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TEXAS BUDGET HIGHLIGHTS

Fiscal 2002-03

This report highlights many of the major spending issues considered by the 77th Legislature. A detailed summary of SB 1 by Ellis, the general appropriations act, appears in the May 2001 Legislative Budget Board report, Summary of the Conference Committee Report on Senate Bill 1. *For information on the rules, laws, and constitutional provisions governing the budget process, see House Research Organization State Finance Report Number 77-1,* Writing the State Budget, *February 1, 2001. For more information on specific budget issues, see HRO State Finance Report Number 77-2,* CSSB 1: The House Appropriations Committee's Proposed Fiscal 2002-03 Budget, *April 6, 2001.*

Overview of the Fiscal 2002-03 Budget

For fiscal 2002-03, which began September 1, 2001, the 77th Texas Legislature budgeted total expenditures of $113.8 billion in all funds, an increase of $11.8 billion (11.6 percent) over the amount spent in fiscal 2000-01, according to the Legislative Budget Board (LBB). SB 1 by Ellis, the general appropriations act, commits the state to spend nearly all revenue projected to be available during the new biennium.

At the beginning of the legislative session, budget writers had available about $5 billion in general revenue-related funds above the amount appropriated for fiscal 2000-01, including a projected $2.9 billion surplus at the end of fiscal 2001. Against that positive revenue outlook stood concerns about possible revenue shortfalls caused by higher-than-expected costs in the federal-state Medicaid program, the state prison system, and other agency operations, plus a large "wish list" of demands for additional spending above current services.

As filed, SB 1 would have increased total spending by $6.3 billion, or about 6 percent, in fiscal 2002-03. The Senate-approved version of SB 1 proposed a $9.8 billion increase, and the House-approved version, a $7.8 billion increase. By shifting funds among agencies, delaying certain payments until fiscal 2004, and using other accounting maneuvers, budget writers eventually crafted a plan to increase spending by nearly twice the original proposal. The resulting biennial increase is larger than the $9.7 billion increase from fiscal 1998-99 to 2000-01 enacted by the 76th Legislature, when the projected revenue surplus was larger.

SB 1 spending provisions are modified slightly by the governor's vetoes of certain line items and by the provisions of two other bills enacted by the 77th Legislature: HB 2879 by Sadler, which adjusts school finance formulas and directs the allocation of certain funds by the education commissioner, and HB 3343 by Sadler, which creates a state-funded health insurance program for public school employees and adjusts allocations to the Texas Education Agency and the Teacher Retirement System for purposes of that program.

Besides SB 1, which directs almost all state spending for the new biennium, three other acts of the 77th Legislature make small appropriations for fiscal 2002:

- HB 1333 by Junell, the supplemental spending bill for fiscal 2001, appropriates about $67 million in general revenue for various agencies for fiscal 2002.
- HB 2914 by Bonnen, an omnibus fiscal measure, appropriates $15 million to the Texas Forest Service from the new Volunteer Fire Department Assistance Fund and $2 million of general revenue to Texas State Technical College components.
- SB 736 by Duncan appropriates about $3 million of general revenue for self-directed, semi-independent agency pilot projects, to be repaid by these agencies as funds become available.

Overall spending patterns

SB 1's total appropriation of $113.8 billion for fiscal 2002-03 includes $66.2 billion in general revenue-related (general revenue plus general revenue-dedicated) funds, including $985 million from tobacco-settlement receipts and earnings. Spending from general revenue-related funds is scheduled to increase by 9 percent from fiscal 2000-01. Total spending also includes $34.8 billion in federal funds and $12.8 billion in other funds.

The fiscal 2002-03 budget meets all spending limits imposed by the Texas Constitution and state law. Art. 3, sec. 49a of the Constitution limits spending to the amount of revenue that the comptroller estimates will be available during the two-year budget period. On June 6, 2001, Comptroller Carole Keeton Rylander certified that enough revenue would be available to cover budgeted spending and leave unspent about $9 million in general revenue. Under Art. 8, sec. 22, the growth of spending from revenue not dedicated by the Constitution to a particular purpose may not exceed the growth rate of the Texas economy. LBB estimates that budgeted spending for fiscal 2002-03 is about $1.6 billion below this cap. The budget reflects no tax-rate increases or new taxes, although in some cases, professional licensing and other fees may be raised to meet regulatory agency budgets.

Spending by function. Like the fiscal 2000-01 budget act, SB 1 groups state agency budgets into 10 articles or functional categories and includes an Article 12, which itemizes the spending of revenues from the state's multibillion-dollar settlement with the tobacco industry. Table 1 shows the changes in state spending by major functional area from fiscal 2000-01 to 2002-03. Major increases in the current budget include:

- a $5.1 billion (17 percent) increase in federal and state funds for **health and human services** (HHS) under Article 2, primarily to cover higher costs in the Medicaid program, plus an increase of $658 million in spending from tobacco-settlement receipts under Article 12, mainly to expand CHIP and community care options and for simplifying the Medicaid enrollment process;
- a $2 billion (7 percent) increase in all-funds spending for **public education**, primarily to meet projected

Table 1
State Spending by Government Function
(All funds in billions)

		Fiscal 2000-01	Fiscal 2002-03	Biennial change	Percent change
Art. 1	General Government	$ 2.470	$ 2.626	$ 0.156	6.3%
Art. 2	Health and Human Services	29.876	34.990	5.113	17.1
Art. 3	Education	45.239	48.681	3.442	7.6
Art. 4	Judiciary	0.384	0.431	0.047	12.3
Art. 5	Public Safety/Criminal Justice	8.084	8.290	0.205	2.5
Art. 6	Natural Resources	1.912	1.951	0.039	2.0
Art. 7	Business/Economic Development	12.731	13.891	1.160	9.1
Art. 8	Regulatory	0.529	0.772	0.243	45.9
Art. 9	General Provisions	0.000	0.764	0.764	n.a.
Art. 10	Legislature	0.283	0.294	0.012	4.2
TOTAL		$101.508	$112.689	$11.181	11.0%
Art. 12	Tobacco Settlement	$ 0.418	$ 1.077	$ 0.658	157.4%
GRAND TOTAL		$101.926	$113.766	$11.840	11.6%

Notes: Fiscal 2000-01 amounts include anticipated supplemental spending needs. All figures exclude interagency contracts. Totals may not add because of rounding.

Source: Legislative Budget Board, Summary of Conference Committee Report on Senate Bill 1.

enrollment growth, establish a state-funded health insurance program for teachers and other public school employees, and cover a projected deficit in TRS-Care, the Teacher Retirement System's retiree health-care fund;

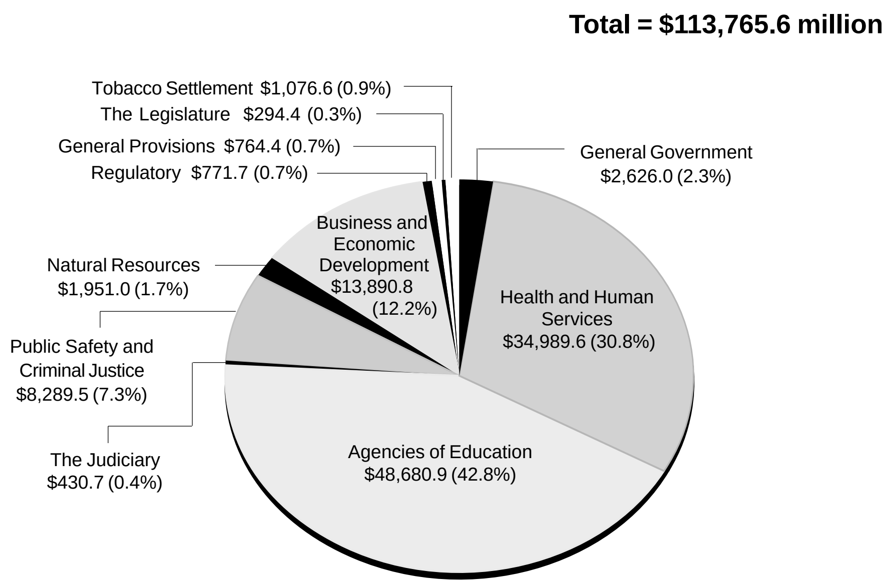
- a $1.4 billion (10 percent) increase in overall funding for **higher education**, largely to meet projected enrollment growth, increase formula funding to higher education institutions, and expand the TEXAS Grant scholarship program;
- $593 million for a **pay raise for state employees and nonfaculty higher education employees**, plus $800 million to cover increased costs of group insurance for these employees; and
- a $961 million increase in federal funds for **highway planning and construction**.

Nearly three-quarters of all spending in the fiscal 2002-03 budget is concentrated in education, 43 percent, and HHS, 31 percent (see Figure 1, below). Business and economic development programs, primarily highway construction and maintenance, account for 12 percent of all spending, and public safety and criminal justice, 7 percent. Natural resource regulation and other functions together represent about 7 percent of the all-funds budget. Debt service payments on general-obligation and revenue bonds will total $1 billion, 7 percent more than in fiscal 2000-01.

The distribution of general revenue-related funds by function differs from the all-funds distribution because federal money plays a relatively large role in funding HHS and business and economic development programs (Figure 2, page 6). About 58 percent of general revenue-related funds go for education, 21 percent for HHS, and 11 percent for public safety and criminal justice.

Wish list. The version of SB 1 reported by the House Appropriations Committee proposed spending $109.7 billion and included a $10.4 billion "wish list" of additional spending items in a separate article for conference committee consideration. The Senate version proposed spending $111.7 billion, with a wish list of about $8.9 billion. The conference committee adopted several significant wish-list items in the final budget, including an *additional*:

Figure 1
All-Funds Appropriations by Function, Fiscal 2002-03
(in millions)



Notes: Figures exclude interagency contracts.
Totals may not add because of rounding.

Source: Legislative Budget Board, Summary of Conference Committee Report on Senate Bill 1.

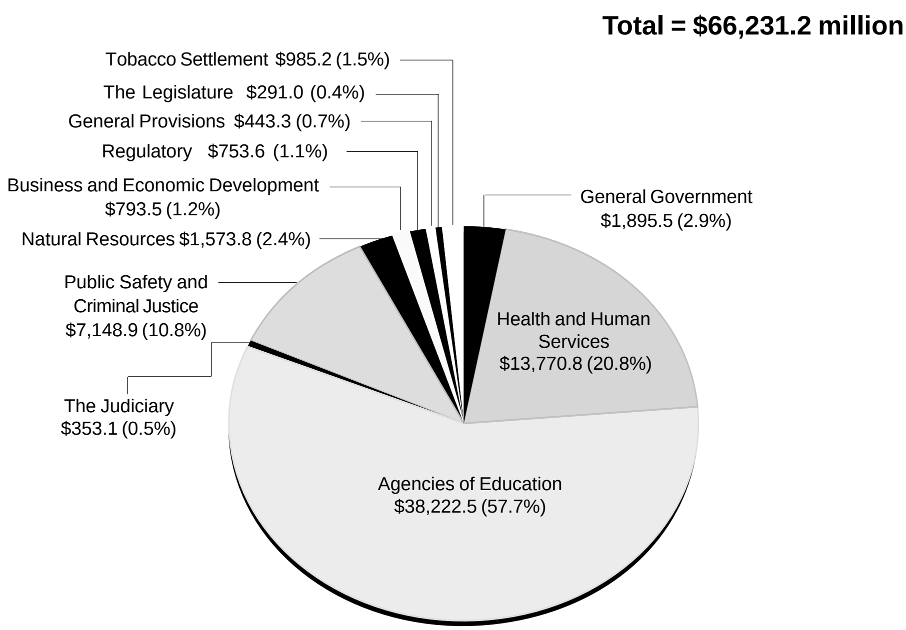
- $200 million to address the projected revenue shortfall in TRS-Care;
- $80 million to the Texas Department of Criminal Justice to repair and rehabilitate prison facilities;
- $40 million to the Texas Higher Education Coordinating Board for the Tuition Equalization Grant program; and
- $10 million to the Texas Parks and Wildlife Department to establish or restore services at state parks.

Contingent appropriations. Many riders in SB 1 will appropriate additional funds for various programs in the event that biennial revenue collections exceed the comptroller's certification estimate. Art. 9, sec. 10.17 specifies the priority order of contingent appropriations, which total about $433 million in general revenue, net of the governor's vetoes of several contingency items.

The largest single item is a $200 million appropriation to the comptroller to create a reserve fund to meet "emergency or contingency needs," subject to LBB approval (Art. 9, sec. 10.06). Such needs may be related to youth and adult correctional populations, HHS caseloads and costs, and the Foundation School Program. The comptroller must transfer and release such funds to the agencies or institutions most able to meet those needs, as directed by LBB and the governor. Other contingent appropriations cover an additional 3 percent pay increase for state employees in fiscal 2003, additional funding for junior colleges, judicial salary increases, and funding for individual programs contingent on the enactment of specific bills.

Governor's vetoes. Art. 4, sec. 14 of the Texas Constitution grants the governor line-item veto authority over any spending bill containing more than one item of appropriation. By a June 17 proclamation, Gov. Rick Perry vetoed $75.1 million in certified appropriations and another $480.8 million in appropriations (including federal funds) contingent on certification of additional revenue. The governor vetoed nine separate appropriations

Figure 2
General Revenue–Related Appropriations by Function, Fiscal 2002-03
(in millions)



Notes: Figures include general revenue and general revenue-dedicated funds. Totals may not add because of rounding.

Source: Legislative Budget Board, Summary of Conference Committee Report on Senate Bill 1.

contingent on legislation that failed to pass both houses and three separate appropriations contingent on the enactment of other bills the governor had vetoed.

Gov. Perry vetoed an appropriation of $45 million in bond proceeds for the Texas Historical Commission (THC), contingent on voter approval of the constitutional amendment proposed by HJR 97, because THC received a general revenue appropriation of $50 million for its Courthouse Preservation Program. The governor also struck one year ($1 million) of the biennial appropriation for the new Office of Rural Community Affairs and the first year of proposed salary increases for state judges, totaling about $5 million in salaries and benefits.

Deferred payments. Rider 53 for the Health and Human Services Commission authorizes the agency to defer its August 2003 premium payment of $270 million to the National Heritage Insurance Co. (NHIC) until September 2003, the first month of fiscal 2004. NHIC administers the state's Medicaid program. Similarly, Rider 34 for the Department of Human Services authorizes the agency to defer its August 2003 payment of about $135 million to nursing home providers until September 2003 (fiscal 2004). The fiscal 2000-01 budget act contained similar deferred-payment provisions.

In the enrolled version of SB 1 sent to the governor, the two riders would have appropriated the necessary amounts (including about $161 million in general revenue) to make the August 2003 payments in the event that sufficient revenue became available. However, Gov. Perry vetoed these contingent appropriations, saying that those amounts, if available, should be used instead to fund the emergency reserve authorized under Article 9.

Rainy day fund. The Texas Constitution and state law require that part of any balance remaining in the general revenue fund at the end of a fiscal biennium be transferred to the economic stabilization or "rainy day" fund. By the 90th day of each biennium, the comptroller must transfer to this fund one-half of any unencumbered positive balance of general revenue on the last day of the preceding biennium. The fund also must receive 75 percent of any oil or natural gas production tax revenue that exceeds the amount collected in fiscal 1987.

The rainy day fund ended fiscal 2001 with a balance of about $197 million, up from $85 million at the end of fiscal 2000, because of increased transfers of natural gas tax revenue. Mounting gas-tax transfers are projected to boost the fund to $881 million by the end of fiscal 2003.

The fund is meant to be reserved for spending when state revenue drops unexpectedly. However, the Legislature may appropriate any amount from the fund for any purpose if at least two-thirds of the members present in each house approve. During the mid-1990s, lawmakers authorized spending of about $200 million from the rainy day fund on criminal justice programs. No transfers have been authorized since fiscal 1994-95.

During deliberations over the fiscal 2002-03 budget, some lawmakers advocated using money from the rainy day fund to pay for various spending priorities. The Article 11 "wish list" of the Senate-passed version of SB 1 contained a provision that would have appropriated money to the comptroller from the rainy day fund for state emergency needs if LBB determined that available funds were insufficient to meet those needs. However, the House-Senate conference committee did not adopt that provision.

Cross-agency funding provisions

State employee compensation. Article 9 provides a 4 percent salary increase, with a minimum increase of $100 per month, for state agency employees and non-faculty employees of higher education institutions in fiscal 2002. These increases are built into the salary schedule tables under Article 9. Eligible workers must have been employed continuously for at least 12 months before September 1, 2001. Those employed before March 1, 2002, who do not qualify for the 4 percent increase will receive the raise on September 1, 2002, and those employed between March 1 and August 31, 2002, will receive the raise on March 1, 2003.

The cost of salary increases for fiscal 2002, including benefits and longevity pay, is $593 million in all funds. HB 2914 by Bonnen authorizes the longevity pay change, entitling employees to an extra $20 per month for each three years of service, rather than for each five years. If the comptroller certifies that enough revenue is available, employees employed continuously for at least 12 months before September 1, 2002, will receive an additional 3 percent salary increase in fiscal 2003, with a minimum increase of $65 per month, at a cost of $180 million in all funds.

SB 1 also eliminates the cap on merit salary increases and promotions — formerly limited to 1.7 percent of an agency's total expenditure for classified salaries in the preceding fiscal year — and expands retention bonus authority to apply to any classified employee. Art. 9, sec. 3.07 allows agency executives to award a retention bonus of up to $3,000 for any employee deemed necessary to the agency's operations. The employee must remain with the agency or institution at least 12 months, and the agency must document with the comptroller the need for the employee. Lawmakers established the retention bonus plan in fiscal 1998-99 to retain critical information-technology staff for the "Y2K" technology rollover.

FTE levels. The number of authorized full-time equivalent (FTE) state employees will increase by more than 1,000 in fiscal 2003, from about 229,300 in fiscal 2001. Art. 9, sec. 6.14 prohibits state agencies and higher education institutions from having on their payrolls a number of employees that would exceed their budgeted FTE caps, originally set in the fiscal 2000-01 budget act. An agency must receive approval from LBB and the governor to exceed its budgeted FTE level. However, the statewide number of budgeted positions for fiscal 2002-03 exceeds the total cap, primarily because of increases in higher education staff and faculty, according to LBB. SB 1 retains provisions adopted in fiscal 2000-01 that prohibit an agency from entering into contracts with independent contractors, consultants, and other temporary workers without first developing a comprehensive policy and rationale for employing such workers.

Agency leases and relocations. During appropriations hearings, budget writers expressed concerns about increased costs to state agencies due to rising rental rates for office space in the Austin area. Art. 9, Sec. 10.10 directs agencies to end all emergency leases during fiscal 2002-03. An agency that is in an emergency lease agreement after September 1, 2001, will have its appropriation reduced by the amount of any rental surcharge above the agency's base-level rent.

In Article 8's Special Provisions Relating to All Regulatory Agencies, Rider 5 requires any agency with a lease expiring in the Austin area during fiscal 2002-03 to explore the feasibility of relocating outside the area. Such agencies must study the costs and benefits of the possible relocation and report to the Legislature at least two months before their lease terms expire. Other portions of SB 1 require individual agencies to relocate employees as follows:

- Rider 82 for the Texas Education Agency requires the agency to shift up to 50 FTE positions "efficiently and reasonably" to locations outside Travis County and to report to the governor and LBB on the progress of this effort by January 1, 2003.
- Rider 3 for the Structural Pest Control Board directs the board to relocate its headquarters outside of Austin during fiscal 2003.
- Rider 9 for the Real Estate Commission requires the commission to relocate 15 employees outside of Austin by January 1, 2003.
- Rider 9 for the Department of Banking requires the agency to study relocating its Austin regional office with 13 FTEs outside of Austin and to move the office to the most cost-effective location by the end of fiscal 2003.

Travel reimbursement. Art. 9, sec. 5.09 modifies the cap on travel expenditures to apply only to out-of-state travel. Previous budget acts capped expenditures for all travel. SB 1 caps out-of-state travel expenses at an agency's approved level for fiscal 2000, rather than at the fiscal 1998 level, as in the fiscal 2000-01 budget.

Art. 9, sec. 5.04 raises the maximum reimbursement rate for travel mileage to 35 cents per mile, from 28 cents in fiscal 2000-01. Sec. 5.06 increases the maximum reimbursement for travel meals to $30 per day, from $25, and the maximum reimbursement for travel lodging to $80 per day, from $70.

Limit on capital budget transfers. Art. 9, sec. 6.17 imposes additional restrictions on agencies' authority to transfer appropriations from one capital budget item to another. The amount transferred may not exceed 25 percent of either the amount of the item from which funds are transferred or of the amount of the item to which funds are transferred. For fiscal 2000-01, transfers were limited only to 25 percent of the item from which funds were transferred.

Notifying LBB of settlement of large lawsuits. Art. 9, sec. 6.26 newly prohibits state government entities that receive more than $500,000 as part of the settlement of a lawsuit from spending the money unless they notify LBB of the terms of the settlement and of any plans to use the money at least 12 days before the settlement is approved.

These requirements do not apply to litigation resulting from a state entity's duties as a receiver, liquidator, or liquidating agent of an insolvent entity.

Lost property. Art. 9, sec. 9.03 newly requires state agencies and higher education institutions to report annually to LBB and the comptroller the value of lost or missing property and requires the comptroller to withhold general revenue appropriations equal to 50 percent of the value of such property.

Information technology purchases. Art. 9, sec. 10.08 requires higher education institutions to have biennial operating plans and information resources strategic plans that are consistent with their capital budgets and approved by LBB before they may spend any funds for information technology. Sec. 10.09 requires institutions to perform cost-benefit analyses of leasing versus buying this technology and to develop schedules for replacing personal computers.

Health and Human Services Spending

The 13 health and human services (HHS) agencies in Article 2 constitute Texas' second largest budget function after public and higher education, accounting for about 31 percent of the total budget for fiscal 2002-03 and 21 percent of general revenue-related spending. These agencies receive funding from multiple federal, state, and local sources and vary widely in size, mission, and funding mix.

HHS functions are the primary factor in the overall increase in the state budget for fiscal 2002-03. Article 2 of SB 1 increases total funding for HHS agencies to nearly $35 billion, about 17 percent more than in fiscal 2000-01. The general revenue-related portion, $13.8 billion, reflects an increase of nearly 15 percent. In addition, Article 12 appropriates nearly $1 billion in tobacco-settlement funds for HHS programs (see pages 26-27).

Federal directives drive many HHS programs. Entitlement programs such as Medicaid, Temporary Assistance to Needy Families (TANF), and food stamps require the state to serve all people who meet the eligibility standards. Federal funds account for about 60 percent of all HHS spending in Texas and often require matching contributions from the state. Funding for Medicaid and TANF, the two largest sources of federal funds, crosses several state agencies, including programs administered by the Texas Education Agency (TEA, in Article 3) and by the Texas Workforce Commission (TWC, in Article 7).

Much of the increase in Article 2 spending is due to larger caseloads and changes in the population mix for Medicaid, funded through the Texas Department of Health (TDH), and for TANF, administered by the Texas Department of Human Services (DHS). Entitlement caseloads in Texas and other states have declined in recent years. However, during fiscal 2000-01, Medicaid caseloads did not decline as quickly as expected, and the clients who remain are considered more difficult to serve and to move off the caseload.

Medicaid

Medicaid, the federal-state health insurance program serving the poor, elderly, and disabled, is the largest single source of federal funds in the state budget.

Table 2
Health and Human Services Spending
(Funds in millions)

	Expended/ budgeted, FY 2000-01	FY 2002-03	Biennial change	Percent change
General revenue-related funds	$12,026.6	$13,770.8	$1,744.2	14.5%
Federal funds	17,687.5	20,995.8	3,308.4	18.7
Other funds	162.1	222.9	60.8	37.5
All funds	**$29,876.2**	**$34,989.6**	**$5,113.4**	**17.1%**

Note: Figures for fiscal 2000-01 include anticipated supplemental spending needs. Figures do not include Article 12 appropriations for health and human services from tobacco-settlement receipts and earnings. Totals may not add because of rounding.

Source: Legislative Budget Board, Summary of Conference Committee Report on Senate Bill 1.

Medicaid expenditures are split between the federal government and the states according to each state's relative average per-capita income, adjusted annually. In fiscal 2002-03, Texas is expected to pay almost 40 percent of all program costs. The state's share has risen in recent years because income growth in Texas generally has been stronger than in the nation as a whole. Federal law requires states to provide medically necessary care to all Medicaid-eligible people who seek services, and the state may not cap enrollment.

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

The recent slowdown in the reduction of the Medicaid caseload was the main cause of the HHS budget shortfall during fiscal 2000-01. HB 1333 by Junell, enacted by the 77th Legislature, transferred unencumbered funds from certain agencies and appropriated supplemental funds for fiscal 2001, giving TDH an additional $485 million to provide Medicaid services for the rest of the fiscal year.

For fiscal 2002-03, Medicaid receives a net increase of almost $2.1 billion in state general revenue and $4.3 billion in federal funds. In addition, Article 12 of SB 1 appropriates about $460 million in tobacco-settlement funds for Medicaid functions, expected to draw down about $690 million in federal funds that are included in the agencies' Article 2 appropriation totals.

One of the most visible policy changes during fiscal 2002-03 will be simplifying Medicaid applications for children, in line with application procedures for the Children's Health Insurance Program (CHIP), which serves uninsured low-income families in the same communities in which Medicaid-eligible families live. Because active outreach is a condition for CHIP to receive federal funding, the CHIP application process is considered easy for clients to use, whereas the Medicaid program has presented barriers to enrollment. SB 43 by Zaffirini, enacted by the 77th Legislature, aligns Medicaid application procedures with those for CHIP, including authorizing 12-month continuous eligibility for Medicaid, eliminating an asset test for recipients, eliminating a face-to-face interview, and simplifying the application form. To pay for the higher enrollment and retention expected as a result of these changes, Article 12 appropriates $122.6 million of tobacco-settlement funds. All state appropriations for CHIP, totaling $419 million in fiscal 2002-03, come from tobacco funds.

Medicaid funding also increases for waiting lists and waiver services, nursing home facilities, and community care services. Dentists, outpatient providers and doctors, and managed-care plans that are Medicaid providers receive an additional $140 million in general revenue ($471 million in all funds, including $120 million in tobacco funds) for rate increases.

TANF

The 1996 federal welfare-reform law created TANF to replace Aid to Families with Dependent Children (AFDC) and other assistance programs. Texas initially received more federal funds through TANF than it would have received before welfare reform, and lower-than-expected welfare caseloads left sizeable unspent funds. The state has used those surplus funds to cover spending for TANF-related programs that cost more than the state's federal grant. Because federal law authorizes TANF through September 1, 2002, Congress will need to reauthorize funding for the program to continue.

To receive TANF funds, Texas must meet a maintenance-of-effort (MOE) requirement to spend on TANF at least 75 to 80 percent of its 1994 spending on AFDC. To maintain the current 80 percent MOE, Texas must spend at least $251 million in general revenue per year on TANF. TANF programs may be paid for entirely with federal TANF funds, with federal funds and state MOE funds, or with MOE alone.

In the past, TANF surpluses were transferred into other federal block-grant funding programs such as Title XX, the federal social-services block grant, or the Child Care and Development Fund. With declining TANF surplus funds, lawmakers have shifted funding back to earlier methods of finance, such as Child Care and Development Fund monies for child care through TWC, and have scaled back some programs. SB 1 removes TANF funds from TWC, TEA, and the Department of Protective and Regulatory Services.

Medicaid cost savings in dispute

The 77th Legislature enacted an "omnibus" Medicaid bill, SB 1156 by Zaffirini, but Gov. Rick Perry vetoed it. The bill would have changed Texas' Medicaid program in the areas of administration, eligibility and benefits, managed care, and demonstration projects. Some provisions of SB 1156 were contained in other enacted bills that were not vetoed, such as the premium payment reimbursement program, which allows the state to contain costs in the Medicaid program when access to other health insurance is available; extended Medicaid coverage for children in transition from foster care to independent living; and a program of all-inclusive care for the elderly.

As enacted, SB 1156 was estimated to save the state a net $99 million in fiscal 2002-03 and about $417 million over five years. SB 1156 proponents argue that the bill took into account the totality of changes to the Medicaid program, including simplification of the Medicaid application process. The governor's veto, they maintain, will prevent SB 1156's projected savings from being realized, while other major program changes not contained in the bill will stand. Because the savings counted on to pay for Medicaid simplification have been vetoed, they say, SB 1 may not contain sufficient funding for Medicaid in fiscal 2002-03.

In his veto proclamation, Gov. Perry stated that the Health and Human Services Commission (HHSC) has the authority to pursue cost-saving proposals contained in SB 1156. The Governor's Office has said that it expects HHSC to realize sufficient savings through cost cutting, as directed by SB 1, to pay for changes in the Medicaid program. Among other provisions, the budget act reduces funding for Medicaid by $480 million in all funds (including $205 million in general revenue) to reflect HHSC's cost containment and savings efforts and allows funding for Medicaid simplification. Supporters of the vetoed bill disagree with the assessment that HHSC can achieve the level of savings that the Medicaid program will need without SB 1156. They claim that some of the savings envisioned in SB 1 come from one-time items that will not continue to save the state money in coming years.

The veto also has fiscal implications for some local governments. SB 1156 would have established Medicaid demonstration projects, as authorized by the federal government for states that wish to try innovative programs. The projects included providing psychotropic and HIV/AIDS medications, federal-local medical assistance for adults, women's health services, and a migrant health-care network for children. These demonstration projects would have drawn down federal funds to match what local communities already spend for these health services. The veto of SB 1156 means that local communities will not be able to receive federal matching funds to reduce the programs' local costs.

Other HHS programs

Nursing homes. Payments for nursing home and hospice services will increase by a net $818 million over fiscal 2000-01 levels to cover the increased state Medicaid match, higher levels of client need, caseload growth, and reimbursement for facility staffing and quality of care. SB 1 defers the August 2003 payment for nursing facility services, totaling $135 million in all funds, until September 2003 (fiscal 2004).

Community care services. Article 2 of SB 1 increases DHS funding for community care services by $351 million in all funds. In addition, Article 12 appropriates $136 million to DHS for community care. These programs provide services such as nursing care, attendant services, medications, and home modifications for low-income elderly, chronically ill, and disabled people in their homes and communities. Reducing waiting lists for these services has become a more urgent priority in the wake of the 1999 U.S. Supreme Court decision in

Olmstead vs. L.C., which established the right of people with disabilities to live in the community, rather than in institutions, if that is the most appropriate setting.

Under federal law, Medicaid can pay for long-term care services only in institutional settings unless the client obtains a waiver. Medicaid waiver slots are the primary mechanism for moving people with disabilities from institutional to community settings. DHS administers three main waiver programs: Community-Based Alternatives for people with disabilities who are eligible for nursing home care; Community Living Assistance and Support Services for people with developmental disabilities other than mental retardation; and the Medically Dependent Children's Program.

Fiscal 2002-03 budget increases should allow the Medicaid program to meet caseload growth and increase the number of clients in waiver programs by about 5,600 per year. According to estimates during the legislative session, the increased funding still could leave 26,000 on waiting lists for community-based services.

MHMR funding. The Texas Department of Mental Health and Mental Retardation (MHMR) receives a net increase of about $86 million over fiscal 2000-01 spending. Community-based services for the mentally retarded receive an increase of about $62 million to serve current caseloads.

MHMR administers a Medicaid waiver program, Home and Community-Based Services (HCS), that provides therapeutic and family-support services deemed necessary to maintain a mentally retarded person at home or in a small-group home as an alternative to institutional placement. MHMR receives an additional $30 million in tobacco-settlement funds to pay for a rate increase for providers and to serve an additional 259 mentally retarded clients through HSC waivers, 130 clients leaving state schools, and 276 clients moving from intermediate care facilities.

Child Protective Services (CPS). CPS, which fields and investigates reports of child abuse and neglect, receives an increase of about $80 million for fiscal 2002-03. These increases are aimed at reducing caseloads, improving CPS investigations and assessments, buying services to treat abused or neglected children, and increasing rates of reimbursement for foster care providers and adoption subsidies.

Public Education Spending

Public education accounts for nearly 30 percent of all spending and 40 percent of general revenue-related spending planned for fiscal 2002-03. About 90 percent of public education funds flow through the Texas Education Agency (TEA). Other related entities funded include the Teacher Retirement System (TRS), State Board for Educator Certification, School for the Deaf, School for the Blind and Visually Impaired, and Telecommunications Infrastructure Fund Board.

The fiscal 2002-03 budget increases total funding for public education, including employee benefits, by about $2 billion over fiscal 2000-01, an increase of nearly 7 percent. More than half of the net increase will pay for the new state-funded health insurance program for public school employees, established by HB 3343 by Sadler. Most of the remainder is targeted for maintaining equity in the school finance system, helping local school districts make debt payments for new instructional facilities, and covering the projected deficit in TRS-Care, the health insurance fund for public school retirees.

Aside from the new health insurance plan, public education plays a much less prominent role in driving the overall budget increase in fiscal 2002-03 than in the recent past. The net increase in state general revenue spending for this function, including increases to TRS, is only $510 million, or 2 percent. Federal funds, however, increase by $889 million, or nearly 20 percent, covering school breakfast and lunch programs, special education, school renovation grants, and teacher preparation, among other programs.

Budget factors

State funding for public schools is a function mainly of student enrollment, local tax contributions, and court-imposed equity standards that require the state to finance public education in a manner that gives school districts substantially equal access to similar revenues per pupil at similar levels of tax effort. More than 3.7 million students attended Texas public schools in 2000. LBB projects that enrollment growth will bring this total up to 3.9 million students by 2003.

State funds for public schools are allocated through the Foundation School Program (FSP). In fiscal 2000-01, FSP funds accounted for about 44 percent of all school funding in Texas. Under SB 1, by 2003, the state's share of public school funding will fall, but according to TEA, the state will continue to meet its court-imposed equity standard.

Table 3
Public Education Spending
(Funds in millions)

	Expended/budgeted, FY 2000-01	FY 2002-03	Biennial change	Percent change
General revenue funds	$25,468.3	$25,978.5	$ 510.2	2.0%
Federal funds	4,520.2	5,408.9	888.7	19.7
Other funds	1,185.4	1,829.2	643.8	54.3
All funds	**$31,173.8**	**$33,216.5**	**$2,042.7**	**6.6%**

Note: Totals may not add because of rounding.

Source: Legislative Budget Board, Summary of Conference Committee Report on Senate Bill 1.

Local property values determine how much money school districts should be able to raise and how much state funding is needed for public education. As property values go up, state funding can go down because districts can raise more revenue from property taxes. Because statewide property values rose in fiscal 2000 by almost 9 percent over 1999 values, the state was able to reduce its funding for basic public education by almost $1.3 billion in fiscal 2002-03. The new expenditure on public school employees' health insurance offsets the decrease in other state funding for public education.

School districts are expected to refund an estimated $800 million to the state this year due to overestimates of their average daily attendance (ADA), a key component of the formula for state aid, and underestimates of the growth in local property-value appraisals. Rider 35 appropriates these "settle-up" funds to TEA for distribution to school districts through the FSP.

School facilities generally are financed by bonds approved by local taxpayers. Since 1997, most facility payments have been equalized with state funds, but as schools have grown, many districts have had to build facilities for which debt payments are not equalized.

School finance provisions

Funding in SB 1 and adjustments to school finance formulas in HB 2879 by Sadler should enable public schools to meet projected enrollment growth, establish the new group health plan for school employees, and maintain equity in the school finance system until an interim committee can examine these issues in greater detail. SB 1 appropriates $21.2 billion for FSP equalized operations and $1.1 billion for equalized facilities.

For every penny of local property-tax effort, most school districts receive state funds through formulas designed to equalize the tax effort of rich and poor districts. About 100 wealthy districts with property values per student exceeding $295,000 contribute revenue to the state or to other districts as part of the equalization system. HB 2879 increases the equalized wealth level triggering school district contributions to $300,000 in fiscal 2002 and to $305,000 in fiscal 2003.

Tier 1, the basic allotment for each student in attendance, ensures a base funding level for all students up to a local tax rate of $0.86 per $100 of property value. All districts are entitled to a basic allotment of $2,537 per student in ADA. If a district cannot generate its entitlement with local revenue, the state makes up the difference. The 77th Legislature did not change the basic allotment.

Tier 2, guaranteed yield, is designed to maintain equity in the system by ensuring that a district generates no less than a certain amount of revenue per penny on a district-set tax rate between $0.86 and $1.50. The state guarantees a specific revenue yield per "weighted" student (WADA) per penny of local tax effort, regardless of local property wealth. The weights are based on factors that provide extra funding for students with special needs, such as the location and duration of daily instruction for students in special education, compensatory education for students performing below grade level, students enrolled in career and technology courses, students who are bilingual or speak English as a second language, and gifted and talented students. TEA Rider 48 sets the guaranteed yield level at $24.99 per WADA per penny of tax effort; if a district's wealth level generates less than that amount, the state makes up the difference. HB 2879 raises the guaranteed yield to $25.81 on September 1, 2001, and to $27.14 on September 1, 2002.

Tier 3, facilities funding, includes both the Existing Debt Allotment (EDA) and the Instructional Facilities Allotment (IFA). EDA provides state assistance through a guaranteed-yield system for tax effort related to school district bonds. HB 2879 increases the number of cents that may be equalized under EDA from $0.12 to $0.29, for an appropriation of up to $50 million.

IFA assists school districts with debt payments for new instructional facilities. SB 1 allots IFA an additional $13 million to maintain current issuances. This increase is much less than in past years because rising local property values have allowed the state's share of assistance to fall. For both EDA and IFA, the yield per penny of local tax effort in Tier 3 is $35 per student (not "weighted"), or a greater amount provided by appropriation. HB 2879 changes the guaranteed level to $35 for eligible bonds for which the district first received state assistance before September 1, 2001, and to $25 for eligible bonds for which the district first received state assistance on or after that date.

Health plan for school employees

A major priority for the 76th Legislature was increasing teacher salaries. The 77th Legislature addressed a more expensive priority, support for establishing a basic level of health insurance benefits for school employees. HB 3343 by Sadler creates a uniform health insurance plan for school districts with 500 or fewer employees, beginning with the 2002-03 school year, to be administered by TRS. Districts with up to 1,000 employees may opt into the plan in 2002; larger school districts may opt in by 2005, or earlier if TRS approves.

In general, funding for the premiums for the new plan, like other state assistance to public schools, flows through the FSP. The adjustments to guaranteed yield and the equalized wealth level in HB 2789 are intended to ensure that school districts can afford to provide basic health insurance for their employees. In addition, nearly $700 million was transferred from the FSP to TRS to cover costs of the new program. Implementation is estimated to cost $1.2 billion in fiscal 2003, the first year. Rider 9 for TRS appropriates an estimated $22 million from fees paid by active school-district employees during 1994-1997 to cover design and start-up costs in fiscal 2002.

FSP formula funding will provide at least $75 per month ($900 per year) for every participating school-district employee, regional service center employee, and charter-school employee, regardless of whether the district participates in the state plan. In addition, every eligible employee will receive a $1,000 passthrough from TRS that will be held in trust by the school district until the employee decides whether to use it for a medical savings account, dependent coverage, and/or a salary supplement. The state also will pay the cost of health coverage for children of low-income employees who are disqualified from the Children's Health Insurance Program as a result of the new state program.

All school districts must maintain their current efforts to fund health insurance or must contribute at least $150 per month ($1,800 per year) per participating employee, whichever is greater. A "hold-harmless" clause will provide graduated assistance to districts that cannot meet their minimum contributions immediately. School districts that now contribute more than $150 per month per employee must use the excess for employee compensation or benefits. Excess contributions could be applied to salary step increases if a participating school district already is making its minimum contribution. The Legislature intended that school districts not substitute the $1,000 employee passthrough for future pay increases.

Increasing the Tier 2 yield normally would affect the minimum salary schedule; however, HB 3343 directs schools to target 75 percent of all new money received under the equalized wealth and guaranteed yield provisions toward providing health insurance for employees. "Gap districts" in which these revenue gains are not sufficient to cover the district's minimum contribution for employee health insurance will receive additional state funds.

Other major appropriations

SB 1 boosts funding for TRS by about $691 million in all funds for fiscal 2002-03, an increase of 27 percent, largely to cover the projected deficit in TRS-Care. Health-care costs are rising much faster than either inflation or program revenues, with claims costs projected to increase at annual rates of 12 to 18 percent. Similar increases have occurred in health-plan expenses for employees of state agencies and higher education institutions.

SB 1 continues funding for programs to teach reading skills and adult literacy and provides funding for a new mathematics initiative. The math and reading initiatives are combined in a single line item totaling $64 million, governed by TEA Rider 55. In further support of this goal, Rider 64 allocates $20 million to the Master Reading and Mathematics Teacher Program for teacher stipends. The Student Success Initiative, designed to get children to read on grade level by third grade, receives $567 million for fiscal 2002-03, more than double the amount provided in the previous biennium.

TEA receives a $19 million transfer from the Texas Department of Criminal Justice to increase funding for the Windham School District, for a total appropriation of $142 million in fiscal 2002-03. Windham provides basic education, including literacy skills, to Texas prison inmates.

The Texas School for the Blind and Visually Impaired (TSBVI) and Texas School for the Deaf (TSD) receive one-time appropriations for campus renovations needed to help them comply with the federal Americans with Disabilities Act. TSBVI gains $7 million, and TSD gains $5 million in general-obligation bond proceeds.

Higher Education Spending

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

About 80 percent of state funding for four-year general academic institutions flows through the Texas Higher Education Coordinating Board (THECB) by means of funding formulas that address instruction (semester credit hours), operations, and infrastructure. These institutions also are appropriated revenue from tuition and fees. Public community and technical colleges receive nearly all of their state appropriations through formulas based on contact (classroom) hours. Community colleges also are supported by local property taxes. Health-related institutions receive state general-revenue allocations through a combination of formula funding, special items, tuition revenue bonds, and revenue generated by hospital services.

Article 3 of SB 1 appropriates $15.5 billion for higher education in fiscal 2002-03, an increase of nearly $1.4 billion (10 percent) over fiscal 2000-01. This figure includes appropriations for employee benefits, not shown in Table 4. General revenue-related funds account for about three-quarters of all expenditures and four-fifths of the increase from the previous biennium.

In addition to Article 3 appropriations, higher education institutions and agencies will receive about $91 million from tobacco-settlement receipts and earnings under Article 12 (see pages 26-27). Also, Article 9 appropriates about $34 million for the Texas Excellence Fund, created by HB 1839 by Junell, and $76 million for debt service on tuition revenue bonds authorized by HB 658 by Junell. The latter act authorizes about $1 billion in new bonds at certain universities and university systems to pay for infrastructure projects.

The overall increase for higher education includes an additional $280 million for the Toward EXcellence, Access, and Success (TEXAS) Grant program; an additional $160 million to fund enrollment growth at

Table 4
Higher Education Spending
(All funds in millions)

	Expended/budgeted, FY 2000-01	FY 2002-03	Biennial change	Percent change
General academic institutions	$ 4,549.4	$ 4,795.2	$ 245.8	5.4%
Health-related institutions	3,803.1	4,156.5	353.4	9.3
Two-year institutions	1,641.8	1,782.5	140.8	8.6
Texas A&M agencies	634.6	596.9	(37.7)	(5.9)
Higher Education Fund	448.7	448.7	0.0	0.0
Available University Fund	652.1	725.9	73.8	11.3
Other	591.2	901.4	310.2	52.5
Total	**$12,321.0**	**$13,407.1**	**$1,086.2**	**8.8%**

Note: Figures do not include spending for employee benefits nor appropriations for higher education institutions under Articles 9 and 12. Totals may not add because of rounding.

Source: Legislative Budget Board, Summary of Conference Committee Report on Senate Bill 1.

general academic and two-year institutions; a $129 million increase in formula funding; a $112 million increase for new and enhanced special items at general academic and health-related institutions; and a $40 million increase for Tuition Equalization Grants.

SB 1 also increases funding to the Available University Fund (AUF) by $74 million as a consequence of Proposition 17, the constitutional amendment approved by voters in November 1999, which revised Permanent University Fund (PUF) distribution and investment practices. The amendment allows distributions to the AUF based on the total returns on all PUF investments, including capital gains.

General academic institutions

Debate on higher education funding during the 2001 legislative session focused on whether the budget was adequate to prepare an educated workforce for the 21st century economy and to keep Texas institutions competitive with university systems in other large states. Higher education advocates called for increased funding for research and “excellence” to enable some institutions to reach “flagship” status — currently held only by the University of Texas at Austin (UT) and Texas A&M University (TAMU) — while helping other institutions achieve national recognition in their areas of expertise.

HB 1839 creates the Texas Excellence Fund (TEF) and the University Research Fund (URF) to promote increased research capacity and institutional excellence. The TEF, for 21 institutions outside the UT and TAMU systems that receive appropriations through the Higher Education Fund (HEF), will be financed from investment earnings of the HEF. The URF is appropriated general revenue to support eight institutions that participate in the PUF, other than UT-Austin, TAMU, or Prairie View A&M University.

The funds have different allocation formulas, but each will receive the same amount of money each fiscal year. For fiscal 2002-03, the appropriation is $33.8 million. The allocation formulas are scheduled to expire August 31, 2005. A House-Senate interim committee is to review excellence funding and report its recommendations by December 1, 2002.

SB 1 provides an increase of $68 million for general academic institutions, distributed through the funding formulas, to continue faculty and nonfaculty salary increases authorized by the 76th Legislature in 1999. The budget also provides a $72 million increase to fund enrollment growth of 3.1 percent and $47 million for formula increases. Rider 37 for THECB changes the method by which enrollment growth is calculated, basing the funding on actual growth rather than on projected growth. Other significant increases include $58 million for institutional enhancements and $47 million for new and enhanced special items.

SB 1 also includes a $50 million increase to comply with Texas’ commitment to the U.S. Office of Civil Rights’ (OCR) Priority Plan for Texas Southern University and Prairie View A&M. The plan was developed by the Governor’s Office, THECB, higher education and community leaders, the two institutions, and the U.S. Department of Education’s OCR. The universities will use these funds for academic and institutional enhancements.

In fiscal 2000-01, certain institutions received funds to offset declines in their formula appropriations due to changes in enrollment. To address potential shortfalls during fiscal 2002-03, the budget includes $23 million in “hold harmless” money for these institutions.

Health-related institutions

As part of the $4.2 billion appropriated to health-related institutions, major increases include an additional $173 million in patient income, for an estimated total of $1.9 billion for fiscal 2002-03. This includes $1.4 billion for the University of Texas M.D. Anderson Cancer Center, a $190 million increase from fiscal 2000-01, partially offset by a $17 million decrease among other institutions that operate hospitals or clinics. This is a new method of financing to account for patient income at medical schools that operate a hospital or dental clinic. Patient income is generated locally, and the institutions are allowed to keep the levels of income they generate. An increase in this income means that the school expects to see more patients, has added new services, or may be charging more for its services. SB 1 also increases general-revenue formula appropriations to health science centers by $31 million and increases other educational and general income by $61 million.

The fiscal 2002-03 budget provides $32 million to continue salary increases authorized by the 76th Legislature; an increase of $65 million for new and enhanced special items; and $6 million of "hold harmless" funding for health-related institutions to ensure that all institutions receive at least the same amount of formula funding as in fiscal 2000-01.

Under Article 12, health-related institutions, including the Baylor College of Medicine, will receive a total of about $85 million in interest earnings from endowments established with tobacco-settlement receipts in 1999.

Two-year institutions

Public community colleges are growing rapidly, and demographic projections indicate that this trend will continue. More students now attend Texas' public community colleges than attend public four-year universities.

The fiscal 2002-03 budget allots two-year institutions $1.7 billion, 9 percent more than in the previous biennium. This includes an additional $88 million for enrollment growth of 5.7 percent and a $51 million increase in contact-hour formula funding. Rider 21 for THECB changes the method by which enrollment growth is calculated, basing the funding on actual rather than projected growth.

Under Art. 9, sec. 10.17, junior college formula funding is second in priority for appropriations contingent on the availability of additional revenue. The contingent appropriation in Art. 3, sec. 51, Special Provisions Relating Only to State Agencies of Higher Education, would add another $10 million in formula funding.

Financial aid programs

Both THECB and the governor's Special Commission on 21st Century Colleges and Universities focused on steps the state could take to improve the preparation of its future workforce by "closing the gaps" in higher education participation, graduation rates, and funded research over the next 15 years. Recommendations included expanding the TEXAS Grant program and similar need-based financial aid programs.

THECB's fiscal 2002-03 budget includes an increase of $280 million for the TEXAS Grant program, for a total of $335 million. This includes $39 million appropriated in HB 1333 by Junell, the supplemental spending bill for fiscal 2001. This program, created by the 76th Legislature in HB 713 by Cuellar, et al., provides need-based grants for low-income students.

THECB also receives $10 million of general revenue for the new TEXAS Grant II program for two-year colleges, established by SB 1596 by Bivins. Under Art. 9, sec. 10.17, this program receives first priority for appropriations contingent on the availability of additional revenue — an additional $10 million, as provided by Rider 55 for THECB.

Another significant increase provides the Tuition Equalization Grant program an additional $40 million, for a total of $165 million. This program helps needy Texas residents pay the difference between tuition at private colleges and comparable public institutions.

The Teach for Texas conditional grant program receives $15 million for fiscal 2002-03, up from $4 million last biennium, as recommended by THECB and the governor. College juniors and seniors may receive Teach for Texas grants if they agree to teach full-time for five years in a field or public school experiencing a critical shortage of teachers.

Public Safety and Criminal Justice Spending

SB 1 slows the growth of spending on public safety and criminal justice in comparison to recent biennia. All-funds spending for Article 5 agencies in fiscal 2002-03 will increase by 2.5 percent, to about $8.3 billion, while general revenue-related spending will rise by 4.5 percent, to $7.1 billion. These percentage increases are slightly more than half of the corresponding rates in the previous biennium. Public safety and criminal justice programs will receive about 7 percent of all funds appropriated and 11 percent of general revenue-related appropriations, both shares slightly lower than in fiscal 2000-01.

During the 1990s, Article 5 spending growth was driven mainly by increases in the number of adult offenders incarcerated in state facilities. From 1989 to 1999, adult correctional capacity (mainly in prisons, state jails, and transfer facilities) more than tripled. As of January 2001, when the Legislature began crafting the fiscal 2002-03 budget, Texas' adult correctional capacity totaled about 155,500 with no overcrowding in state correctional facilities and no backlog of state inmates awaiting transfer to state facilities, according to the Criminal Justice Policy Council (CJPC). As a result, budget writers began to shift funding away from new prison construction toward higher pay for correctional workers and increased services for inmates.

Adult criminal justice

SB 1 appropriates $4.8 billion in general revenue-related funds to the Texas Department of Criminal Justice (TDCJ) for fiscal 2002-03, about $20 million more than in fiscal 2000-01. All-funds spending remains roughly the same at $5.1 billion. The increase in general-revenue related funds goes mainly to provide salary increases for correctional officers, operating funds for correctional capacity added during the previous biennium, and mental health services for inmates.

SB 1 contains no new spending for construction of adult prisons. The CJPC estimated in January 2001 that if parole and discretionary mandatory supervision rates continue at the fiscal 2000 average, the state will not need to build or contract for any new correctional beds through fiscal 2004.

SB 1 reduces overall funding for inmate health care by about $5 million, mainly because of projected savings in prescription drug purchases for inmates. TDCJ contracts with the University of Texas Medical Branch at Galveston and the Texas Tech University Health Sciences Center through the Correctional Managed Health Care Committee (CMHCC) to provide a statewide managed health-care

Table 5
Public Safety and Criminal Justice Spending
(Funds in millions)

	Expended/budgeted, FY 2000-01	FY 2002-03	Biennial change	Percent change
General revenue-related funds	$6,840.8	$7,148.9	$308.1	4.5%
Federal funds	321.9	262.5	(59.4)	(18.4)
Other funds	921.8	878.1	(43.6)	(4.7)
All funds	**$8,084.4**	**$8,289.5**	**$205.1**	**2.5%**

Note: Fiscal 2000-01 amount includes anticipated supplemental spending needs. Totals may not add because of rounding.

Source: Legislative Budget Board, Summary of Conference Committee Report on Senate Bill 1.

network for inmates. Lawmakers directed the CMHCC to use its reserve fund of about $11 million for inmate health-care costs.

SB 1 includes an appropriation for TDCJ, contingent on voter approval of Proposition 8 in the November 2001 constitutional amendment election, of $80 million in general-obligation bond proceeds to repair and rehabilitate facilities and to expand a medical facility.

Juvenile justice

The Texas Youth Commission (TYC) operates state facilities for juvenile offenders, and the Texas Juvenile Probation Commission (TJPC) oversees the community-based juvenile justice system. SB 1 increases general revenue-related funds to TYC by about $32 million, or 7 percent, although total funding declines slightly. TJPC receives an increase of $25 million, or 12 percent.

The fiscal 2002-03 budget contains no funds for increased capacity in state juvenile facilities. TYC's capacity grew from about 1,700 in 1995 to 6,000 at the end of fiscal 2001. In January 2001, the CJPC estimated that TYC had enough capacity to meet demand for the next four years.

SB 1 includes an appropriation for TYC, contingent on voter approval of Proposition 8, of $10.8 million in bond proceeds for repair, replacement, or rehabilitation of buildings, roads, and utilities and construction of an education building.

Salary increases

SB 1 provides targeted salary increases for adult correctional officers and some other TDCJ personnel, TYC juvenile correctional officers, and juvenile probation officers. The TDCJ and TYC personnel receiving these increases are not eligible for the across-the-board increases awarded to other state employees. SB 1 funds salary increases for juvenile probation personnel — who are local rather than state employees — by increasing funding to TJPC, which will pass the money along to local juvenile boards.

SB 1 appropriates $146 million in general revenue to TDCJ for salary increases and to extend the career ladder for correctional officers, parole officers, and other correctional personnel. About $42 million of this will continue the pay raise awarded to some TDCJ officers and other personnel during the interim between the 76th and 77th Legislatures, with the rest going for new raises. TYC receives about $19 million for salary increases and to extend the career ladder for its juvenile correctional officers. SB 1 appropriates $20.5 million for salary increases for juvenile probation officers and other juvenile probation personnel.

Other appropriations

Mental health initiative. SB 1 includes a funding increase of about $35 million for an interagency program for enhanced mental health services for adult and juvenile offenders, with $31 million going to TDCJ and $4 million going to TJPC. Of the amount allocated to TDCJ, about $23 million will go to the Texas Council on Offenders with Mental Impairments, and the remainder to TDCJ's Community Justice Assistance Division for distribution to local probation departments to establish specialized mental health caseloads. TJPC's amount is for specialized caseloads for mentally impaired juvenile probationers.

Cameras for racial profiling ban. SB 1074 by West, enacted by the 77th Legislature, prohibits so-called racial profiling by law enforcement officers. It requires law enforcement agencies to gather, analyze, and report information on traffic and pedestrian stops, but it exempts agencies from this requirement if they install and use video and audio equipment to record stops. SB 1 gives the Department of Public Safety (DPS) $18.5 million in proceeds from general-obligation bonds, contingent on voter approval of Proposition 8, to buy in-car video cameras to implement SB 1074.

Crash records system. Art. 9, sec. 9.12 of SB 1 requires DPS to develop a plan by December 31, 2001, to create a modern Crash Records Information System for use in planning and analyzing state and local efforts to reduce traffic accidents and fatalities. Once LBB and the governor approve the plan, the Texas Department of Insurance is to contribute $2 million from the maintenance tax paid by insurance companies and from agency fees, and the Texas Department of Transportation is to contribute $2 million from available appropriations.

Spending for Other Government Functions

Funding for business and economic development, natural resources, the judiciary, general government, regulatory activities, and the Legislature accounts for slightly less than 18 percent of the total state budget (see Figure 1, page 5). Budget highlights follow.

Natural resources

SB 1 appropriates nearly $2 billion from all funds for fiscal 2002-03 to Article 6 agencies that manage Texas' natural resources, an increase of $39 million, or 2 percent, over fiscal 2000-01. The act reduces total funding to the Texas Natural Resource Conservation Commission (TNRCC) by about $45 million, or almost 6 percent. This reduction is due mainly to the completion during fiscal 2000-01 of settlement payments to Tejas Testing Technology for the state's abrogation of an automobile emissions testing program and to a projected slower rate of petroleum storage tank remediation and federal and state Superfund site cleanups. Funding for the General Land Office and Veteran's Land Board declines by about $9 million, or 10 percent, largely because of a reduction in federal funds for coastal management grants.

Increases for air quality-related appropriations to TNRCC include $4 million to improve agency models that demonstrate attainment of federal air-quality standards (Rider 32). Also, Rider 41 appropriates $17 million in new fee revenue from the expansion of TNRCC's vehicle emissions inspection and maintenance program to fund a new program for low-income vehicle repair assistance, retrofit, and accelerated retirement. The new program, created by HB 2134 by Chisum, will pay for repairs related to bringing a vehicle into compliance with emissions requirements; a replacement vehicle, if the cost of achieving compliance is uneconomical; and installation of retrofit equipment on a vehicle that fails an emissions test.

SB 1 appropriates about $8 million less in fiscal 2002-03 than in the previous biennium to the Texas Water Development Board (TWDB) for making grants to regional water planning groups (RWPGs). Much of the regional water planning process required under SB 1 by Brown, et al., enacted in 1997, was completed during fiscal 2000-01. After reviewing and approving the plans submitted by the RWPGs in January 2001, the board is to develop a comprehensive statewide water plan by January 2002.

TWDB may issue up to $35 million in state participation bonds during fiscal 2002-03. This program helps local entities develop water infrastructure projects that are of regional benefit and could not be built without state participation funds. Under the program, the state retains 50 percent temporary ownership in a project. A local sponsor may repay the loan — that is, buy back the state's temporary ownership — on a deferred timetable, usually beginning after the project has been completed. The repaid principal goes back into the state participation program. SB 1 provides an increase of $3 million to cover debt service for fiscal 2002-03 on the new state participation bonds and $4.4 million for debt service on $50 million in state participation bonds issued during fiscal 2000-01.

Additional funds will be available in fiscal 2002-03 for disposal and recycling of waste tires. Rider 35 for TNRCC provides $7.5 million in fiscal 2002 to award grants for disposal of waste and scrap tires. In awarding the grants, TNRCC must give preference to proposals that involve recycling and that create local jobs. Rider 36 authorizes the agency to award $2 million in grants to support the use of tire-derived fuel (TDF). Use of TDF enables certain industrial facilities, notably cement kilns, to reduce their consumption of fossil fuel while disposing of a difficult waste.

SB 1 continues biennial funding at $50 million for the Texas Department of Agriculture's boll weevil eradication program and continues funding at $9 million for the Soil and Water Conservation Board's brush-control projects, aimed at increasing water yield and availability, primarily in the North Concho River watershed.

Highway funding

Appropriations to the Texas Department of Transportation (TxDOT) will increase by about 11 percent in fiscal 2002-03, to $10.3 billion. TxDOT expects to receive more than $4.6 billion in federal funds during the biennium for highway planning and

Smart Jobs in Limbo

The 77th Legislature appropriated $53 million for fiscal 2002-03 to the Texas Department of Economic Development (TDED) to administer the Smart Jobs program. However, lawmakers did not approve legislation to continue the program itself, which will expire December 31, 2001.

The Smart Jobs program, funded by 0.1 percent of the unemployment insurance tax, provides grants directly to businesses to pay for customized training to upgrade employees' skills. Money for the program is kept in a holding fund each year until the state certifies that the unemployment compensation trust fund, administered by the Texas Workforce Commission (TWC), contains enough money to meet a statutory floor for the unemployment fund. If this threshold is not met, money from the holding fund is transferred into the unemployment fund to bring the fund's balance up to the floor.

Smart Jobs has been frozen since early 2000, when a report by the State Auditor's Office (SAO) found TDED guilty of gross fiscal mismanagement and concluded that the program had placed state funds at risk of waste and abuse by employers who received grants. A second report by the auditor in August 2000 found that the program had trained only about one-third of the targeted employees and had created only one-third as many new jobs as promised by employers between 1995 and 1998. The audit also found that TDED had paid at least $5 million to contractors for trainees who did not meet contract requirements or who never participated in training.

An April 2000 report by the Sunset Advisory Commission echoed the SAO findings. The report noted that although TDED had made some progress in addressing issues raised in the SAO audit, problems continued with oversight of the program and with competitive awarding of Smart Jobs grants. Sunset recommended transferring administrative authority to TWC and statutorily requiring more clearly defined contract provisions and monitoring practices.

During the 77th Legislature, Rep. Pete Gallego introduced HB 3452 to continue TDED and implement the sunset review recommendations. As adopted by the House, the bill would have prohibited TDED from awarding new Smart Jobs grants and would have transferred the unexpended fund balance to the unemployment compensation trust fund. TDED would have continued to administer existing Smart Jobs contracts. However, the Senate passed a simplified version of the TDED sunset bill that would have continued the Smart Jobs program unchanged for two years. HB 3452 died in conference committee. The Legislature ultimately approved SB 309 by Harris, which simply continued TDED for two years but did not alter the December 31, 2001, expiration date for Smart Jobs.

The SAO estimates that the ending balance in the Smart Jobs Fund when the program expires will be about $102 million after payments on existing contracts. However, because of rising unemployment claims, TWC projects that the unemployment compensation trust fund balance on October 1 will be well below the statutory floor, triggering a transfer from the Smart Jobs holding fund, and that transfers required to bring the trust fund balance up to the statutory floor could deplete the full amount of the holding fund.

construction, aviation, and public transportation, an increase of about $961 million, or 26 percent. Most of that money will be spent on highway contracts in the form of reimbursement grants. State funds will increase by about $104 million, primarily reflecting projected growth in motor-fuel tax revenue. The 77th Legislature retained the "estimated" feature in TxDOT's appropriation for highway construction expenditures. This means that the agency may spend any additional money that becomes available during the biennium in excess of appropriations, including unexpended balances, on highway construction projects.

The 77th Legislature made two major changes in highway funding policy. First, it approved the creation of a revolving bond fund, the Texas Mobility Fund, to be financed by an as-yet unidentified state revenue source. Lawmakers also approved giving TxDOT the flexibility to grant state revenues for toll projects without repayment. Both changes depend on voter approval of the constitutional amendment contained in Proposition 15 (SJR 16 by Shapiro/Brimer, et al.) on the November 6 statewide ballot.

TxDOT expects to receive about $90 million during fiscal 2002-03 in toll project loan repayments. If that occurs, Rider 66 in TxDOT's budget stipulates that the agency must spend $40 million on highway construction projects. The remaining $50 million would be available for capital expenditures. TxDOT would have spending discretion as to categories or specific projects.

Rider 65 authorizes TxDOT to allocate $10 million of highway construction funds to proceed with studies for a second causeway across Laguna Madre to South Padre Island. TxDOT will spend $4 million of other appropriated funds to repair damage to the existing Queen Isabella Causeway caused by an accident in September.

SB 1 increases TxDOT's spending for the Automobile Theft Prevention Authority by about $7 million, for a total of $31 million. The program provides grants to law enforcement and other local entities to combat car theft. Areas that had not received grants as of September 1, 2001, will receive priority consideration.

Judiciary

Funding for the judiciary in fiscal 2002-03 increases by about 12 percent, to $431 million. Among other functions, Article 4 appropriations support the Texas Supreme Court and the Court of Criminal Appeals, pay the salaries of appellate and district judges, provide central administrative support to all courts, and fund the State Law Library. The state provides no funding to local courts.

Much of the overall increase for Article 4 goes to the Office of Court Administration (OCA). Rider 13 appropriates almost $20 million to OCA to establish and administer the Task Force on Indigent Defense. The task force will make grants to counties from the newly created Fair Defense Account to help improve legal services for indigent defendants, as required by SB 7 by Ellis. OCA also receives $4 million for the biennium to continue the foster care courts program and to create eight new courts.

The Court of Criminal Appeals receives $18 million for judicial education programs for attorneys and court personnel, more than double the amount appropriated in fiscal 2000-01. Rider 3 authorizes the court to spend up to $2.8 million on continuing education for prosecutors and up to $2.5 million to expand training and technical assistance to criminal defense attorneys who regularly represent indigent defendants in criminal cases.

SB 1 reduces funding to the Judicial Committee on Information Technology (JCIT) for judiciary-wide information technology (IT) projects by $3.6 million, to a total of $6.3 million. OCA and JCIT developed and deployed a computer and telecommunications network for appellate courts, but JCIT could not complete IT initiatives for trial courts during fiscal 2000-01, causing some funding to lapse.

Workforce and child support

SB 1 increases appropriations to the Texas Workforce Commission (TWC) by about $35 million, or 2 percent over fiscal 2000-01, primarily through federal funds. Child care programs receive an additional $82 million, for a total of $880 million. This includes $159 million in federal Child Care Development Fund money, offsetting a decline of $79 million in state TANF funds that had been converted to child-care funds. The net increase should allow TWC to serve about 111,700 children in fiscal 2002 and 109,500 children in fiscal 2003. This funding level should maintain child-care assistance for about 16,600 at-risk children who otherwise would be displaced because of caseload increases in the mandatory service population. However, about 12,500 at-risk children still will be displaced and the waiting list will total about 34,000, according to TWC.

TWC's Choices program, which provides job-search activities and information to TANF recipients, receives an increase of $14 million in federal funds for fiscal 2002-03. This program is administered by local workforce development boards. SB 1 sets the target participation rate for the Choices program at 42 percent by the end of fiscal 2002-03, up from 30 percent at the end of the previous biennium.

SB 1 includes funding for new regional call centers for the child-support enforcement program of the Office of the Attorney General (OAG). The OAG will receive nearly $7 million in all funds, including unexpended balances from earned federal funds appropriated in fiscal 2001, to establish four regional call centers and add 36 full-time employees to respond to child-support enforcement inquiries from the public.

Miscellaneous functions

SB 1 appropriates about $310 million to the **Public Utility Commission** (PUC) for fiscal 2002-03, three times the agency's fiscal 2000-01 appropriation. The increase is due to the restructuring of the electric utility industry, set to begin January 1, 2002. Appropriations from the System Benefit Fund, created by SB 7 by Sibley, the 1999 restructuring law, account for more than 90 percent of the PUC's budget. Of that amount, $233 million will fund a program to help reduce low-income customers' electric bills by 10 to 20 percent; $18 million will go to customer education programs; and $35 million will help compensate school districts for lost revenue due to property-wealth reductions related to utility restructuring. Money in the fund comes from a fee assessed on utilities that have opted into restructuring.

Biennial appropriations for the **Texas Department of Housing and Community Affairs** (TDHCA), which underwent intensive scrutiny during its sunset review and received two years' probation, hold steady at about $442 million. In conjunction with utility restructuring, Rider 20 requires TDHCA to spend $18 million in general revenue from the System Benefit Fund to weatherize low-income housing.

Appropriations for the Housing Trust Fund increase by only about $100,000, to $12.7 million, in contrast with fiscal 2000-01, when outlays rose by $8 million. Housing officials had requested $100 million for the fund, which provides money for local governments, nonprofit organizations, public housing authorities, and individuals to develop, buy, and rehabilitate housing for low-income families and people with special needs. In continuing the colonia set-aside program allocation from federal community development block grant (CDBG) funds, lawmakers directed TDHCA to spend $5 million in non-CDBG funds to operate five self-help owner-builder housing centers near the Rio Grande. Housing officials are uncertain how much CDBG money will be available, because more than $181 million of this grant funding is to be transferred to the new Office of Rural Community Affairs, created by HB 7 by Chisum, et al.

SB 1 continues biennial funding for the **Texas Historical Commission's** Courthouse Preservation Program at $50 million in general revenue, equal to the fiscal 2000-01 outlay. The program provides financial and technical assistance to counties to preserve and restore historic county courthouses. Funding for this program accounts for nearly 80 percent of the commission's total fiscal 2002-03 appropriation.

The **Library and Archives Commission** receives an all-funds increase of $19 million (34 percent), primarily to boost state funding for local libraries and to provide statewide licensing of databases and access to library collections for TexShare libraries. Most of the increase comes from interagency grants and revenue transfers from the Telecommunications Infrastructure Fund.

Appropriations for the **Commission on State Emergency Communications** (all general revenue-related) increase by almost 22 percent, to $87 million, contingent on collecting more fee revenue from wireless service providers. About half of the additional money is to be used to improve wireless 9-1-1 service.

SB 1 includes $1.5 million in general revenue for the **Governor's Office** to provide grants to establish drug courts to handle nonviolent drug offenses that are determined to be the result of addiction. Such courts order treatment and probation and dismiss charges against defendants who complete the court-ordered rehabilitation successfully.

The **Texas Aerospace Commission** receives an additional $1.5 million in fiscal 2002-03 to award grants to local communities in Kenedy, Brazoria, and Pecos counties seeking to attract a commercial spaceport facility to their area. Private companies would use such a facility to launch satellites and cargo into space. The grant money will help communities conduct the necessary initial analyses to demonstrate the suitability of their sites as potential locations for a spaceport.

Tobacco-Settlement Appropriations

Article 12 of SB 1 appropriates revenues from the multibillion-dollar settlement of the state's lawsuit against major tobacco companies. Over the next 25 years, the state is expected to receive a total of $15 billion from the settlement. The 76th Legislature in 1999 used the initial receipts to establish endowment funds for health and human services (HHS) and higher education and created sources of ongoing program funding out of interest earnings.

For fiscal 2002-03, tobacco-settlement funds will provide slightly more than $1 billion for various HHS and higher education programs, as shown in Table 6. Article 12 appropriations for the new biennium are more than double the amount appropriated for fiscal 2000-01. Agencies and institutions that receive these appropriations must submit budgets to LBB and the governor by November 1, 2001, explaining their proposed use of these funds.

Most of the programs receiving tobacco-settlement funds in fiscal 2002-03 received these funds in the previous biennium. The largest outlay, $419 million, is for the Children's Health Insurance Program, established in 1999. Article 12 also provides substantial new funding for simplifying access to Medicaid, increasing rates to Medicaid providers, and community long-term care through the Department of Mental Health and Mental Retardation and the Department of Human Services (see pages 10-13). In addition, the Texas Department of Health (TDH) receives new funding for tobacco education and enforcement, totaling $18 million.

Riders 9 and 10 appropriate funds contingent on the receipt of additional tobacco-settlement funds. If settlement proceeds exceed the revenue estimate, TDH will receive $5 million per year for tobacco prevention activities. If the state collects outstanding and disputed claims from tobacco companies, the Health and Human Services Commission (HHSC) will receive up to $3 million for the biennium, in part to support start-up costs of local "211" telecommunications projects. The latter funds would supplement HHSC's $1.7 million allocation for 211 projects from the Telecommunications Infrastructure Fund under Article 2.

Rider 11 sets tobacco-use goals for areas served by tobacco reduction and cessation programs. Areas where the state funds such programs at a level of $3 per capita are expected to reduce the use of cigarettes, snuff, and smokeless tobacco by Texans age 22 and younger by 60 percent by 2010 and to eliminate such use by 2018.

Table 6
Fiscal 2002-03 appropriations from tobacco-settlement receipts

Agency or institution	Appropriation	Program
Health and Human Services Commission	$419.2 million	Children's Health Insurance Program
	122.6 million	Medicaid simplification
	120.0 million	Medicaid provider rates
	3.6 million	Medically Dependent Children's Program - acute care services
	3.0 million	Texas Information and Referral Network (211 Project)
Texas Department of Health	$18.0 million*	Tobacco education and enforcement
	10.0 million	Tobacco prevention
	9.0 million*	Children and public health
	9.0 million*	Emergency medical services/trauma care
	5.4 million	Children's immunizations
	2.3 million*	Small urban hospitals
	1.2 million	Hearing screening for newborn children
Texas Department of Mental Health and Mental Retardation	$34.6 million	Home and Community Services waiver
	30.5 million	New-generation medications
	28.8 million	Community centers - rate change for drug costs
	15.0 million	Community mental health services for children
Texas Department of Human Services	$135.9 million	Community care
	7.3 million	Medically Dependent Children's Program - additional waiver services
Center for Rural Health Initiatives	$4.5 million*	Rural health facility capital improvements
Interagency Council on Early Childhood Intervention	$1.0 million	Respite care
South Texas Hospital, Texas Center for Infectious Diseases	$4.4 million	Debt service on general-obligation bonds issued for capital projects
Subtotal: Health and human services	**$982.1 million**	
Texas Higher Education Coordinating Board	$4.1 million*	Nursing and allied health fund
	2.3 million*	Minority health research and education
Health-related institutions of higher education	$53.6 million	Institutional endowment funds
	31.5 million	Various programs
Subtotal: Higher education	**$91.4 million**	
TOTAL	**$1,076.6 million**	

* Appropriations from permanent funds created by the 76th Legislature.
Notes: Appropriations for Texas Information and Referral Network (HHSC) and tobacco prevention (TDH) are contingent on receipt of additional tobacco-settlement proceeds. Totals may not add because of rounding.

Source: General Appropriations Act, Article 12.

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