs. It would not be in the state's best interest to commit general revenue that could be used for other state needs, such as education and children's health care, to pay for debt service on bonds to build highways.

Fund 6 appropriations to Department of Public Safety

Department of Public Safety (DPS)

- **CSSB 1: retain $1.0 billion in Fund 6 revenue for DPS**
- **Senate: retain $984.8 million in Fund 6 revenue for DPS**

CSSB 1 would appropriate $1.0 billion in Fund 6 revenue to the Department of Public Safety (DPS). The bill also would appropriate to TxDOT $284.3 million in Fund 6 revenue devoted in fiscal 2008-09 to the Health and Human Services Commission, the Texas Education Agency, the Texas Workforce Commission, and for other purposes. An identical amount of Fund 6 revenue previously committed to these purposes would go to funding debt service for Fund 6 revenue bonds.

Supporters of retaining Fund 6 appropriations for DPS argue that the state cannot currently afford to shift general revenue funding to DPS to replace Fund 6 funding. Maintaining full funding for DPS is critical, and with a statewide deficit, replacing general revenue funds for the agency would be prohibitively costly. Supporters argue that using Fund 6 revenue for DPS is perfectly legitimate because both the Texas Constitution and the Transportation Code explicitly authorize using Fund 6 revenue for policing state highways. DPS enforcement activity helps ensure the safety of the state's motorists, and this is directly relevant to the motor fuels taxes and registration fees that are the primary ongoing revenue streams for Fund 6.

Supporters say replacing Fund 6 revenue appropriated to DPS with general revenue would place the agency in competition with other state needs for limited resources. The state instead should remove Fund 6 funding for purposes not directly authorized by statute, which CSSB 1 would do. Removing appropriations for items such as school buses, medical transportation, and other purposes not directly named in statute would restore important funding for the state's highways without compromising the safety of drivers who use state roads. CSSB 1 would provide a measured approach, addressing key funding diversions without jeopardizing funding for public safety.

Critics of retaining $1.0 billion in Fund 6 funding for DPS say that it would divert funds from TxDOT that are collected for the purpose of building and maintaining the state's roads. Critics say Fund 6 is funded largely through user fees, such as taxes on motor fuels and vehicle registrations, and that these funds should be dedicated to the purposes for which they are collected — maintaining and expanding the state's transportation network. According to the 2030 Committee, the state needs $14.3 billion per year for the next 21 years for roads and bridges, just to maintain current levels of congestion into the future. The appropriation for TxDOT in CSSB 1, at $18.7 billion for fiscal 2010-11, would fall woefully short. Restoring all Fund 6 appropriations to TxDOT is necessary to prevent increased costs in the future from deteriorating roads and bridges. Critics say only replacing $284.3 million in Fund 6 revenue for other agencies with general revenue would not adequately address the major source of these diversions. DPS serves critical state functions that should be funded out of general revenue, which is appropriate for an agency that serves a statewide need but does not have dedicated revenue sources sufficient to pay its costs.

Requiring funding for study of Vehicle Miles Traveled tax

Texas Transportation Institute (TTI)

- **CSSB 1: Appropriations rider to require TxDOT to provide funds to the Texas Transportation Institute (TTI) to study a vehicle miles traveled tax.**
- **Senate: No funding to study vehicle miles traveled tax.**

CSSB 1 includes a rider to provide up to $600,000 to the TTI to study a vehicle miles traveled (VMT) tax in Texas. The Senate-passed proposal would provide no extra funds for the study. Both bills would require a study of the VMT conducted by the TTI to consider the impact of such a tax on commercial trucks traveling in Texas. The study would have to include the comptroller's input on how the state's tax collection system would be affected by a transition to such a tax.

Supporters of providing supplemental funding to study the VMT tax argue that the state motor fuels tax, which has not been raised since 1991, is inefficient and incapable of providing the revenue necessary to maintain the state's transportation network in the long-term. Projected increases in fleetwide fuel efficiency undermine the ability of the motor fuels tax to keep up with costs from wear and tear on the state's roads. The possibility of taxing drivers based on the number of miles they travel, as opposed to the gallons of fuel they consume, is worth studying as a possible future alternative. The rider is a direct result of a well researched LBB recommendation in the Texas State Government Effectiveness and Efficiency report of January 2009. A study would not result in any additional taxes on Texas drivers and would be conducted as a pilot program aimed at researching the viability of such a tax for lawmakers to deliberate in the future.

Critics of spending taxpayer funds to study a VMT tax cite the invasive technologies this method of taxation relies on to monitor where drivers travel. GIS systems equipped in vehicles subject to a VMT collect information on where a motorist travels, a vehicle's current location, and potentially private information about motorist behavior. Tracking miles traveled by less invasive means, such as odometer readings, is unreliable because such devices are subject to tampering and cannot distinguish miles traveled in different taxing jurisdictions. The virtues of a VMT, opponents argue, are greatly outweighed by the overwhelming privacy concerns and other implementation difficulties such a tax would pose. The most direct way to raise more funds for roads would be to index or raise the motor fuels tax, which has been losing value since 1991. Studying the VMT with taxpayer money would not be the best use of valuable highway-related funds because the VMT's basic structure is not suitable for implementation in Texas.

Funding water infrastructure development in colonias

Office of Rural and Community Affairs (ORCA)

- **CSSB 1: $8.2 million in general revenue funds to improve water systems in colonias**
- **Senate: No general revenue funds proposed**

CSSB 1 would provide $8.2 million in general revenue for grants to be administered by ORCA for improvements to water and wastewater infrastructure in colonias. The grants would go to colonias that previously had received grant funding and were in the final stages of being annexed or incorporated into a city. The general revenue would be in addition to $15.2 million in federal funds for the colonias sustainability fund that CSSB 1 and the Senate-passed proposal would include. The Senate-passed proposal includes no additional general revenue funds for the colonias grants.

Supporters say $8.2 million for water and wastewater infrastructure would be a strategic investment in resolving ongoing infrastructure issues in some colonias. The funds would be available on a competitive basis only to communities that have received similar help in the past and that are near annexation or incorporation. The funding would help eligible colonias provide essential infrastructure necessary to becoming part of a self-sustaining community. Many of the colonias that would be eligible currently do not have the economic resources for the upfront investment in infrastructure without outside help. The funds also would go toward tracking colonias in a statewide database, which would help assess conditions of these communities over time.

Critics say the funding for water and wastewater infrastructure in colonias could create inequality by providing for free what most communities must pay for through local taxes for bonds and other fees. Many residents in the state who do not receive water and wastewater service through a municipal utility must arrange for these services through municipal utility districts (MUDs) that are able to issue bonds and charge user fees to develop infrastructure. MUDs are not eligible for state grants, but must recover all costs from property owners in their service areas. The state should pursue alternative arrangements that help colonias establish vital infrastructure without direct appropriations of taxpayer funds that may set unsustainable funding precedents.

General revenue for TWC skills development program

Texas Workforce Commission (TWC)

- **CSSB 1: $81 million for skills development for fiscal 2010-11**
- **Senate: $106 million for skills development for fiscal 2010-11 (plus $10 million in Article 11)**

CSSB 1 would appropriate $81 million for the Texas Workforce Commission (TWC) skills development fund program for fiscal 2010-11. This would include base funding of $51 million, an additional $20 million in general revenue funds for an agency request, and $10 million in federal stimulus money from Workers Investment Act (WIA) statewide funds. The Senate-passed proposal would appropriate $106 million for the skills development fund program, including base funding of $51 million, a rider authorizing $30 million in general revenue funds to train 15,000 more workers, a rider for $15 million in general revenue funds for training up to 15,000 additional workers receiving unemployment insurance benefits for the first time, and $10 million in stimulus funds from WIA. The Senate-passed proposal includes an additional $10 million in general revenue funds for skills development in Article 11.

Supporters say the skills development fund program plays a critical role in connecting businesses with community colleges and other training programs to provide worker training. In 2008, the TWC distributed almost $23 million in skills development grants, which went toward retraining 11,700 workers and helped create close to 8,000 new jobs. TWC received proposals for more than $52 million in grants in 2008, but the agency was able to award only about half of this total. The discrepancy between training applications and funds awarded shows that the demand for skills development training in the state exceeds the available funds.

The skills development fund program also benefits participating businesses, which gain highly skilled and efficient workers, and community colleges that provide the training by creating new curricula and bringing cutting-edge research to the school. While some federal stimulus funds for WIA could be used for skills development, those funds are subject to different guidelines that allow them to be used only for employed workers and have other requirements that make them less effective for the skills development fund program.

Critics say the skills development fund program has succeeded with its baseline funding and, given the projected state budget shortfall, any additional general revenue for the program could be used to fund other pressing needs. For example, a portion of the additional federal stimulus funds Texas is expected to receive for WIA statewide programs could be used to fund skills development.

Regulatory Government — Article 8

Article 8 includes 31 agencies that regulate business professionals and service industries. The agencies range in size from the Public Utility Commission and Department of Insurance to the Racing Commission and Board of Professional Land Surveyors. CSSB 1 would appropriate to Article 8 agencies $869.1 million in all funds in fiscal 2010-11, including $851.1 million in general revenue and general revenue-dedicated funds. This would be an increase in all funds of $101.8 million from fiscal 2008-09 appropriations.

Most of the increase in Article 8 appropriations for fiscal 2010-11 would be due to an increase in the appropriation for the low-income discount program, which provides consumer education and utility discounts to low-income electric customers. The program is funded by the System Benefit Fund, a general revenue-dedicated account containing fees collected from electric ratepayers.

The Senate-passed proposal would appropriate $931.9 million in all funds, including $913.9 million in general revenue and general revenue-dedicated funds. Most of the difference between the House and Senate budget proposals is due to a higher Senate allocation for the low-income discount program.

Article 8 agencies would receive no federal stimulus funding, but some federal assistance for electric transmission grid improvements could flow through the Public Utility Commission (PUC) or the Electric Reliability Council of Texas (ERCOT), which operates the electric grid and manages the deregulated market for most of Texas.

Article 8 spending comparisons
(millions of dollars)

Type of funds	Expended/budgeted Fiscal 2008-09	Recommended CSSB 1	Biennial change	Percent change
General revenue and general revenue-dedicated	$747.0	$851.1	$104.1	13.9%
Federal	4.3	4.5	0.2	4.5
Other	16.0	13.5	(2.5)	(15.7)
All funds	767.3	869.1	101.8	13.3

Source: Legislative Budget Board, Summary of Committee Substitute for Senate Bill 1, *April 2009*

Using System Benefit Fund for low-income discounts

Public Utility Commission (PUC)

- **CSSB 1: $231 million in System Benefit general revenue-dedicated funds for the low-income discount program**
- **Senate: $288.6 million in System Benefit general revenue-dedicated funds for the low-income discount program**
- **Other proposal: Make the System Benefit Fund a trust fund administered by PUC and spend all available funds for the low-income discount program**

CSSB 1 would appropriate $231 million from the System Benefit Fund, a general revenue-dedicated account, to provide eligible low-income rate payers with a 15 percent electric discount for the entire year. This would be an increase of $46.8 million from fiscal 2008-09 and would include another $4.3 million for customer education and $1.4 million for electric market oversight, both eligible System Benefit Fund programs. The CSSB 1 proposal would leave an estimated $688.6 million balance in the System Benefit Fund at the end of fiscal 2011.

The Senate-passed proposal would appropriate $288.6 million — an increase of $107.6 million from fiscal 2008-09 spending – to provide a 20 percent discount for low-income electric ratepayers from May through September.

On March 24, the House State Affairs Committee reported CSHB 1182 by S. Turner, which would make the System Benefit Fund a trust fund outside the appropriations process to be administered by the PUC. CSHB 1182 would direct the PUC to spend all System Benefit funds available for the approved purposes.

Supporters of CSSB 1 say the appropriations would help low-income electricity customers by extending the discount to a full year, rather than from May until September. Although the majority of Texas electric customers now know that the electric market has been restructured for competition, the CSSB 1 increase for consumer education would help make consumers more knowledgeable about choosing electric providers.

CSSB 1 would leave an appropriate System Benefit Fund balance for certification of the budget that funds other programs aiding low-income Texans, such as Medicaid. Moving the System Benefit Fund outside the appropriations process, as proposed by CSHB 1182, would not guarantee better outcomes for consumers. PUC commissioners are appointed, not elected, and could be less responsive to the needs of low-income electricity customers than the Legislature has been.

Critics of CSSB 1 and the Senate-passed proposal say that more of the existing System Benefit Fund balance should be used for the purposes for which electricity customers have been told their assessments are being collected — to help low-income customers. More Texans are likely to need this help in difficult economic times. Combining aspects of CSSB 1 and the Senate-passed proposal could provide a year-round, 20-percent discount and use more of the System Benefit Fund balance. In addition, some of the funds should be appropriated for critical-need medical customers, for whom an interruption of electric service for overdue payments could be life-threatening.

Another alternative would be to make the System Benefit Fund a trust fund administered by the PUC, as proposed by CSHB 1182, which would prevent hoarding of the funds for budget certification. CSHB 1182 would direct the PUC to use all available System Benefit funds for their intended purpose and would provide guidance about spending priorities. Such a system would avoid recurrence of the situations in fiscal 2004-05 and fiscal 2006-07, in which the Legislature provided no help for low-income electric customers and instead kept the full System Benefit Fund balance for budget certification because of projected budget shortfalls.

Other critics say that assessing a fee on electric bills essentially to provide a social service is bad budgetary and public policy. The PUC is a regulatory agency, not a social service agency. The original purpose of the System Benefit Fund was to help electricity customers during the transition to competition, and the competitive marketplace was supposed to save all Texans money on their electric bills.

Federal Stimulus — Article 12

CSSB 1 would appropriate $11.0 billion in federal stimulus funds made available to the state through the American Recovery and Reinvestment Act of 2009. The bill would identify stimulus funds separately in Article 12 and appropriate the funds to state agencies for a variety of purposes. Additional stimulus funds are available to the state for fiscal 2009, including $1.6 billion for an increase in the percentage of the federal match rate for Medicaid, $979 million to the Texas Education Agency (TEA) in state fiscal stabilization funds, and $662.2 million appropriated to the Texas Department of Transportation (TxDOT) for highway and bridge construction. The Senate-passed budget appropriated $10.9 billion in stimulus funds listed in Article 12, including $4.8 billion for TEA, $2.5 billion for the Health and Human Services Commission (HHSC), and $1.6 billion for TxDOT.

Of the total $11.0 billion that CSSB 1 would appropriate for agencies receiving stimulus funds in Article 12, $5.5 billion would make available general revenue funds that might otherwise have been appropriated to fund agencies in Articles 1, 2 and 3. The remaining $5.5 billion would be appropriated to fund various agencies, including $2.3 billion for TEA, $1.6 billion for TxDOT, and $565.2 million for TDHCA.

Making general revenue available for other purposes

Various agencies

CSSB 1 includes appropriations to state agencies from the federal Recovery Act for fiscal 2010-11 of $11.0 billion. Of this amount, CSSB 1 would appropriate $5.5 billion to make available general revenue funds that the Legislature might otherwise have appropriated to agencies in Articles 1, 2 and 3. The bill would appropriate the remaining $5.5 billion in federal stimulus funds through existing funding streams for agencies to spend on various programs. CSSB 1 would appropriate general revenue that otherwise may have been spent on FMAP

Article 12 - Spending Comparisons

(millions of dollars)

Recovery Act funds destination	Total stimulus funds available	GR made available by stimulus funds	Total Stimulus Funds minus GR made available
Article 1	$403.2	$27.3	$375.9
Article 2	$2,720.2	$2,522.9	$197.3
Article 3	$5,234.0	$2,971.4	$2,262.6
Article 6	$21.8		$21.8
Article 7	$2,659.3		$2,659.3
TOTAL	**$11,038.5**	**$5,521.6**	**$5,516.9**

Medicaid matching funds equal to $2.5 billion, TEA programs funded at $2.4 billion, and $350 million in funds for the higher education coordinating board.

Supporters of using federal stimulus funds to make available, or “free up,” general revenue for general appropriations purposes argue that the federal funds would not actually supplant general revenue funds because these programs likely would have been cut in the absence of federal assistance. The bill would deploy federal stimulus funds in keeping with their intended purpose. The federal funds allowed the Legislature to avoid having to make reductions to programs, largely HHS, TEA, and higher education. In the absence of stimulus funds, the Legislature would have had to contend with a sizable deficit. Using rainy day funds to fill a deficit of this magnitude would have been unlikely, especially since these funds will be needed to make up for larger projected shortfalls in fiscal 2012-13.

Critics of using federal stimulus funds to free up general revenue say it effectively would amount to supplanting general revenue funds with stimulus funds, which would be contrary to the intent of the Recovery Act. Critics say stimulus funds are meant to be used for public functions that create jobs or provide services to people and institutions that have been hurt by recession. The two largest sources of freed-up general revenue, HHS and TEA, fit squarely into this purpose. HHS services are in higher demand during a recession due to increased unemployment and underemployment, while funding for education is affected by decreasing revenue from property taxes. Stimulus funds for education, for instance, could be used to invest in necessary capital improvements that would both improve educational facilities and create solid jobs. All of the funds available — both federal and state — should be used for their intended purpose.

Critics say additional sources of revenue could be dedicated to shoring up budgetary shortfalls for fiscal 2010-11. The state could draw on a portion of the rainy day reserve, for instance, without jeopardizing its fiscal position in fiscal 2012-13. The budget also could be reduced in areas that do not have a stimulant or stabilizing effect on the state’s economy.

Limiting stimulus funds to one-time expenditures

CSSB 1 includes several provisions addressing the intent of the Legislature to limit the expenditure of federal stimulus funds to one-time expenses for purposes identified in the Recovery Act. Sec. 9 in Article 12 states the intent of the Legislature that no stimulus funds be expended on a plan, policy, strategy, or rule that could not be reasonably eliminated after the funds were exhausted or that created a liability for the state to repay any funds to the federal government or to continue payments to beneficiaries of programs administered with stimulus funds. Sec. 10 would require agencies receiving stimulus funds to prepare and update a discontinued funding plan to indicate how services would be provided after stimulus funds were eliminated or reduced and what would happen to employees hired through stimulus-funded programs. The bill also would add sec. 12, stating the intent of the Legislature that positions created through stimulus funds be eliminated or discontinued when the funds were exhausted.

Lawmakers and others have expressed concerns about long-term obligations placed on the state for accepting stimulus funds, including questions about whether:

- establishing additional programs and providing additional services funded with Recovery Act money would place long-term obligations on the state through the expectation that such programs and services will persist after the original stimulus funds are exhausted;
- appropriating temporary stimulus funds could lead to a reliance on services provided through those funds that would at best postpone, and at worst aggravate, current economic and social problems;
- the Legislature and state agencies can sufficiently clarify which programs and services are subject to elimination when stimulus funds are exhausted;
- creating temporary employment through stimulus programs misleads individuals hired through those programs into a sense of security; and
- eliminating programs and services provided with stimulus funds some day may create an appearance that the state is making cuts to these programs.

Supporters say the provisions in CSSB 1 would provide ample clarity that programs and services funded through stimulus appropriations were temporary and subject to being eliminated. Supporters of appropriating stimulus funds say these funds would provide temporary help during a period of recession and need not result in permanent changes in state funding.

Limiting expenditure of federal stimulus funds

CSSB 1 would add sec. 11 to Article 12, providing that no federal stimulus funds appropriated could be spent for purposes that the Legislature had not approved in the bill without written permission from the LBB and the governor. The Senate-passed budget would add sec. 8.02(b) to Article 9, requiring any agency receiving an additional federal appropriation larger than $10 million to report the amount and proposed use of the funds to the LBB, the governor, and the comptroller. The provision would instruct the comptroller to release the funds if neither the governor nor the LBB issued a written disapproval of the expenditure within 10 days of receiving notification.

A number of lawmakers have expressed concerns about provisions in past appropriations bills that allowed agencies to spend, without prior legislative approval, additional federal funds received after the budget was approved. A provision in Article 9, sec. 8.02 of the fiscal 2008-09 general appropriations act allows agencies to spend funds received from the federal government for a strategy or function authorized in the act. This section provided the basis for the Texas Transportation Commission (TTC) in March to obligate federal stimulus funds to highway improvements without prior legislative review. This action generated considerable concern among legislators about how to regulate agency spending of federal funds while providing necessary flexibility for agencies to accommodate changes in federal funds.

Concerns about how unanticipated federal funds may be spent center on a few key questions about how CSSB 1 would address current and potential future appropriations of additional stimulus funds, including:

- how the Legislature can ensure that agencies are spending the funds for the purposes for which they were appropriated;
- whether agencies could spend any additional federal funds received, and in many cases transfer those funds from one strategy to the next, without any legislative oversight; and
- whether authority granted in the appropriations bill governing fiscal 2008-09 could allow agencies to spend stimulus revenue they received before the start of fiscal 2010 in September, 2009, regardless of CSSB 1.

Federal stimulus funds for unemployment insurance

Texas Workforce Commission (TWC)

The federal Recovery Act appropriates about $556 million to Texas for unemployment assistance, provided the state makes legislative revisions to its unemployment insurance (UI) eligibility criteria. To receive the first one-third of available funding, the state would have to adopt an “alternative base period” when determining eligibility for potential UI recipients. This change in effect would allow the most recent months of employment to be considered in benefit assessments, in contrast to current law, which recognizes employment history one full quarter before the date of application. In addition, the state would have to make two of four additional changes, which involve eligibility for part-time workers, compelling family reasons for relocation, benefits for individuals enrolled in training programs, and additional allowances for dependent children.

Federal unemployment insurance funds would be allocated directly to TWC upon confirmation from the U.S. Department of Labor that the state made the necessary conforming changes to qualify under federal guidelines. As such, the federal stimulus funds for unemployment insurance are not subject to the legislative appropriations process, but rather are contingent on successful enactment of conforming legislation.

Supporters of making legislative changes required to accept federal stimulus UI funds say the state’s current UI system is in need of additional funding and reform. Texas ranks at the bottom nationally in the percentage of unemployed workers receiving jobless benefits. According to TWC, state unemployment insurance claims have grown about 140 percent over the past year, and initial claims are up almost 104 percent in this time. The most current TWC estimate projects the unemployment compensation fund balance to fall to $18.8 million by October 1, 2009, which is $839 million below the statutory floor of 1 percent of all taxable wages. When the amount of money in the fund falls below the floor, a “deficit tax” is imposed on businesses that contribute to the fund to bring the fund balance above the statutory floor.

Making the changes required to be eligible for federal stimulus funds could forestall some of the inevitable business tax increases triggered by the fund's diminished balance. Making changes now could reduce employer deficit taxes by as much as 70 percent in the short term. Adopting legislation necessary to establish eligibility also would offset costs for borrowing funds to resolve imminent deficits. The additional stimulus revenue would be sufficient to cover any additional costs for expanded eligibility in the short term.

In addition, a recent policy statement from the U.S. Department of Labor indicated that states would have the option of subsequently repealing legislation enacted to establish eligibility for the UI funds. The state could accept the funds now, when they are needed to address economic woes, while reserving the right to minimize long-term obligations. Every $1 of the federal UI money accepted could generate $2.15 of economic activity, stimulating the state's economy during a deepening statewide and national recession.

Critics argue that unemployment insurance provisions in the Recovery Act would constitute an unfunded federal mandate by requiring a permanent increase in state costs in exchange for temporary federal assistance. The TWC has estimated that switching to the "alternative base period" calculation could cost the state $207.2 million in outlays over the next five years. Over that same period, the provision for part-time workers could cost $137.4 million, the "family reasons" relocation provision could cost $23.1 million, the extension of job training benefits could cost $161.8 million, and the dependent-care provision could cost $1.4 billion. As such, the least costly changes necessary to secure all the UI funds could result in five-year costs of about $368 million.

Expanding the eligibility for unemployment insurance would force businesses to pay higher taxes into the fund. This would amount to a tax increase on businesses, with negative long-term implications for those businesses and the state economy. Texas thus far has fared better than many states in the recession, largely due to regulatory and fiscal policies that are favorable to business. Increasing taxes on businesses could erode the state's reputation as an attractive place to establish and conduct business and actually could cause a decrease in jobs in the future. While the state theoretically could repeal the expanded eligibility requirements in the future, there is no guarantee this would happen because the statement from the U.S. Department of Labor indicated a sunset provision automatically repealing this legislation at a given time would be prohibited.

Another way to increase the amount of money available in the trust fund would be to be more vigilant about fraud and overpayments. A federal Department of Labor study from 2000 found that 13.8 percent of Texas unemployment trust fund payouts came from fraud and overpayments. The state should pursue policies to reduce these illegitimate payments from the trust fund before it considers measures that could result in additional obligations for employers.

HOUSE RESEARCH ORGANIZATION

John H. Reagan Building
Room 420
P.O. Box 2910
Austin, Texas 78768-2910

(512) 463-0752

www.hro.house.state.tx.us