Overview of the Fiscal 2008-09 Budget ......................... 3
Health and Human Services Funding .......................... 10
Public Education Funding ........................................... 13
Higher Education Funding ......................................... 15
Criminal Justice Funding .......................................... 18
Environmental and Natural Resources Funding .............. 20
Transportation and Regulatory Funding ....................... 22
Overview of the Fiscal 2008-09 Budget

For fiscal 2008-09, which began September 1, 2007, the 80th Legislature has appropriated $167.8 billion in all funds, an increase of $22.7 billion, or 15.7 percent, over total spending in fiscal 2006-07, according to the Legislative Budget Board (LBB). Total spending includes $80.0 billion in state general revenue, an increase of 18 percent. These totals reflect all appropriations and adjustments made by the 80th Legislature, including appropriations made in HB 1 by Chisum, the general appropriations act, and HB 15 by Chisum, the supplemental appropriations act, and $14.2 billion in appropriations for school district property tax rate reductions, made in HB 2 by Chisum. It also accounts for gubernatorial vetoes of certain spending line items.

In January 2007, the LBB issued a “current services” baseline budget estimate, reflecting a continuation of current levels of government services, with a 5 percent reduction in administrative expenses at most agencies. That budget estimate would have increased state spending from all sources by 3.7 percent, to $147.6 billion, and would have increased general revenue and general revenue-dedicated spending by about 6.3 percent, to $75.8 billion. This amount excluded $14.2 billion in appropriations for property tax relief from general revenue and the property tax relief fund. The increase in the baseline budget estimate included funds for student enrollment growth and public education initiatives enacted by the 79th Legislature in its third called session in 2006, larger caseloads in health and human services, growth in the correctional population, and other funding obligations.

The House-approved version of HB 1 would have authorized total spending of $150.1 billion for fiscal 2006-07, and the Senate-approved version of the bill would have authorized spending of $152.2 billion. The House version of the budget would have spent a total of $79.0 billion in general revenue and general revenue-dedicated funds, and the Senate-approved version would have spent $79.6 billion.

Supplemental appropriations

HB 15 by Chisum, the supplemental appropriations act, appropriated about $532.8 million in general revenue and $1.8 billion in all funds for fiscal 2007 and fiscal 2008-09, prior to the governor’s vetoes. This $1.8 billion all-funds total accounts for a $298 million net reduction in general revenue spending for fiscal 2007. That reduction resulted from funding vetoed in the 2005 general appropriations act and from reductions in other unencumbered appropriations. The most significant new appropriations in HB 15 were for the Health and Human Services Commission, with $1.8 billion in fiscal 2008-09 for settlement of the Frew v. Hawkins lawsuit and $275 million in general supplemental appropriations. Other new appropriations included those for criminal justice, data center services, the Public Utility Commission, higher education institutions, and reimbursement to the forest service for costs associated with wildfires.

Governor’s vetoes

The governor used line-item vetoes to reduce spending in HB 1 and HB 15 by $639.5 million in general revenue and by $646.5 million in all funds. The larg-
The largest portion of vetoed funds included $297.2 million for payment to the federal government for the state’s share of certain prescription drug benefits and $154 million allocated to group insurance contributions for community college employees. The vetoes included $76.6 million in HB 15 related to the implementation of the data center services contract. In October 2007, state leaders announced the $154 million for group insurance coverage would be restored to community colleges by September 1, 2008, through budget execution authority or other existing transfer authority. The governor also vetoed certain appropriations for the Texas Department of Criminal Justice, special item appropriations for institutions of higher education, and contingency appropriations for 15 bills that did not pass and for one that was vetoed.

**Spending versus revenues.** The fiscal 2008-09 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. The comptroller certified that the state will have enough revenue to cover the spending in HB 1 and other appropriations bills approved by the 80th Legislature.

**Surplus.** The comptroller reported that the state would have $85.1 billion in general revenue-related funds for fiscal 2008-09 appropriations. This total is the sum of the $8.8 billion fiscal 2006-07 balance, tax revenue for fiscal 2008-09, and non-tax receipts for fiscal 2008-09 less transfers to the Economic Stabilization Fund and adjustments to general revenue-dedicated accounts. This total is enough to cover fiscal 2008-09 general revenue spending of $83.1 billion, including a required transfer of $3 billion to the property tax relief fund (see below), leaving a surplus of $2.0 billion.

### Table 1

State Spending by Government Function  
(All funds in millions)

<table>
<thead>
<tr>
<th>Art.</th>
<th>Estimated/Budgeted Fiscal 2006-07*</th>
<th>Appropriated Fiscal 2008-09**</th>
<th>Biennial change</th>
<th>Percent change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Art. 1</td>
<td>General Government</td>
<td>$3,622.1</td>
<td>$4,021.6</td>
<td>$399.4</td>
</tr>
<tr>
<td>Art. 2</td>
<td>Health and Human Services</td>
<td>49,116.9</td>
<td>52,966.0</td>
<td>3,849.0</td>
</tr>
<tr>
<td>Art. 3</td>
<td>Education</td>
<td>59,206.5</td>
<td>74,536.7</td>
<td>15,330.2</td>
</tr>
<tr>
<td></td>
<td>Higher Education</td>
<td>18,658.3</td>
<td>21,073.0</td>
<td>2,414.7</td>
</tr>
<tr>
<td></td>
<td>Public Education</td>
<td>38,317.8</td>
<td>39,472.6</td>
<td>954.8</td>
</tr>
<tr>
<td></td>
<td>Property tax rate reductions</td>
<td>2,230.4</td>
<td>14,191.1</td>
<td>11,960.7</td>
</tr>
<tr>
<td>Art. 4</td>
<td>Judiciary</td>
<td>541.5</td>
<td>598.4</td>
<td>56.9</td>
</tr>
<tr>
<td>Art. 5</td>
<td>Public Safety/Criminal Justice</td>
<td>9,940.9</td>
<td>10,435.9</td>
<td>494.9</td>
</tr>
<tr>
<td>Art. 6</td>
<td>Natural Resources</td>
<td>2,320.7</td>
<td>3,222.2</td>
<td>901.5</td>
</tr>
<tr>
<td>Art. 7</td>
<td>Business/Economic Development</td>
<td>19,412.5</td>
<td>20,513.8</td>
<td>1,101.3</td>
</tr>
<tr>
<td>Art. 8</td>
<td>Regulatory</td>
<td>562.9</td>
<td>762.3</td>
<td>199.4</td>
</tr>
<tr>
<td>Art. 9</td>
<td>General Provisions</td>
<td>0.0</td>
<td>404.6</td>
<td>404.6</td>
</tr>
<tr>
<td>Art. 10</td>
<td>Legislature</td>
<td>335.3</td>
<td>326.0</td>
<td>(9.3)</td>
</tr>
</tbody>
</table>

**TOTAL** | $145,059.4 | $167,787.2 | $22,727.8 | 15.7% |


**Reflects appropriations bills and governor’s vetoes. Totals may not add because of rounding.

*Source: Legislative Budget Board*
Under HB 2, if there is more than $2 billion in unappropriated general revenue in the state treasury at the end of fiscal 2008, the comptroller must transfer available revenue, up to $3 billion, into the property tax relief fund for future spending. The comptroller has estimated that at the end of fiscal 2008-09, the state will have the $3 billion to transfer to the property tax relief fund, leaving around $2.0 billion in unencumbered surplus. For more details on this, see page 9.

Spending cap. Another spending limit found in the Texas Constitution, Art. 8, sec. 22, often is referred to as the “spending cap.” Under this provision, growth of state spending from revenue not dedicated by the Constitution to a particular purpose may not exceed the growth rate of the Texas economy, defined in state law as the growth in statewide personal income. On January 11, 2007, the LBB adopted an estimated growth rate of 13.11 percent from fiscal 2006-07 to fiscal 2008-09. Under this limit and taking into account actions by the 80th Legislature that changed spending for fiscal 2006-07 and revenue estimate revisions by the comptroller, appropriations from state tax revenue not dedicated by the Constitution could not total more than $62 billion for fiscal 2008-09.

The 80th Legislature for the first time overrode this spending limit by adopting SCR 20 by Ogden, which was signed by the governor on February 23, 2007. This allowed the Legislature to appropriate $14.2 billion of undedicated state tax revenue over the constitutionally required spending cap solely for school property tax rate reduction. This appropriation was made in HB 2.

With these adjustments to the spending cap, the total amount that could be appropriated and meet the spending cap limit was $76.2 billion. The Legislature

### Table 2
State Spending by Government Function
(General revenue in millions)

<table>
<thead>
<tr>
<th>Art.</th>
<th>Function</th>
<th>Estimated/Budgeted Fiscal 2006-07*</th>
<th>Appropriated Fiscal 2008-09**</th>
<th>Biennial change</th>
<th>Percent change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Art. 1</td>
<td>General Government</td>
<td>1,872.5</td>
<td>2,005.9</td>
<td>133.4</td>
<td>7.1</td>
</tr>
<tr>
<td>Art. 2</td>
<td>Health and Human Services</td>
<td>17,218.7</td>
<td>20,558.8</td>
<td>3,340.2</td>
<td>19.4</td>
</tr>
<tr>
<td>Art. 3</td>
<td>Education</td>
<td>39,864.8</td>
<td>46,842.8</td>
<td>6,978.0</td>
<td>17.5</td>
</tr>
<tr>
<td>Art. 4</td>
<td>Higher Education</td>
<td>11,176.2</td>
<td>12,340.7</td>
<td>1,164.5</td>
<td>10.4</td>
</tr>
<tr>
<td>Art. 5</td>
<td>Public Education</td>
<td>26,458.1</td>
<td>28,389.0</td>
<td>1,930.9</td>
<td>7.3</td>
</tr>
<tr>
<td>Art. 6</td>
<td>Property Tax Rate Reductions</td>
<td>2,230.4</td>
<td>6,113.1</td>
<td>3,882.7</td>
<td>174.1</td>
</tr>
<tr>
<td>Art. 7</td>
<td>Judiciary</td>
<td>375.4</td>
<td>405.2</td>
<td>29.8</td>
<td>7.9</td>
</tr>
<tr>
<td>Art. 8</td>
<td>Public Safety/Criminal Justice</td>
<td>7,277.2</td>
<td>7,910.8</td>
<td>633.5</td>
<td>8.7</td>
</tr>
<tr>
<td>Art. 9</td>
<td>Natural Resources</td>
<td>498.7</td>
<td>686.4</td>
<td>187.7</td>
<td>37.6</td>
</tr>
<tr>
<td>Art. 10</td>
<td>Business/Economic Development</td>
<td>276.3</td>
<td>623.2</td>
<td>346.9</td>
<td>125.6</td>
</tr>
<tr>
<td>Art. 11</td>
<td>Regulatory</td>
<td>289.5</td>
<td>348.7</td>
<td>59.2</td>
<td>20.5</td>
</tr>
<tr>
<td>Art. 12</td>
<td>General Provisions</td>
<td>0.0</td>
<td>244.1</td>
<td>244.1</td>
<td>NA</td>
</tr>
</tbody>
</table>

**TOTAL**

$68,007.7 $79,951.5 $11,943.8 17.6%

**Reflects appropriations bills and governor’s vetoes. Totals may not add because of rounding.

Source: Legislative Budget Board
appropriated $73.9 billion, which is $2.3 billion below the cap and is about how much spending would have been below the cap without including the $14.2 billion for school property tax relief.

**Employee compensation.** The fiscal 2008-09 budget provided $389.9 million in all funds, including $242.7 million in general revenue, for a 2 percent or $50-per-month minimum, across-the-board pay raise for most state employees for both years of the biennium, taking effect as of September 1, 2007, and September 1, 2008. This appropriation was contingent upon the comptroller’s certifying that more revenue was projected than originally estimated in January 2007. The budget also included funding for targeted salary increases, in most cases between 5 percent and 10 percent, for Schedule C employees at the Alcoholic Beverage Commission, the Department of Criminal Justice, the Parks and Wildlife Department, and the Department of Public Safety. The appropriation for Schedule C pay raises totaled $14.6 million in all funds and $1.3 million in general revenue.

**Overall spending patterns**

The total appropriation of $167.8 billion in all funds for fiscal 2008-09 includes $80.0 billion of undedicated general revenue, an increase of 18 percent in general revenue appropriations over fiscal 2006-07. General revenue-dedicated appropriations increase by $500.6 million to $6.3 billion, a change of 8.6 percent. In general, revenue that is dedicated by law for a particular purpose is deposited in a general revenue-dedicated account and can be appropriated only for that purpose. Total spending includes $51.0 billion in federal funds and $30.6 billion in other funds, including the State Highway Fund, the Texas Mobility Fund, bond proceeds, trust funds, and other sources.

---

**Figure 1**

**All Funds Appropriations by Function, Fiscal 2008-09**

(in millions)

- **Public Education**: $39,272.6 (23.4%)
- **Higher Education**: $21,073.0 (12.6%)
- **Health and Human Services**: $52,986.0 (31.6%)
- **Natural Resources**: $3,222.2 (1.9%)
- **Regulatory**: $762.3 (0.5%)
- **Business and Economic Development**: $20,513.8 (12.2%)
- **The Judiciary**: $598.4 (0.4%)
- **General Government**: $4,021.6 (2.4%)
- **The Legislature**: $326.0 (0.2%)
- **General Provisions**: $404.6 (0.2%)
- **Property tax rate reductions**: $14,191.1 (8.5%)

**Total** = $167,782.2 million

Source: Legislative Budget Board
Like the fiscal 2006-07 general appropriations act, HB 1 groups state agency budgets into 10 articles or functional categories. Table 1 (see page 4) shows the changes in state spending by major functional areas from fiscal 2006-07 to fiscal 2008-09.

About three-fourths of all spending for fiscal 2008-09 is for public and higher education and health and human services (see figure 1, page 6). Business and economic development programs, primarily highway construction and maintenance, account for 12 percent of all spending, and public safety and criminal justice make up about 6 percent. The natural resource function represents about 2 percent of the all-funds budget.

Debt service for the biennium will be $2.5 billion, an increase of about $1 billion, or 71 percent, compared to fiscal 2006-07. This increase in costs is due mainly to increases in debt service out of the State Highway and Texas Mobility funds, according to the LBB.

The distribution of general revenue funds by function differs from the all-funds distribution because federal money plays a relatively large role in funding health and human services and business and economic development programs, especially highway funding (see figure 2, below). About 59 percent of general revenue funds go to education, 26 percent to health and human services, and 10 percent to public safety and criminal justice.

The $14.2 billion in state spending on property tax reductions in HB 2 represents about 8.5 percent of the all-funds spending. The $6.1 billion in general revenue spent on property tax reductions makes up about 7.7 percent of general revenue appropriations.

**Special Funds**

**Rainy day fund.** The economic stabilization or “rainy day” fund receives half of any unencumbered

---

**Figure 2**

General Revenue Appropriations by Function, Fiscal 2008-09
(in millions)

Total = $79,951.5 million

- **Higher Education** $12,340.7 (15.4%)
- **Public Education** $28,389.0 (35.5%)
- **Public Safety and Criminal Justice** $7,910.8 (9.9%)
- **Health and Human Services** $20,558.8 (25.7%)
- **Business and Economic Development** $623.2 (0.8%)
- **Regulatory** $348.7 (0.4%)
- **The Judiciary** $405.2 (0.5%)
- **The Legislature** $325.6 (0.4%)
- **Natural Resources** $686.4 (0.9%)
- **General Government** $2,005.9 (2.5%)
- **General Provisions** $244.1 (0.3%)

Source: Legislative Budget Board
balance remaining in general revenue at the end of a fiscal biennium and 75 percent of any oil or natural gas production tax revenue that exceeds the amount collected in fiscal 1987, as required by the Texas Constitution and state law. The ending balance of the fund for fiscal 2008 is projected by the comptroller to be $4.4 billion, and the ending balance for fiscal 2009 is projected to be $5.7 billion. These increases largely reflect steadily increasing oil and gas production tax revenues and the 80th Legislature’s decision not to appropriate money from the rainy day fund as part of the fiscal 2008-09 budget. In 2005, the 79th Legislature appropriated almost $1.1 billion from the rainy day fund for a number of budget areas, including Child Protective Services, Medicaid, CHIP, and public education.

**Texas Enterprise Fund, Emerging Technologies Fund.** In 2003, the 78th Legislature created the Texas Enterprise Fund (TEF) within the Governor’s Office to entice businesses to expand in or relocate to Texas. The fund provides cash grants for a wide variety of economic stimulus programs. The fiscal 2008-09 budget included $225.3 million in general revenue-dedicated funds for the TEF. This is an increase from the $182.3 million in general revenue and general revenue-dedicated funds appropriated for the TEF in fiscal 2006-07. The fund was created in 2003 with an initial appropriation in fiscal 2004-05 of $295 million from the rainy day fund.

As of January 31, 2008, $370.4 million in grants had been awarded to 42 groups or entities, primarily for business incentives. Money may be awarded by the governor only with the approval of the lieutenant governor and the speaker of the House, and contracts must contain “clawback” provisions that require an enterprise to repay some or all of the grant if it fails to create the promised number of jobs or to invest a minimum amount in the state. Close to $300,000 has been recovered through clawback provisions for three separate projects.

The fiscal 2008-09 budget also includes $42.3 million in general revenue-dedicated funds for the Emerging Technologies Fund (ETF), a trustee program within the Governor’s Office, earmarked for investments in scientific research and enterprise. The ETF was created by the 79th Legislature in 2005 with an initial appropriation of $200 million. The fiscal 2008-09 appropriation of $117.3 million reflects $75 million in general revenue and $42.3 million funds remaining from prior appropriations to the ETF. As of January 29, 2008, the ETF had awarded almost $90 million in contracts, grants, and research awards to 44 entities.

**Tobacco Settlement Funds.** In 1998, Texas finalized a settlement of its lawsuit against major tobacco companies that awarded the state $17.3 billion over 25 years, subject to adjustments. In 1999 and 2001, the 76th and 77th Legislatures used $1.5 billion of the settlement to establish 21 health-related permanent trust funds and higher education endowments and designated the first money left over from these funds each year to support CHIP. For fiscal 2008-09, nearly $1.2 billion in tobacco-settlement funds will be used for various health-related programs, primarily CHIP and other children’s health care programs. The funds include payments from the tobacco companies, interest earnings from the trust funds and endowments, and a carry-forward of some unspent balances.
The 80th Legislature enacted HB 2 by Chisum to replace local tax revenue lost as a result of school district property tax rate reductions mandated by the 79th Legislature in its third called session in 2006. HB 2 appropriated $14.2 billion and directed that it be dispersed to local school districts to make up for reduced property tax revenue. The funds initially will be appropriated to the Texas Education Agency under the Foundation School Program.

HB 2 appropriated a total of $7 billion for school property tax reduction in fiscal 2008, including an estimated $4.23 billion from the property tax relief fund and an estimated $2.72 billion from general revenue. For fiscal 2009, the bill appropriates an estimated $3.84 billion from the property tax relief fund and $3.38 billion in general revenue, for a total of $7.2 billion. The amounts from each source are estimates because HB 2 appropriates whatever amount is available in the property tax relief fund and whatever amount of general revenue is required to make up the difference in order to obtain the total appropriation for property tax relief for each fiscal year.

In its third called session, the 79th Legislature enacted HB 2 by Pitts, which created the property tax relief fund and placed it outside of general revenue to collect funds from new revenue authorized by the 79th Legislature. Beginning in fiscal 2008, revenue in this fund must be appropriated to make up for school district maintenance and operations (M&O) tax rates that were compressed to $1.00 per $100 valuation for districts taxing at the maximum rate of $1.50.

New revenue sources established by the 79th Legislature to fund the property tax reduction include the revised business franchise tax (HB 3 by J. Keffer), a motor vehicle standard presumptive value for sales tax purposes (HB 4 by Swinford), and an increased tax rate for cigarettes and other tobacco products (HB 5 by Hamric). Revenue generated by these new or revised taxes is dedicated to reducing school property tax rates (HB 2 by Pitts). The LBB estimates the franchise tax will raise $3 billion in 2008 and $3.1 billion in 2009. Because revenue generated by the new taxes alone is insufficient to cover the $14.2 billion appropriation for property tax relief, the Legislature also must appropriate general revenue to make up the difference.

In HB 2 by Chisum, the school property tax relief appropriation, the 80th Legislature required the comptroller to transfer a portion of the unappropriated fiscal 2008-09 budget surplus to the property tax relief fund for future appropriation. The comptroller currently estimates the total fiscal 2008-09 budget surplus to be $5 billion and expects to transfer $3 billion, the maximum transfer amount authorized under HB 2, to the property tax relief fund as a “down payment” on future appropriations from the fund. While the transfer of this portion of the budget surplus to the property tax relief fund will occur on August 31, 2008, HB 2 specifically states that the transferred funds are not considered to be appropriated and may not be spent during the fiscal 2008-09 biennium.
Health and Human Services Funding

Health and human services (HHS) agencies in Article 2 constitute Texas’ second-largest budget function after education. HHS agencies account for 31.6 percent of the total budget for fiscal 2008-09 and 25.7 percent of general revenue spending. HHS agencies receive funding from multiple federal, state, and local sources.

For fiscal 2008-09, the HHS agencies will receive $53 billion in all funds, an increase of 7.8 percent from fiscal 2006-07. The general revenue portion, $20.6 billion, represents a 19.4 percent increase. The growth in the HHS budget stems from increases in Medicaid and CHIP caseloads, funding to settle the *Frew v. Hawkins* lawsuit, rate restorations and increases for providers, and a Medicaid match rate from the federal government that is less favorable than the previous biennium.

Medicaid

Medicaid, the federal-state health insurance program for the poor, elderly, and disabled, is the largest source of federal funds in the state budget. The fiscal 2008-09 budget for Medicaid includes $39.6 billion in all funds and $15.5 billion in state general revenue and general revenue-dedicated funds. At $1.9 billion over fiscal 2006-07 funding levels, the general revenue and general revenue-dedicated portion represents a 14.3 percent increase. Major factors in increased Medicaid spending include caseload growth, acute care cost growth, a less favorable federal match for Medicaid spending, provider and facility rate restorations and increases, reduction in the community care wait lists, rebasing of hospital rates, and increased staffing at state schools.

The Medicaid funding increase also includes the HB 15 appropriation of $1.8 billion in all funds, including $707 million in general revenue, for fiscal 2008-09 to fund the *Frew v. Hawkins* lawsuit settlement. This suit was filed in 1993 alleging that Texas failed to meet its obligation to provide certain federally mandated health benefits to Medicaid patients under age 21. The $1.8 billion appropriation may be used to increase access to medically necessary services for Medicaid patients under the age of 21 and to ensure compliance with the consent decree and with judicially approved corrective action plans. Spending specifically will address significant provider rate increases for physicians, dentists, specialists, and other professionals serving Medicaid recipients under the age of 21; strategic dental and medical initiatives, including those to increase and enhance services in underserved areas, to improve medical transportation, to simplify access to medically necessary services, and to improve scheduling and notification of required check-ups and follow-up care; and implementation of other aspects of the judicially approved corrective action plans.

Gov. Perry vetoed an additional $297 million in “clawback” payments for dual eligibles for the Medicare Part D prescription drug program for 2009. The U.S. Congress expanded Medicare to cover drug costs for seniors in 2003, but devised a formula by which states continue to pay a large portion of the drug benefit for those seniors whose drug costs already were being covered by the states under the Medicaid program. These payments, referred to as clawback payments, went into effect in January of 2006. If the clawback funding had not been vetoed, Texas would have made its first full biennium of clawback payments to the federal government, increasing general revenue spending for these payments by $171.2 million over fiscal 2006-07 levels. In his veto statement, Gov. Perry cited support for the federal assumption of prescription drug costs for dual eligibles and a belief that the clawback formula unfairly penalizes states like Texas that implement innovative measures to reduce prescription drug costs.

Children’s Health Insurance Program

The Children’s Health Insurance Program (CHIP) provides primary and preventive health care to low-income, uninsured children across the state. Total CHIP spending in fiscal 2008-09 includes $622.1 million in general revenue and $2 billion in all funds. The general revenue funding includes $287.1 million more than fiscal 2006-07 spending, an increase of 85.7 percent. This includes funding for caseload growth, with an estimated caseload increase from 323,642 in fiscal 2007 to 497,974 in fiscal 2009.

Most anticipated caseload growth is attributable to CHIP program and eligibility changes resulting from HB 109 by Turner, enacted by the 80th Legislature in 2007. The LBB estimates that these changes will increase CHIP caseloads by 96,000 by fiscal 2009. An
additional $89.5 million in general revenue funds and $253.2 million in all funds will finance the caseload growth stemming from HB 109.

The largest increase in general revenue spending is to cover the first full biennium of the CHIP Perinatal Program, which extends CHIP benefits to unborn children. Serving this population through the Perinatal Program rather than through the traditional source, Medicaid, saves Medicaid dollars because the federal match for CHIP is greater than that for Medicaid. Other increases in CHIP general revenue spending include appropriations for cost growth in fiscal 2008 and compensation for a less favorable federal funding match.

**Child Protective Services**

The fiscal 2008-09 budget for Child Protective Services (CPS) includes $2.1 billion in all funds and $885.4 million in general revenue. These figures include increases over fiscal 2006-07 spending to continue extensive changes made to the CPS system by the 79th and 80th Legislatures in 2005 and 2007, as well as to increase foster care and adoption subsidy payments.

In 2005, SB 6 by Nelson made extensive changes to the state’s Child Protective Services (CPS) system. It focused on enhancing investigative capacity by adding new technology and more caseworkers, forensic investigators, and highly trained intake call screeners. Child Protective Services receives $325.9 million in all funds for fiscal 2008-09, an increase of 33.2 percent, to maintain many of the 2005 reforms. Of these funds, general revenue spending increases from $6.7 million in fiscal 2006-07 to $281 million in fiscal 2008-09. The increase in general revenue spending reflects a shift to funding reforms with general revenue rather than rainy day funds.

CPS receives increased funding of $95 million in all funds, including $33 million in general revenue, to expand staff levels by 768 in fiscal 2008 and by 324 in fiscal 2009, among other revisions. These funds also will support revisions to improve the quality of services delivered by the Department of Family and Protective Services (DFPS) through enhanced technology and program support; to improve contract and licensing oversight of residential child care facilities and child placing agencies; and to reduce the number of children in foster care through family preservation measures and expediting adoption services. An additional $2 million in general revenue and $3.4 million in federal TANF funds was included in the supplemental appropriations bill for early implementation of reforms in fiscal 2007.

**Waiting List Reductions**

Several HHS programs — especially those delivering social, nursing, and rehabilitative services in the community — employ a waiting list to track people waiting for services for which funding is not immediately available. Waiting lists are used for services provided through the Department of Aging and Disability Services (DADS), the Department of Assistive and Rehabilitative Services (DARS), and the Department of State Health Services (DSHS). Most of the combined waiting list represents people waiting for home and community care waivers, non-Medicaid services, and In-Home and Family Support Program slots offered through DADS. As of January 2008, the unduplicated count of individuals on waiting lists at DADS alone was 82,428.

An increase of $107 million in general revenue and $237.5 million in all funds is appropriated for fiscal 2008-09 to reduce waiting lists at DADS, DARS, and DSHS. The LBB estimates this will fund an additional 10,070 clients by the end of fiscal 2009. The majority of waiting list reduction funding is appropriated to DADS, with $173.2 million in all funds, including $71.5 million in general revenue to reduce the DADS waiting lists by 8,902 clients. This DADS funding is in addition to increases necessary to maintain August 2007 caseloads at fiscal 2007 costs before the waiting list reductions.

**Rate Restorations and Increases**

Texas’ Medicaid program is divided into two service-delivery models: fee-for-service and Medicaid managed care. Under the fee-for-service model, the Health and Human Services Commission (HHSC) contracts with physicians, hospitals, pharmacies, and medical transporters to serve Medicaid clients. All professional reimbursement rates are the same, regardless of location or medical specialty, except that the 77th Legislature in 2001 appropriated funds for an increase for high-volume providers. The 78th Legislature in
2003 reduced reimbursement rates for all providers by 5 percent in fiscal 2004-05 in conjunction with other reductions in eligibility and services. Federal funds became available in fiscal 2004-05 so that the effective reduction for medical professionals was about 2.5 percent. The 5 percent reduction for inpatient hospitals remained in place for fiscal 2004-05. The 79th Legislature in 2005 restored some of the 2003 cuts — mainly those for DADS waiver service providers. Nursing facilities also received an increase of 11.75 percent, effective in January 2006.

Fiscal 2008-09 appropriations restore all remaining rate reductions from 2003 and increase certain provider rates at HHS agencies. A total of $1.3 billion in all funds and $511.7 million in general revenue was appropriated in HB 15 for rate increases for physicians, dentists, and specialists who serve children as part of the settlement of the *Frew v. Hawkins* lawsuit. An additional $1.3 billion in all funds, including $493.4 million in general revenue, was appropriated for Medicaid and CHIP rate restorations and increases as well as hospital rebasing at HHSC. Combined spending on rate restorations, increases, and hospital rebasing in fiscal 2008-09 totals $3.1 billion in all funds and $1.2 billion in general revenue.

**Mental Health Crisis Funding**

DSHS will receive $82 million in general revenue for a Community Mental Health Crisis Services program to provide community-based services designed to intervene in or avoid mental health crises and the need for hospitalization. These services include mobile outreach, 23- to 48-hour observation, a crisis hotline, crisis residential and in-home services, and the transporting of people in crisis to mental health hospitals. Mobile outreach provides on-call crisis workers to respond to, evaluate, and stabilize crisis situations in the community. The 23- to 48-hour observation includes initial psychiatric emergency services with extended observation.
Public Education Funding

Public education, one of the two largest functions funded by the state, accounts for almost 32 percent of the total budget when appropriations for school district property tax rate reductions are included. Nearly all public education funding is appropriated to the Texas Education Agency (TEA), including funding for the State Board of Education, State Board for Educator Certification, Texas School for the Deaf, the Texas School for the Blind and Visually Impaired, and the Teacher Retirement System (TRS).

Most state funding—including money for facilities, maintenance, operations, technology, and textbooks—is distributed to school districts through the Foundation School Program (FSP). Funding for school district maintenance and operations is distributed using weights and adjustments based on student and district characteristics to account for the varying costs of educating different types of students and for other factors.

The fiscal 2008-09 budget appropriates $53.5 billion in all funds for public education, an increase from fiscal 2006-07 of $12.8 billion or 34 percent, and includes $14.2 billion for property tax rate reductions. General revenue appropriations for public education are $34.5 billion, an increase of $5.8 billion, or 20.3 percent, from fiscal 2006-07. This includes $6.1 billion for property tax rate reductions.

Federal education funds for Texas are estimated by TEA to total $8.5 billion in fiscal 2008-09, an increase of $505 million from fiscal 2006-07. This net $505 million estimated increase includes a $545 million increase for school breakfast, lunch, and snack programs, as well as a $23 million increase in Temporary Assistance to Needy Families funds, offset by about $63 million in federal program reductions.

Foundation School Program

The state’s share of contributions to the Foundation School Program has increased dramatically since 2006 as a result of property tax relief measures enacted that year that substituted state funds for a portion of local school tax revenue. The state’s share rose from 34 percent in fiscal 2006 to 40 percent in fiscal 2007. The fiscal 2008-09 budget includes $39.2 billion for the FSP, raising the state’s contribution rate to 49.9 percent for fiscal 2008, the highest percentage since fiscal 1985. Increased local revenue generated by rising property values is expected to decrease the state’s contribution share to 47.9 percent in fiscal 2009.

In order to certify the budget in 2003, the Legislature shifted the August installment of the state FSP payment to the districts to September, the start of the next fiscal biennium. The fiscal 2008-09 budget includes nearly $1.5 billion to eliminate this deferral.

The technology allotment provides funding to school districts for the purchase of electronic textbooks or technological equipment that contributes to student learning. State law requires that the Legislature set the per-student funding rate each biennium, but fixes the maximum per student funding rate at $30 per student in average daily attendance (ADA). The fiscal 2008-2009 budget appropriates $263 million, an increase of $33 million, to fully fund the technology allotment. The fiscal 2006-07 funding for the allotment amounted to $26.00 to $27.00 per ADA.

Educator Salary Increase

The fiscal 2008-2009 budget includes $280 million for school districts and charter schools for educator salary increases. Each school district will receive $23.63 per student in weighted average daily attendance to increase the salaries of classroom teachers, librarians, counselors, nurses, and administrators. However, it does not require an across-the-board pay raise for these groups and does not increase the state minimum salary schedule.

Teacher Incentive Programs

The fiscal 2008-09 budget includes funding for existing teacher incentive programs of $342.8 million, an increase of $242.8 million. The budget provides $195 million for the Awards for Student Achievement program, which provides teacher incentives to schools with high concentrations of educationally disadvantaged students and $147.8 million to fund new teacher incentive programs developed by school districts.

Dropout Prevention

The fiscal 2008-09 budget includes $54.7 million for a variety of current high school improvement and dropout
prevention programs and $50 million to implement the high school completion and success initiatives authorized in HB 2237 by Eissler, enacted during the 2007 regular session. Dropout prevention programs include collaborative programs with local businesses, teacher training, tutoring, support for extra-curricular activities aimed at students at risk of dropping out of school, and intensive summer instruction.

Student Success Initiative

Education Code, sec. 28.0211 requires that students in the third, fifth and eighth grades pass the reading and mathematics sections of the Texas Assessment of Knowledge and Skills (TAKS) exam before being promoted to the next grade level. School districts are charged with providing intense, comprehensive instruction through Accelerated Reading Instruction (ARI) and Accelerated Math Instruction (AMI) programs to those students who did not successfully pass the TAKS exam. Students have up to three opportunities to pass the exam. Each year, TEA must certify that sufficient state funds have been appropriated to provide the necessary ARI and AMI instruction for students. This funding is provided to school districts separately from the FSP as part of a TEA program called the Student Success Initiative (SSI).

The fiscal 2008-09 budget includes $309 million to fund the SSI, a slight decrease from fiscal 2006-07. Because TEA projects a decline in the number of students failing the TAKS in the lower grade levels, TEA will use existing funds to begin serving students unlikely to pass the eighth grade reading and math portions of the TAKS test. The budget provides $36.3 million to create teacher reading academies in grades six through eight, which train teachers to use scientifically valid instructional practices in teaching reading in the core academic test areas, and to offer English Language Arts teacher training across all grades.

Facilities

Facilities funding is provided to school districts through two allotments within the FSP – the Instructional Facilities Allotment and the Existing Debt Allotment. The fiscal 2008-09 budget includes $1.6 billion for facilities funding, an estimated $237.5 million more than the state’s current statutory obligations.
Higher Education Funding

The fiscal 2008-09 budget appropriates $21.1 billion in all funds to higher education institutions, $2.4 billion more than in the previous biennium, a 12.9 percent increase. General revenue appropriations for the biennium total $12.3 billion, a 10.4 percent increase from fiscal 2006-07. This funding is allocated to 35 general academic institutions; nine health-related institutions, including the private Baylor College of Medicine; 50 community and junior college districts; three lower-division state colleges; the state technical colleges; and the Texas Higher Education Coordinating Board (THECB). Also funded are Texas A&M University System service agencies doing research in agriculture, engineering, transportation, veterinary medicine, forestry, and other programs. The Higher Education Fund (HEF), a constitutionally authorized fund to support new construction and excellence programs for public universities that are not eligible for Permanent University Fund (PUF) proceeds, receives general revenue funding.

Academic institutions receive state funding through formula and non-formula appropriations. Formula funding is based primarily on enrollment numbers and the types of courses offered. Nonformula funding includes funding for special items for a particular institution’s area of expertise or special need; debt service for tuition revenue bonds; distributions from the HEF and the Available University Fund (AUF), which helps support the University of Texas and Texas A&M systems; and appropriations for staff benefits.

Central to the debate about funding higher education was increasing formula funding for all sectors of higher education institutions, with a focus on community colleges. Other appropriations issues included student financial aid, graduate medical education, the nursing shortage in the state, tuition revenue bond debt service, funding for employee group insurance, and incentive funding for higher education institutions.

General academic institutions

The fiscal 2008-09 all-funds appropriation for general academic institutions and system offices totals $6 billion, an increase of 8.5 percent from fiscal 2006-07. General revenue appropriations are $4.4 billion, which is an 11.3 percent increase. Funding for debt service for new tuition revenue bonds authorized by HB 153, enacted by the 79th Legislature in its third called session in 2006, is $242.4 million, resulting in a total general-revenue appropriation of $517.4 million for general academic institutions and system offices for fiscal 2008-09. Formula funding totals $3 billion in general revenue funds. Of that amount, $33.3 million is provided for “hold harmless” funding to ensure that no school receives less than fiscal 2006-07 funding levels. Total appropriations for the Texas A&M University System agencies are $802.5 million, with general revenue appropriations comprising 36.3 percent of the agencies’ overall budget.

The 80th Legislature appropriated funds to complete the state’s multi-year commitment to Texas Southern University (TSU) and Prairie View A&M University (PVAMU). The commitment was made in a 2000 agreement with the federal Office of Civil Rights (OCR) to provide funds to strengthen academic programs, infrastructure, and institutional support at the two institutions. Prairie View A&M receives $0.5 million and TSU receives $6.2 million in OCR funding. The Legislature established the Academic Development Initiative at both Prairie View A&M and TSU to increase enrollment and improve student retention and graduation. Each school receives $25 million for the initiative, although the $25 million appropriation for TSU is contingent on the adoption of a suitable recovery or reorganization plan.

Distribution from the AUF increased by $172.3 million, to $964.8 million. General revenue funds for the HEF increased by $175 million, to $525 million.

Health-related institutions

Public health-related institutions receive $7.4 billion in all funds, of which $2.5 billion, or 33 percent, is general revenue and general revenue-dedicated funding. General revenue-dedicated funds include income from tuition and student fees. The legislative appropriation also includes $5 billion in other funds, of which 98 percent is patient income. Formula funding totals about $1.8 billion, or 24.7 percent of the total appropriation for health-related institutions for fiscal 2008-09. Overall, the fiscal 2008-09 appropriation for health-related institutions increased by $1.3 billion, or 20.5 percent, from the previous biennium. Health-related institutions,
including Baylor College of Medicine, will receive $12.4 million in interest earnings from endowments established with tobacco lawsuit settlement receipts.

State graduate medical education (GME) programs, which support residencies for medical school graduates in Texas, receive a boost in funding to address a growing physician shortage. Health-related institutions receive $62.8 million, and GME programs administered by THECB receive $23 million. Graduate medical education programs at four medical schools receive special-item funding of $12.5 million, bringing the total for GME appropriations to a record high $99 million. The professional nursing shortage reduction program administered by THECB is enhanced by almost $9 million, for a total appropriation of $14.7 million.

Public community colleges

Community colleges receive $1.9 billion in all funds, which is a 5 percent increase over the previous biennium. General revenue funding represents 97.6 percent of the total appropriation, which is an increase of $91.8 million, or 5.6 percent over fiscal 2006-07, mostly due to increasing the formula funding. Formula funding accounts for more than 99 percent of the state appropriation to community colleges, which also derive funding from local property tax revenue. Special items funding is about $14.6 million for fiscal 2008-09.

Higher Education Coordinating Board

The Texas Higher Education Coordinating Board receives $1.27 billion in all funds, an increase of 29.4

Community college health benefits funding

Gov. Rick Perry exercised line-item veto authority in June 2007 to remove $154 million from the fiscal 2008-09 state budget that would have funded higher education group insurance contributions for public community colleges in fiscal 2009, the second year of the two-year budget. In his veto message, the governor said that these funds inappropriately would have allowed community colleges to use “millions of state dollars annually to pay benefits of non-state paid employees,” which he said was contrary to state law. Community college officials insisted that their funding requests for employee benefits, which the Legislature included in the fiscal 2008-09 budget, were consistent with the law and the state’s obligation to fund community colleges.

At the center of the controversy over the governor’s veto was the interpretation of a budgetary principle known as “proportionality,” or the proportional cost-sharing between the state and institutions that receive funding. Proportionality is used to determine the state’s obligation to pay for employee benefits, and it requires that payments for salaries and associated benefits be proportional to an institution’s sources of income. In other words, the state’s obligation to pay for employee benefits is limited to payments for those employees whose salaries are paid with state general revenue. All public higher education institutions and state agencies determine the proportional cost-sharing split for their employee benefits costs. In the past, the Legislature has not applied proportional cost-sharing to fund the state’s share of community college employee benefits.

Gov. Perry, Lt. Gov. David Dewhurst, and Speaker Tom Craddick announced in October an agreement to fully restore the $154 million. Community colleges will receive $99 million to pay for the state’s share for eligible employees and an additional one-time transitional payment of $55 million to address the benefits of other employees. (For additional background on this issue, see House Research Organization Interim News, Number 80-1, “A Question of Proportionality: Health Benefits Funding Restored for Community Colleges,” October 30, 2007.)
percent from fiscal 2006-07 levels. Most of this increase goes to fund financial aid programs administered by the board and a new incentive performance initiative. Student financial aid funding increased to $747 million, an increase of $145.5 million from the previous biennium. This includes $427.9 million for TEXAS Grants. According to THECB, the increased money for TEXAS Grants will fund about 90,000 students in fiscal 2008-09, about half of those eligible. Although the B-on-Time loan program, which is allocated $77 million, receives more than triple the appropriation from the previous biennium, the THECB projects that this funding will cover only student renewals and no new students. The Texas Educational Opportunity Grants program receives $14 million, and Texas College Work Study receives $15 million, about a 50 percent increase for each program. Funding for the Texas Equalization Grant program remains at about $211.8 million.

The Legislature established the Higher Education Performance Incentive Initiative and appropriated $100 million in new general revenue for fiscal 2009 to THECB for this purpose. THECB, in conjunction with the Governor’s Office, is directed to develop the incentive program for improvement in teaching and educational excellence at academic institutions. The funds also may be used for scholarships for undergraduate students who have graduated in the top 10 percent of their high school class.

Funding for Higher Education Employees Group Insurance (HEGI) totals $853.0 million, of which $851.8 million is general revenue funding. Before the governor’s veto of $154 million for fiscal 2009 for community college employee group insurance, which subsequently was restored by an agreement of the state leadership (see page 16), HEGI appropriations in all funds totaled just over $1 billion, or about $64 million more than the previous biennium.

The Texas Competitive Knowledge Fund, created to support instructional excellence and research, receives $93.2 million in general revenue, to be allocated to the University of Texas at Austin, Texas A&M University, the University of Houston, and Texas Tech University. This is new funding that will respond to enrollment growth and to research productivity. The Research Development Fund, which supports research infrastructure, receives $38 million more for fiscal 2008-09, totaling more than $80 million. All institutions except the University of Texas at Austin, Texas A&M University, and Prairie View A&M are eligible for the fund.
Criminal Justice Funding

For fiscal 2008-09, overall spending on criminal justice and public safety increase by about 5 percent from fiscal 2006-07 to $10.4 billion in all funds. General revenue funding for Article 5 agencies is $7.9 billion, a 9 percent increase from fiscal 2007-08.

Adult Criminal Justice

Spending on adult criminal justice is driven mainly by trends in the number of adult offenders incarcerated in state facilities. Since July 2005, the state’s prison beds all have been occupied and Texas has been leasing beds from counties to handle additional prisoners. As of January 2008, the Texas Department of Criminal Justice (TDCJ) had an operational capacity of 155,495 beds, including 1,916 under contract from counties.

During budget deliberations, the LBB estimated that the population of adult offenders sentenced to state prisons or jails by the end of fiscal 2008 would exceed the state’s operational capacity by about 6,200 and that the additional need for beds would be about 8,700 by the end of fiscal 2009. “Operational capacity” is calculated as 97.5 percent of bed capacity to account for the need to house inmates appropriately and for flexibility in moving inmates. In January 2008, the LBB released updated population projections predicting that TDCJ will have enough room to house offenders during fiscal 2008 and through 2012. These projections factored in information from fiscal 2007 and changes anticipated in prison admissions and releases resulting from the 80th Legislature’s expansion of treatment and diversion programs for fiscal years 2008 through 2009.

TDCJ will continue to receive funds to contract with counties for some beds. The agency will receive $36.6 million, which will fund contracts for an average of 2,513 beds in fiscal 2008. Gov. Perry line-item vetoed $29.2 million for contracted beds for fiscal 2009. The governor’s veto message said he was using the veto to reduce the almost 10 percent increase in TDCJ’s appropriation because the average number of incarcerated offenders was expected to grow by only 2 percent and the average number of offenders under active parole or probation supervision was expected to grow by only 5 percent. If a need arises for contract beds in fiscal 2009, TDCJ has some flexibility to use other funds temporarily for that purpose, and the 81st Legislature could provide a supplemental appropriation.

HB 1, the general appropriations act, addresses the need for additional prison beds by both increasing the state’s correctional capacity and expanding treatment and diversion programs.

It expands the state’s correctional capacity with the following new general revenue appropriations:

- $15.9 million to convert two Texas Youth Commission facilities into adult prisons (adding a total of 1,212 beds) and to operate those facilities;
- $63.1 million to expand the state’s 3,250 substance-abuse felony punishment (SAFP) beds by 1,500; and
- $22.2 million for operation and treatment costs for 500 new beds for offenders convicted of Driving While Intoxicated (DWI).

Because voters approved Proposition 4 in November 2007, HB 1 authorizes issuing $233.4 million in general obligation bonds to construct three new state prisons of 1,330 beds each. HB 1 stipulates that new prisons may be built only with LBB approval, which means that state leaders would have to give the go-ahead before any construction could begin.

HB 1 adds the following beds to the parole and local probation systems:

- $5.6 million in general revenue for 300 more halfway house beds for offenders released on parole;
- $32.3 million in general revenue for 800 probation residential treatment beds, which will be used by local probation departments and serve about 1,900 offenders annually; and
- $28.7 million in general revenue to add 1,400 intermediate sanction facility (ISF) beds, with half designated for offenders on probation and half for those on parole. Offenders can be sent to these lock-down facilities for up to 180 days by the parole board as an alternative to revoking their parole or by a judge who is sentencing a probationer.
HB 1 expands treatment and diversion programs with the following general revenue appropriations above their fiscal 2006-07 level:

- $5.8 million for substance abuse treatment in state jails, which will fund 1,200 treatment slots in existing capacity;
- $21.7 million to expand by 1,000 beds the state’s 537 substance abuse treatment beds for the in-prison therapeutic community program (IPTC) by assigning existing beds to the IPTC; and
- $10 million for 3,000 outpatient substance abuse treatment slots for probationers.

Another $10 million in new general revenue will go for mental health services, medications, and continuity of care for defendants in local jails and for post-release treatment and supervision of those found not guilty by reason of insanity.

Inmate health care – specifically, correctional managed health care and psychiatric care for adult offenders in state custody – receives an increase of about $81.9 million in general revenue. This will be used to increase base operational funding and for other needs, including recruiting and retaining staff and hospital and specialty care. About $12.8 million will be used to resume a Hepatitis B vaccination program. Repairs and renovations to the TDCJ Hospital in Galveston will be funded with $10.4 million in general obligation bonds.

TDCJ also receives $10.3 million in general revenue and approval for 143 FTEs to operate a Correctional Mental Health Facility in Marlin when the planned transfer of a federal facility is completed. Of that appropriation, $4.8 million, appropriated through the inmate health care line item, is slated for mental health care operations at the facility.

**Juvenile Justice**

Overall funding for the Texas Youth Commission increases by $22.5 million in all funds to $551.9 million, an increase of 4.2 percent. General revenue makes up about 82 percent of the agency’s funding. TYC’s population is projected to decrease because of changes made to the agency in the wake of allegations of sexual abuse and other crimes in TYC facilities. These changes include prohibiting youths from being sent to TYC for misdemeanor offenses and lowering the maximum age limit for those in TYC from 21 to 19. Closing facilities and reducing the size of existing facilities also will be used to reduce capacity. Two TYC facilities, one in San Saba and one in Marlin, have been closed and transferred to the Texas Department of Criminal Justice. HB 1 assumes an average daily population of 3,151 at TYC, down from an average of about 4,700 in fiscal 2006 and about 4,258 in fiscal 2007. This population count includes state-owned beds, contract beds, and halfway houses.

Appropriations also fund an increase in training hours, an increase in the number of juvenile corrections officers (JCOs) to achieve a ratio one JCO to 12 youths, and an increase of 126 in non-JCO staff, including inspectors, counselors, and treatment staff.

Because voters approved Proposition 4 in November 2007, HB 1 authorizes issuing $27.9 million in general obligation bonds for new construction at existing TYC facilities and for a new facility in a metropolitan area. Another $29.8 million in general obligation bonds will pay to repair and rehabilitate facilities and to remodel dormitories. Renovations will include changing dormitories at six facilities from open bay to single rooms.

HB 1 increases the Texas Juvenile Probation Commission’s (TJPC) funding for community corrections services by $57.8 million over the $68.6 million spent in fiscal 2006-07. About $8.7 million will be for basic community services, such as sex offender treatment, intensive supervision, intensive after-hours programs, mental health and substance abuse assessment and services, program services to youths and their families, and increased length of stay in placements. Another $35.4 million is for secure and non-secure post-adjudication placements. The 84 percent increase in funding for these services was in part to handle youths who might otherwise be committed to the Texas Youth Commission (TYC). About $13.8 million of the increase will go to enhanced community-based services for misdemeanants diverted from TYC.

TJPC also receives an increase of $5.6 million in funds for Juvenile Justice Alternative Education Programs (JJAEPs), increasing from $59 to $79 the amount paid by the commission to local JJAEPs per student per day. Funding for JJAEPs comes from the Foundation School Fund, and the Texas Education Agency transfers the funds to TJPC.
Environmental and Natural Resources Funding

Natural resources agencies in Texas include the Texas Commission on Environmental Quality (TCEQ), Texas Parks and Wildlife Department (TPWD), General Land Office (GLO), Texas Water Development Board (TWDB), Texas Railroad Commission (RRC), Texas Department of Agriculture (TDA), Texas Animal Health Commission (TAHC), Soil and Water Conservation Board (SWCB), and river compact commissions. These agencies are charged with protecting, managing, and developing Texas’ agricultural, wildlife, environmental, water, and energy resources, as well as state parks and lands.

The natural resources agencies receive a total appropriation for fiscal 2008-09 of $3.2 billion in all funds, $901.5 million more than the last biennium, an almost 40 percent increase. These agencies receive $686.4 million in general revenue and $1.4 billion in general revenue-dedicated funds, a combined increase of 14.8 percent from the last biennium. Although these agencies receive the bulk of their funding from state general revenue and general revenue-dedicated funds, federal funds account for 26.4 percent of all funds appropriated this biennium.

The most significant funding changes are an increase to expand TCEQ’s air quality improvement programs and an increase to TPWD for state parks. During the 2007 regular session, the 80th Legislature added funding to TPWD for critical repairs, maintenance, and operations at state parks and transferred 18 historic sites from the TPWD to the Texas Historical Commission (THC). Other noteworthy funding changes include increased funding for TWDB to finance projects associated with implementing the State Water Plan and new bonds for the Economically Distressed Areas Program. The transfer of special nutrition programs from the Health and Human Services Commission to TDA meant a one-time increase of $541 million, mostly in federal funds, to ensure that agricultural products are safe to consume.

Texas Commission on Environmental Quality (TCEQ)

The fiscal 2008-09 budget provides $1.1 billion in all funds to the Texas Commission on Environmental Quality (TCEQ), an $84 million or 8.5 percent increase from fiscal 2006-07. Of the amount appropriated, 49 percent is dedicated to supporting efforts to meet federal air quality standards. TCEQ has implemented voluntary, incentive-based programs to reduce nitrogen oxide emissions (NOx), the main component of ozone. Two such programs are the Texas Emissions Reduction Plan (TERP) and the Low-Income Vehicle Repair, Replacement and Retrofit Program (LIRAP). For fiscal 2008-09, TERP receives $337.8 million and LIRAP receives $100 million.

Texas Emissions Reduction Plan (TERP). The TERP was established by the 77th Legislature in 2001 to improve air quality in Texas by reducing nitrogen oxide (NOx) emissions, for which a primary source is diesel engines and vehicles. TCEQ administers TERP grants and other TERP financial incentives to retrofit or replace old diesel-powered engines. Eligible projects range from delivery trucks and transit buses to cranes, forklifts, and locomotives. The fiscal 2008-09 budget includes $297.1 million in general revenue-dedicated funds specifically for TERP grants, an increase of more than $80.7 million from the previous biennium.

Clean School Bus Initiative. The Clean School Bus Initiative, a component of the TERP, was established by the 79th Legislature in its 2005 regular session to reduce school bus diesel emissions. The initiative was intended to help school districts replace or retrofit older, polluting school buses, but was left unfunded in fiscal 2006-07. For fiscal 2008-09, the initiative receives $7.5 million, through a rider under TERP, for reimbursements to school districts and charter schools for the cost of eligible projects that reduce diesel-exhaust emissions. TCEQ also has flexibility to establish grants from other appropriated TERP funds for reduction of other pollutants, including particulate matter emitted by school buses. The commission added $2.1 million from TERP funds to increase funding to $5.87 million in fiscal 2008 and added $2.2 million to increase funding to $6 million in fiscal 2009 for the Clean School Bus Initiative.

Low-income Vehicle Repair, Replacement, and Retrofit Program (LIRAP). The 77th Legislature established LIRAP in 2001 to assist low-income vehicle owners who are not in compliance with vehicle emission standards. LIRAP distributes monetary grants to qualifying participants for vehicle repairs and replacement with the intent of reducing NOx emissions. LIRAP receives $100 million for fiscal 2008-09, an increase of $89 million. Of that $100 million, $90
million is for incentive payments to eligible individuals for replacing and/or repairing their older, polluting, gasoline-powered vehicles. The remaining $10 million is available for county air quality improvement initiative programs aimed at reducing vehicle emissions.

Drivers who qualify for the program based on income still may receive up to $600 for repairs, but the 80th Legislature also enacted SB 12 by Averitt, funded by TCEQ Rider 16 in HB 1, to enhance and increase funding for the vehicle replacement portion of the program. Changes that are funded for vehicle replacement include: extending vouchers to help qualified owners replace older vehicles unable to pass the state emissions test to qualified owners with vehicles that are at least 10 years old, regardless of the vehicle’s performance on the state emissions test; increasing vouchers for vehicle replacement from $1,000 to between $3,000 and $3,500; and adjusting income criteria for eligibility from 200 percent of the federal poverty level to 300 percent of the federal poverty level, making eligible a family of four with an annual net income of $61,950.

Texas Parks and Wildlife Department

The 80th Legislature appropriated $664.8 million in all funds to the Texas Parks and Wildlife Department (TPWD) for fiscal 2008-09, an increase of $164.1 million, or almost 33 percent, from the previous biennium. Of the total funding, $485.2 million, or 73 percent, consists of general revenue and general revenue-dedicated funds. Much of this new funding, along with voter-approved bond packages, is directed toward the repair and improvement of state parks and state park operations.

Of the total appropriation, $96.4 million is additional all-funds spending for state park operations, the park minor repair program, and local park grants, with $9.4 million for new transportation items, equipment, and computers for the park system, $43.7 million for state park operating costs and salaries for an additional 229.3 FTE positions, $7 million for minor repairs, and $36.3 million for local park grants. The 229.3 FTE positions are intended for support and improvement of customer service, interpretive programs such as guided tours, the reopening of campgrounds and trails temporarily closed because of previous budget constraints, and minor and capital repair projects in state parks to address critical safety, code compliance, and structural integrity. However, this increased funding is offset by reductions of $6.8 million and the loss of 65 FTE positions resulting from the transfer of 18 historic sites to the Texas Historical Commission (THC).

In addition to the $96.4 million increase for TPWD, the Legislature appropriated an additional $15.8 million for park land acquisition and development. Voter-approved bond packages are the funding source for $44.1 million for major repairs to Texas state parks, including $17 million from Proposition 8 bond funding approved by voters in 2001 and $27.1 million from Proposition 4 bond funding approved in November 2007. Another $25 million of Proposition 4 bond money will go toward repairs to and the dry-berthing of the Battleship Texas for long-term preservation.

Transfer of Historic Sites

The 80th Legislature in 2007 enacted HB 12 by Hilderbran, which transferred 18 state historic sites from TPWD to THC and created the Historic Site Account using a portion of the dedicated revenue generated by the state sales tax on sporting goods. Before enactment of HB 12, the revenue generated from the state sales tax on sporting goods, up to a statutory cap of $32 million, was distributed among several general revenue-dedicated fund accounts for state and local parks. HB 12 removed the statutory cap and instead set the cap at whatever amount the Legislature provides TPWD in the general appropriations act. Of the amount appropriated, 94 percent of the proceeds from the sales tax on sporting goods must be deposited among the general revenue-dedicated fund accounts for state and local parks and 6 percent deposited into a new general revenue-dedicated fund account, Historic Site Account No. 5139, which is projected to generate $13.7 million for THC in fiscal 2008-09. THC also receives an additional 100 FTE positions per fiscal year to operate the state historic sites transferred to its jurisdiction. HB 12 authorizes these percentages to be adjusted by future legislatures to reflect the transfer of any other historic sites to THC.
Transportation and Regulatory Funding

Fiscal 2008-09 appropriations totaled $16.9 billion to the Texas Department of Transportation (TxDOT), an increase of $1.2 billion, or 7.8 percent, from fiscal 2006-07. Most of the increase is for system maintenance and preservation, construction, right-of-way acquisition, and transportation planning and design. Rider 3 in HB 1 authorizes TxDOT to transfer appropriations from other areas into these activities and to transfer funds between and among these major functions. Together, these activities account for the vast majority of TxDOT's biennial appropriation for fiscal 2008-09.

Funds appropriated for transportation activities are derived principally from federal funds, state motor fuel taxes, and other taxes and fees assessed on motorists. Federal reimbursements to the agency account for about $6.5 billion, or 38.4 percent, of total fiscal 2008-09 appropriations, while state revenue from the State Highway Fund (Fund 6) is about $5.6 billion, or 33.3 percent. Texas Mobility Fund revenue and bond proceeds total about $2.9 billion, or 16.9 percent of fiscal 2008-09 appropriations. In addition, fiscal 2008-09 appropriations include $300 million in general revenue to TxDOT to issue and pay the debt service on bonds, contingent upon comptroller certification that sufficient funds are available after making appropriations for a salary increase for state employees.

The State Highway Fund (Fund 6) is supported mainly by motor fuel taxes and motor vehicle registration fees, with three-quarters of this revenue constitutionally dedicated to highway-related purposes and one-quarter to public education through the Available School Fund. The fiscal 2008-09 budget includes $1.9 billion from Fund 6 for highway-related purposes other than TxDOT road construction, maintenance, and planning. About $1 billion from Fund 6 is appropriated to the Department of Public Safety for various purposes, $722.2 million for benefit costs for employees from several agencies, about $100 million to the Texas Education Agency to buy school buses, $73.9 million to the Health and Human Services Commission for medical transportation and Medicaid matching funds, and $39.3 million for other purposes.

Reporting Requirements

HB 1 subjects TxDOT to certain reporting requirements. Rider 38 authorizes the Legislative Budget Board (LBB) to direct the comptroller to withhold funds if LBB does not receive certain required reports from TxDOT within 10 days of March 31 of each year. Only certain funds that are not constitutionally or statutorily mandated may be withheld. The required reports, listed in rider 20, call for ongoing reporting of funds received in the State Highway Fund, updates on highway and other construction projects, analysis of needs for different modes of transportation in each segment of the Trans-Texas Corridor project, public and medical transportation services, and other activities. These reports also had been required under seven separate riders in the fiscal 2006-07 budget.

In addition, rider 37 requires TxDOT to report changes in federal funding to the LBB and the governor and to notify them of plans for addressing any reductions or rescissions in those funds. Under rider 42, TxDOT must report annually to the LBB the amount and use of state toll project revenues and other related funds deposited outside the state treasury. Rider 39 requires TxDOT to submit an annual report for each fiscal year that reconciles the department’s expenditures with the major categories of expenses in the Statewide Preservation Program and Statewide Mobility Program, which include maintenance, safety, corridor projects, air quality, metropolitan mobility, transportation enhancements recommended by metropolitan planning organizations, and others.

Trans-Texas Corridor

Based on recommendations from a recent State Auditor’s Office review of activities related to the Trans-Texas Corridor between fiscal 2002 and fiscal 2006, rider 48 prevents TxDOT from using any appropriated money or personnel to estimate revenue for a toll project unless approved through an interagency contract with the comptroller. The contract must give the comptroller responsibility for making toll revenue projections for each segment of a toll road before TxDOT signs an agreement to develop that segment. The
department may not implement a master development plan that fails to include cost estimates for mid-term and long-term road facilities. In addition, TxDOT must include in its Trans-Texas Corridor cost reports any indirect costs associated with the project, assure that developers involved in corridor projects provide reasonable assumptions related to cost estimates and plans, and make public all information related to the Trans-Texas corridor to the greatest extent possible.

Comprehensive Development Agreements

The 79th Legislature in 2005 authorized comprehensive development agreements (CDAs) to accelerate completion of transportation projects through public-private partnerships in which the private entity agrees to acquire, design, build, finance, operate, or maintain a toll road. HB 1 places a number of constraints on appropriations from TxDOT for CDA projects. Rider 40 prohibits the department from spending funds appropriated for CDAs unless the department submits a report to the LBB on the location, costs, and benefits to the state for each project proposed under the CDA and receives written approval from the LBB. Rider 41 extends this reporting requirement to any expenditures of funds, including concession fees, received by the department under a CDA and deposited to the State Highway Fund.

Rider 43 limits TxDOT expenditures for contracts with private interests. Without the prior approval of the LBB, the department may not use funds for contracts with private entities for the construction, maintenance, or operation of a road or highway if the contract contains a provision that would ensure a return on investment, reduces the risk of the partner as a result of action taken by the department, limits or penalizes the expansion of other facilities designed to reduce congestion, fails to contain a stated buy-back provision not reliant on calculations or future revenues, or contains any possible financial liability that could be transferred to a state agency. The LBB may consider and grant a request from TxDOT for an exception to any of the restrictions on contracts imposed through the rider.

Agency Level Fund Adjustments

In November 2007, TxDOT announced cutbacks to offset projected funding shortfalls resulting from several factors, including the anticipated insolvency of the Federal Highway Trust Fund, significant pre-existing funding commitments, increased costs of construction and system maintenance, and a limited statewide moratorium on toll projects that involve private investment. The department projects significant deficits in the next several years. In addition, accounting issues caused the agency to reduce significantly the 2008 letting schedule by more than $1 billion.

To limit expenses and prevent future deficits, TxDOT has proposed measures that include reducing operating costs across all districts and divisions by 10 percent, implementing a hiring freeze, and reducing expenditures on outside engineering consultants, and right-of-way acquisition. The department is awaiting responses to proposed cuts from district representatives.

Public Utility Commission

Fiscal 2008-09 appropriations to the Public Utility Commission (PUC) of Texas total $197.6 million in all funds, an increase of $139.2 million from fiscal 2006-07. Most of this appropriation, $175.8 million, is appropriated to the PUC’s low-income discount program, which provides assistance to low-income utility customers through discounts on their electric bills. The program is funded through the System Benefit Fund (SBF), a dedicated account in the general revenue fund.

The SBF was created in 1999 as part of the Texas Electric Choice Act and funded through a 65-cent-per-megawatt-hour assessment. Fund disbursements initially provided a 10 percent discount to eligible low-income customers – those with household incomes not more than 125 percent of the federal poverty guidelines or receiving food stamps or Medicaid – in areas affected by electric retail competition. In 2005, the 79th Legislature appropriated the bulk of SBF revenue for other purposes, and the low-income discount program was not funded.

The 80th Legislature provided supplemental appropriations to resume the discount program for the summer of 2007. Funding the Legislature dedicated to the program for fiscal 2008-09 – about $80 million in fiscal 2008 and about $90 million in fiscal 2009 – may be used to provide a discount of up to 20 percent for qualifying customers in the summer months of 2008 and 2009.
Steering Committee:

David Farabee, Chairman
Bill Callegari, Vice Chairman
Dianne White Delisi
Harold Dutton
Yvonne Gonzalez Toureilles
Carl Isett
Mike Krusee
Jim McReynolds
Geanie Morrison
Elliott Naishtat
Rob Orr
Joe Pickett
Robert Puente
Todd Smith
G.E. “Buddy” West

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

(512) 463-0752

www.hro.house.state.tx.us

Staff:

Tom Whatley, Director; Laura Hendrickson, Editor;
Rita Barr, Office Manager/Analyst; Catherine Dilger,
Kellie Dworaczyk, Tom Howe, Andrei Lubomudrov,
Carisa Magee, Blaire Parker, Research Analysts