HOUSE RESEARCH ORGANIZATION
Texas House of Representatives

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CSHB 1:

The House Appropriations Committee's Proposed Budget for Fiscal 2012-13

The House Appropriations Committee reported CSHB 1 by Pitts, the general appropriations bill for fiscal 2012-13, on March 23 by the following vote:

18 ayes – Pitts, Aycock, Button, Chisum, Crownover, Darby, Gooden, S. King, Margo, D. Miller, Morrison, Otto, Patrick, Riddle, Schwertner, Shelton, Torres, Zerwas

7 nays – Turner, Giddings, Hochberg, Johnson, Martinez, McClendon, Villarreal

2 absent – Dukes, Eiland

The proposed state budget would appropriate $164.5 billion in all funds, a decrease of 12.3 percent from the amount currently estimated to be spent in fiscal 2010-11. The general revenue and general revenue-dedicated portion, $83.9 billion, would be about 5.2 percent less than in fiscal 2010-11.

This report presents an overview of the proposed state budget and of each article of CSHB 1. It highlights significant budget issues, including different proposals for funding individual agencies and programs. For further background on the state budget, see HRO State Finance Report 82-2, *Fiscal 2012-13 State Budget: Background on the Issues*, February 23, 2011, and State Finance Report 82-1, *Writing the State Budget: 82nd Legislature*, February 3, 2011.

Table of Contents

Fiscal 2012-13 Budget Overview 3
Article 11 4
Spending and revenue 4

Article 1: General Government 7
Decreased funding to economic development programs 8
State employee health benefits 8
State contribution to state employee retirement trust fund 10
Funding the State Historical Commission 11
911 call center funding 12

Article 2: Health and Human Services 13
Caseload and cost growth 14
Provider rate cuts 15
Decreased mental health funding 16
Decreased funding for community-based, long-term care 18
Funding for Child Protective Services 19

Article 3: Public Education 21
Decreased funding for Foundation School Program 22
Decreased funding for grants to school districts outside FSP 23
Decreased funding for TRS pension fund 25
Decreased state contribution to TRS-Care 26
Maintaining funding for Texas School for Blind and Visually Impaired 27
Maintaining funding for Texas School for the Deaf 29
Decreased funding for textbooks and instructional materials 30

Article 3: Higher Education 31
Decreased funding for universities 32
Decreased funding for community colleges 33
Decreased funding for student financial aid 35

Article 4: **Judiciary** 37
Funding civil legal aid programs 38
Funding for criminal indigent defense grants 39
Supplemental funding for felony prosecutors 40

Article 5: **Criminal Justice and Public Safety** 41
Reduced state correctional capacity 42
Funding for treatment and diversion programs 43
Funding for Windham School District 44
Decreased funding for prison health care 45
Texas Youth Commission capacity 47
Continued funding to TJPC to divert youth from TYC 47
Border security 48

Article 6: **Natural Resources** 51
Decreased funding for emissions reduction programs 51
No new debt service funding for water, wastewater infrastructure planning 53
Eliminating dam safety funding 54
Reduced funding for state and local parks 55

Article 7: **Business and Economic Development** 57
General obligation bond proceeds for highway projects 58
Automobile Burglary and Theft Prevention Authority 59
Reduced funding for workforce development programs 60
Reduced funding for low-income housing and homeless services 62
Fund 6 appropriations to Department of Public Safety 63

Article 8: **Regulatory Government** 65
Reductions for low-income discounts through System Benefit Fund 65

Fiscal 2012-13 Budget Overview

CSHB 1, the House Appropriations Committee version of the fiscal 2012-13 budget, would authorize total spending of $164.5 billion, a decrease of 12.3 percent from fiscal 2010-11. General revenue and general revenue-dedicated spending would be $83.9 billion, a decrease of $4.6 billion, or 5.2 percent. This includes $77.6 billion of undedicated or "pure" general revenue.

CSHB 1 would decrease spending in fiscal 2012-13 by $11.4 billion in all funds for Health and Human Services agencies, $5.1 billion for public education, $2.4 billion for business and economic development, $1.2 billion for general government, and $1.1 billion for public safety and criminal justice. It would decrease spending by $549.7 million in all funds for natural resources, by $96.8 million for regulatory agencies, and by $35.2 million for the judiciary.

The committee substitute for HB 1 includes $4.3 billion in appropriations that were not in the filed version of HB 1. The funds would be made available for fiscal 2012-13 spending by CSHB 4, which would reduce agency appropriations for fiscal 2011 and CSHB 275, which would appropriate $3.1 billion from the rainy day fund for general revenue spending in fiscal 2011. Together, CSHB 4 and CSHB 275 would eliminate the projected deficit for fiscal 2010-11 and allow $4.3 billion more of the comptroller's January 2011 revenue estimate to be spent in fiscal 2012-13. These funds were added to the filed version of CSHB 1, with $2.0 billion in general revenue funds going to health and human service agencies in Article 2, $2.0 billion going to public education in Article 3, and $314.0 million to criminal justice and public safety agencies in Article 5.

Biennial spending comparisons

(millions of dollars)

Type of funds	Estimated/budgeted Fiscal 2010-11	Recommended Fiscal 2012-13 CSHB 1	Biennial change	Percent change
General revenue and general revenue-dedicated	$88,525.6	$83,907.3	($4,618.3)	(5.2%)
Federal	72,573.2	53,214.8	(19,358.3)	(26.7)
Other	26,399.4	27,382.0	982.6	3.7
All funds	187,498.1	164,504.1	(22,994.1)	(12.3)

Source: Legislative Budget Board, Summary of Committee Substitute for House Bill 1*, March 2011*

The House base budget proposal for fiscal 2012-13 issued in January 2011 proposed spending $156.4 billion in all funds and $79.3 billion in general revenue and general revenue-dedicated funds. Senate base budget spending recommendations for fiscal 2012-13 would spend $158.7 billion in all funds and $79.7 billion in general revenue and general revenue-dedicated funds.

Fiscal 2010-11 estimated/budgeted amounts reflect most of the fiscal 2010-11 budget reductions proposed by agencies in response to state leaders' January 2010 request for 5 percent budget reductions. Fiscal 2010-11 cuts were made at the direction of state leaders in anticipation of revenue being insufficient to cover general revenue spending in the general appropriations act enacted in 2009. In December 2010, agencies were told by state leaders to cut another 2.5 percent from their original general revenue and general revenue-dedicated appropriations for fiscal 2011. These reductions are not reflected in fiscal 2010-11 estimated/budgeted spending levels.

Article 11

CSHB 1 includes Article 11, sometimes referred to as a "wish list." It is a listing of the Appropriations Committee priorities for spending beyond what is in the proposed budget. The list will be considered by the conference committee and could result in the funding of some items. The Article 11 list in CSHB 1 totals $1.2 billion.

Spending and revenue

Under Texas Constitution, Art. 3, sec. 49a, an appropriations bill may become law only if the comptroller certifies that sufficient revenue will be available to pay for it. Before each regular session, the comptroller issues a constitutionally required estimate of state revenue available for spending. The comptroller may revise the pre-session revenue estimate at any time. The comptroller will decide at the time of certification whether CSHB 1 meets the constitutional requirement.

With $77.6 billion in proposed general revenue funds spending, CSHB 1 would appropriate general revenue funds in excess of the comptroller's January revenue estimate for fiscal 2012-13. In January 2011, Comptroller Susan Combs estimated that the state would collect $77.3 billion in general revenue funds. However, the comptroller said in January that only $72.2 billion of the total would be available to certify the fiscal 2012-13 budget because $4.3 billion of the amount collected must first be used to offset a revenue shortfall in fiscal 2010-11.

Budget writers have assumed that additional funds are available beyond those included in the BRE for fiscal 2012-13 spending. An additional $300 million will come from a transfer from the General Land Fund to the Permanent School Fund that was approved by the School Land Board in early January 2011. In March, the comptroller increased the estimate of sales-tax collections in the second half of fiscal 2011 by $300 million. This means that the projected deficit for fiscal 2010-11 is smaller.

Other bills under consideration by the 82nd Legislature also could change the amount of general revenue and general revenue-dedicated funds available for certification of the fiscal 2012-13 budget. CSHB 4 by Pitts, the supplemental appropriations bill for fiscal 2010-11, would formalize about $1.3 billion in state agency budget cuts that were made to fiscal 2010-11 spending, while also making some appropriations for fiscal 2011. By reducing the fiscal 2010-11 shortfall, the bill would result in a net gain to fiscal 2010-11 general revenue and general revenue-dedicated funds of $855.8 million. In addition, CSHB 275 by Pitts would authorize the Legislature to appropriate $3.1 billion from the rainy day fund to cover the remaining estimated fiscal 2010-11 shortfall.

Taken together, these proposed actions – the additional funds from the transfer from the General Land Fund to the Permanent School Fund, the additional sales taxes that the comptroller expects to collect in fiscal 2011, the cuts made to fiscal 2010-11 spending, and the $3.1 billion in rainy day fund money proposed to be spent for the fiscal 2010-11 budget – would eliminate the projected deficit for 2010-11 and allow $4.3 billion more of the revenue that comptroller estimates to be collected in fiscal 2012-13 to be available for appropriation for that biennium.

General Government — Article 1

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

- offices of the governor, secretary of state, attorney general, and comptroller;
- agencies charged with general operations of state office buildings and bond issues; and
- agencies that administer state employee benefits, pensions, and workers' compensation programs.

For Article 1 agencies, CSHB 1 would spend about $3.6 billion in all funds for fiscal 2012-13, a decrease of $1.2 billion, or 24.3 percent, from fiscal 2010-11. CSHB 1 appropriations for Article 1 would constitute 24.3 percent of the total state budget, including $2.0 billion in general revenue funds and $731.1 million in general revenue-dedicated funds. About $9.3 million in Article 1 spending would be funded by a tax amnesty program that CSHB 1 would require the comptroller to establish, with special provisions listing how the funds would be spent. The single largest use would be $2.5 million to fund the TexShare database program of the State Library and Archives Commission. It would be the intent of the Legislature that the tax amnesty increase overall state revenue by at least $75 million.

Article 1 spending comparisons

(millions of dollars)

Type of funds	Estimated/budgeted Fiscal 2010-11	Recommended CSHB 1	Biennial change	Percent change
General revenue and general revenue-dedicated	$3,063.8	$2,780.1	($283.7)	(9.3%)
Federal	1,200.6	667.0	(533.6)	(44.4)
Other	543.6	193.2	(350.4)	(64.5)
All funds	4,807.9	3,640.3	(1,167.7)	(24.3)

Source: Legislative Budget Board, Summary of Committee Substitute for House Bill 1*, March 2011*

Decreased funding to economic development programs

Trusteed programs of the governor

CSHB 1 – $150 million in general revenue-dedicated unexpended balances for the Texas Enterprise Fund; $140.5 million in general revenue-dedicated unexpended balances for the Emerging Technology Fund. No new appropriations.

Governor's request – $15 million in additional funding for the Emerging Technology Fund.

Supporters say that while the Texas Enterprise Fund and the Emerging Technology Fund are useful "deal closing" funds that encourage businesses to invest in Texas, economic development is not a core function of government, and the revenue shortfall is too great to invest in anything but core services. CSHB 1 would not provide new funding for the governor's economic development funds, but it would allow the governor to use unexpended balances from the previous biennium, which means the funds could continue to attract businesses to Texas.

Critics say the Legislature should invest in economic development and job creation during this difficult economic period. These funds were created during the last recession in 2003 because the Legislature then recognized how important it was for Texas to recruit new business investment to Texas. Greater investment in these funds would help Texas more quickly recover from the economic recession.

State employee health benefits

Employees Retirement System of Texas

CSHB 1 – $2.5 billion in all funds, an increase of $21.5 million from fiscal 2010-11 spending.

Agency request – $3.4 billion in all funds for general state agencies (not including higher education funding).

CSHB 1 would increase funding for state employee group health benefits by $21.5 million in all funds, including a $1.8 million decrease in general revenue and general revenue-dedicated funds, from fiscal 2010-11 funding levels. CSHB 1 would require state employees and retirees to pay 10 percent of the cost of their health insurance premiums, which would raise $215 million for fiscal 2012-13. The proposal would cost participants $48 a month for member-only coverage, based on projected program costs for fiscal 2012.

State employee health benefits are administered by ERS, which for fiscal 2012-13 has requested $2.5 billion to provide group health benefits at fiscal 2011 levels to state employees and retirees. This would be an increase of $621 million from fiscal 2010-11 spending. ERS has requested additional funds to cover expected increases in its contribution requirements for the group benefits plan in the upcoming biennium due to the cost of replacing funds spent from its contingency fund, increased costs from the federal Affordable Care Act of 2010, and general increases in the cost of health care services. To cover these expenses, ERS has requested exceptional items of $591 million in all funds for fiscal 2012-13 to maintain existing plan benefits, as well as $311 million in all funds to replenish its contingency reserve fund.

Supporters of the CSHB 1 proposal say requiring state employees and retirees to pay 10 percent of their health insurance premiums would help offset massive increases in the cost of providing health care. In 2009, only 14 states paid 100 percent of the monthly insurance premium of their employees, according to the National Conference of State Legislatures. It also is rare for a private employer to fully pay the cost of employee health care plans. Medical costs are increasing, and state employee health insurance is not guaranteed like the pension plan. Health insurance benefits always have been funded two years at a time, contingent upon appropriations. Spreading the increased cost among all members of the plan would be fairer than shifting the burden to the sickest people through higher copays and deductibles.

Critics of the CSHB 1 proposal to require state employees and retirees to pay 10 percent of their health insurance premiums say it would amount to a pay cut for state employees. While $48 a month may not be a lot for higher-paid employees; it would be a burden for most states employees for whom the median salary is only $35,000 a year. State employees are, on average, more highly educated than private sector workers, yet receive lower levels of pay than others with the same education in the private sector. One way the state has attracted employees is by offsetting low pay with a quality benefit package. Benefits are one of the few rewards for productivity in a tight fiscal environment where raises are not being offered, and asking state employees to pay for part of their insurance premiums would make state employment less attractive. State retirees, most of whom live on fixed pensions that have not increased since 2001, could little afford to pay 10 percent of their premiums. Workers who gave their careers to the state understood that they would have their medical coverage fully paid for in their retirement.

Other critics of CSHB 1 say it still would leave ERS $376 million short of what it would need to fund group benefits adequately. In order to completely address ERS's projected shortfall, employees and retirees would need to pay 20 percent of the cost of their insurance premiums and 60 percent of their dependent coverage. CSHB 1 would shift the task of making tough budgeting choices to the next legislature and the ERS board, which would have to make additional benefit cuts in the state health care plan by raising deductibles and copays even higher for state employees and retirees.

State contribution to state employee retirement trust fund

Employees Retirement System of Texas

CSHB 1 – $699.8 million in all funds for state contribution to state employee retirement fund, a decrease of $106.7 million from fiscal 2010-11 spending of $806.5 million.

Agency request – $1.1 billion in all funds.

CSHB 1 would appropriate $699.8 million in all funds for the state contribution to the state employee retirement trust fund, including $419.8 million in general revenue funds. This would be a decrease of $106.7 million in all funds from fiscal 2010-11 funding and a decrease of $70.7 million in general revenue funds. CSHB 1 would reflect a lowering of the state contribution rate to employee retirement accounts from 6.95 percent to 6 percent, the minimum contribution allowed by the Texas Constitution. CSHB 1 would include $4.2 million more than the Senate base budget proposal because it assumes a 0.5 percent annual payroll growth for state employees, while the Senate base budget does not.

Supporters of the CSHB 1 proposal to reduce the state's contribution to the state employee pension plan say that impressive gains on trust fund investments could successfully absorb this reduced level of funding in the short term. While the state's pension plan is an important obligation, the needs of the retirement trust fund are not immediate issues that must be addressed in the current budget.

Critics of the CSHB 1 proposal say underfunding the state pension plan now would compound the amount the state will need to appropriate to the trust fund at a later date. The state has been underfunding the pension plan for years, relying on investment gains to keep the trust fund sound. But the pension plan requires more than investment gains, and without adequate contributions from the state and state employees, it will not be actuarially sound.

Under CSHB 1, lowering the state contribution to 6.0 percent would, as required by current law, cause the employee contribution to decrease from 6.5 percent to 6.0 percent, decreasing pension plan revenue by another $58 million. The actuarial valuation of ERS' assets and liabilities on February 28, 2011, showed that the state employee retirement trust fund had 82 cents for each dollar it will pay toward the benefits earned by current active and retired beneficiaries. To make the trust fund actuarially sound, the combined state and employee contribution rate would need to be 17.81 percent of payroll. As an exceptional item, ERS had requested an increase in the state contribution rate of 3.05 percent, or $362.5 million in all funds. This would have raised the state's contribution to the 10 percent maximum allowed by the Texas Constitution, but still would not have made the trust actuarially sound. For full actuarial soundness, the employee contribution also would have to be raised by 0.57 percent, to 7.07 percent of payroll, which would generate another $67 million in all funds for the biennium.

Other critics say that the state's retirement plans are an example of an outdated model that fails to serve the needs of the modern workforce. Few people entering the job market today will stay with a single employer over the course of their careers. The state should adopt a defined contribution plan rather than the defined benefit plans it currently offers. Such a change would attract employees who would appreciate its portable benefits, and the state's pension obligations would be contained and predictable.

Funding the State Historical Commission

Texas Historical Commission

CSHB 1 – $28.8 million in all funds, a decrease of $76.1 million from fiscal 2010-11 spending of $104.9 million.

Agency request – $73.6 million in all funds ($44.2 million in general revenue funds).

CSHB 1 would appropriate $28.8 million in all funds to the Texas Historical Commission, including $19.3 million in general revenue funds. The Historical Commission preserves Texas' architectural, archeological, and cultural landmarks. The agency employs experts in archeology, architecture, history, economic development, heritage tourism, public administration and urban planning. It also provides grants to local history and preservation organizations and coordinates volunteer efforts across the state.

Supporters of the CSHB 1 proposed funding level say it would allow the Historical Commission to continue work on some existing projects, while suspending others. CSHB 1 would adequately fund basic agency functions for the next biennium and allow the agency to restart its programs once additional funding could be found in the future. CSHB 1's funding proposal is in line with the governor's proposal to suspend most of the agency's functions. While these deep cuts would not be desirable, historic preservation is not a core function of state government, and funds should be spent on more immediate needs.

Critics of the CSHB 1 proposed funding levels say the cuts would be devastating to efforts both to preserve Texas history and to attract heritage tourists who visit Texas to experience its culture. The pursuit of Texas history is a critical function of state government because it educates, stimulates business growth, and strengthens community. Programs such as historic site and county courthouse preservation, which have provided excellent returns on investment, would be curtailed, if not mothballed, under CSHB 1's proposed funding.

911 call center funding

Commission on State Emergency Communications

CSHB 1 – $ 88.4 million in all funds ($85.3 million in general revenue-dedicated funds), a decrease of $33.5 million in all funds from fiscal 2010-11 spending of $121.9 million.

Agency request – $143.9 million in all funds.

CSHB 1 would reduce funding to the Commission on State Emergency Communications by $33.5 million. The commission distributes these funds as grants to regional councils of government that use the funds to support local 911 call centers. These centers receive 911 emergency calls and dispatch law enforcement, paramedics, and firemen as appropriate.

Supporters of the CSHB 1 proposed funding say the reduction would result in the closing of smaller, underused call centers whose functions could be performed by larger centers in nearby cities or by those that operate on a county level. Some smaller call centers may receive only one or two 911 calls a day. The same or similar functions could be performed more efficiently by larger 911 call centers. Equipment upgrades to 911 call centers, while desirable, are not necessary at this time. Any needed upgrades still could be performed under the funding provided by CSHB 1, and others could be delayed until the next biennium.

Critics of the CSHB 1 proposal say the reductions would mean increased response times to emergency situations, especially in rural and suburban areas. The commission provides assistance to 355 call centers that serve 8.6 million Texans in 224 counties. If local 911 calls were routed to nearby city or county officials due to cutbacks, requests for assistance would, in turn, need to be referred back to local authorities, increasing response times. Delays in upgrading equipment would mean local call centers could not take advantage of the latest technological breakthroughs in areas such as call tracing.

The funds used to pay for 911 telecommunications and infrastructure come from general revenue-dedicated funds generated by a monthly 50 cent fee per landline or wireless account. These funds should be spent for the purpose for which they were collected: 911 emergency communications. Collecting fees for one purpose and allocating them for another, including for budget certification, is not a conservative and fiscally sound approach to budgeting and violates the principle of truth in taxation.

Health and Human Services — Article 2

Article 2 includes the five Texas health and human services (HHS) agencies, which constitute Texas' second-largest budget function after education. CSHB 1 would appropriate to HHS agencies $65.5 billion in all funds for fiscal 2012-13, 17.5 percent less than in fiscal 2010-11. This would include an increase of $286 million, or 1.3 percent, in general revenue and general revenue-dedicated funds. CSHB 1 includes an additional $2 billion, largely to meet Medicaid caseloads and costs, contingent upon the enactment of CSHB 275.

The decrease in all funds largely is due to the loss of $5.7 billion in one-time federal stimulus funding used to support HHS programs in fiscal 2010-11 and from administrative reductions, provider rate cuts of 10 percent, and not fully accounting for caseload growth or rising health care costs. The bill also assumes a 10 percent spending cut of $45 million in general revenue funds for Medicaid optional services, such as prescription drugs, nonmedical mental health providers, chiropractic services, and vision and hearing aid services, but does not specify how to achieve the cut.

CSHB 1 also directs HHS agencies to take steps to achieve the savings. Budget rider 52 for the Health and Human Services Commission (HHSC) directs the agency to expand the use of Medicaid managed care throughout the state, with an expected savings of $367 million in general revenue funds and $936 million in all funds. HHSC's budget rider 61 directs the agency to find $450 million in general revenue savings using one or all of 13 specified cost-containment initiatives, such as payment restructuring, care management, and renegotiating more efficient contracts. Budget rider 43 for the Department of Aging and Disability Services (DADS) directs the agency to close one state-supported living center and prohibits spending on that facility after January 1, 2013, saving the state $10 million in general revenue. Rider 64 for the Department of State Health Services (DSHS) directs the agency to achieve $18 million in savings in hospital facilities and services by increasing efficiencies and reducing acute care reimbursement, among other actions. Rider 65 for the Department of State Health Services (DSHS) directs the agency to take steps to privatize two state mental health hospitals, which is expected to save the state $10 million in general revenue.

Article 2 spending comparisons

(millions of dollars)

Type of funds	Estimated/budgeted Fiscal 2010-11	Recommended CSHB 1	Biennial change	Percent change
General revenue and general revenue-dedicated	$22,664.3	$22,950.0	$285.7	1.3%
Federal	42,216.6	30,544.3	(11,672.2)	(27.6)
Other	596.7	534.9	(61.8)	(10.4)
All funds	65,477.6	54,029.2	(11,448.4)	(17.5)

Source: Legislative Budget Board, Summary of Committee Substitute for House Bill 1*, March 2011*

Caseload and cost growth

HHSC, DADS, DFPS, DSHS

CSHB 1 – would not fully fund anticipated costs for caseload growth and cost increases.

Agency request – in agency priority presentations, at least $6.5 billion in general revenue funds, including $4.1 billion for Medicaid acute care and Children's Health Insurance Program (CHIP) caseloads and $1.2 billion to pay anticipated Medicaid cost increases, both in the HHSC budget.

CSHB 1 would increase funding from the the base budget proposal by $1.8 billion in general revenue funds and $4.3 billion in all funds in fiscal 2012 to fund acute care Medicaid caseload and cost growth, contingent on enactment of CSHB 275.

Supporters say that at $20 billion per year in all funds, Medicaid, the state's largest program, also is an entitlement program, so the state must pay for services for all who qualify. Because of federal health care reform, Texas cannot reduce spending by limiting eligibility for the program. The proposed funding for caseloads and costs in CSHB 1 and the enactment of CSHB 275 would help the state meet patients' medical needs and address expected growth and inflation at least through spring of 2013. By funding caseload and cost growth at this amount, the programs would not have to reduce provider rates beyond the 10 percent rate cuts assumed in the bill to provide expected care within budgeted amounts. The proposed funding reflects a conservative approach to budgeting for Medicaid because caseloads and costs could turn out to be lower than projected. If they met or exceeded projections, the 83rd Legislature could provide supplemental funding in 2013. Appropriating later for a shortfall is preferable to appropriating more funds than the program requires because excess appropriations could tie up funding that could be used for other purposes. The recovery of the economy also could reduce the number of people eligible for Medicaid and other state programs.

Critics of not fully funding caseload and cost growth say the proposed funding does not reflect a reasonable expectation. Health care costs, like most goods and services, increase each year due to inflation. Health care costs also increase due to other factors, such as technological advancements and increased prevalence of chronic diseases. Failure to adequately fund caseload and cost growth requires the Legislature to make supplemental appropriations to HHS agencies each session, which reduces budget certainty. It also is wrong to underfund caseload and cost growth when the state faces challenging economic times that could increase demand for public assistance. CSHB 1 together with CSHB 275 would address only part of the problem. Some agencies still would need to further reduce provider rates, which could mean cuts to some providers of more than a third. In its priority requests, DADS asked for about $1.2 billion in general revenue funds to fully fund Medicaid long-term care caseloads and cost increases. DFPS asked for $35.4 million in general revenue funds to fully fund foster care caseloads and $33.5 million in general revenue funds to fully fund new adoption subsidies related to caseload growth. DSHS asked for $15.8 million in general revenue funds to pay for mental health hospital cost increases.

Provider rate cuts

Across all HHS agencies

CSHB 1 – decrease in funding to reimburse most providers serving recipients in state HHS programs.

Most of the general revenue savings in Article 2 would be the result of a 10 percent Medicaid rate cut, reducing general revenue spending by $1.6 billion and all-funds spending by $3.8 billion. The Medicaid rate cuts would affect most providers, including physicians, dentists, hospitals, and nursing homes. Reimbursement to pharmacists would be cut by $28.3 million in general revenue funds by reducing their dispensing fee per prescription by one dollar. CSHB 1 also would eliminate state funding for special Medicaid upper payment limit (UPL) payments to private children's hospitals, for a savings of $25 million in general revenue funds. Non-Medicaid providers would be subject to rate reductions in varying amounts. CSHB 1 rate cuts include the reduced rates established by HHS agencies in their response to requested reductions of 5 percent in 2010 and 2.5 percent in 2011. For example, in fiscal 2011, cumulative rate reductions for Medicaid acute care services, including managed care, amounted to 2 percent, and for nursing facilities and ICFs/MR, to 3 percent.

Supporters of the CSHB 1 provider rate cuts say that because of federal restrictions on the Medicaid program, reducing provider rates is one of the few methods whereby the state can reduce spending and remain compliant. Also, cutting provider rates is one way to help curb the growth of Medicaid, which is rapidly consuming the Texas budget. For all HHS programs, when trimming the budget it would be better to cut provider rates than to eliminate an entire set of services. Providers still would get paid, but they should help in tough budgetary times by taking a small reduction. Rates could be increased later if the state received more revenue during the interim. CSHB 1 also contains a contingency rider that would increase Medicaid rates to primary care providers with all cost savings actualized by the measures in HB 708, which would amend the practice and regulation of advance practice nurses.

Critics of the CSHB 1 proposal say provider rate cuts would not curb Medicaid spending growth that results largely from rising caseloads. The cuts would compel many providers to drop out of Medicaid and other programs, leaving recipients with coverage but no access to care. Additionally, because CSHB 1 would not fully fund caseloads and costs, HHS agencies would need to reduce rates further. Even before the fiscal 2010-11 cuts, Medicaid rates to providers did not fully cover their costs, and the proposed reductions would disable whole programs. When the state cuts a dollar in Medicaid rates, providers feel the loss of $2.35-$2.40, since state spending is matched by federal matching funds. Without sufficient providers, patients would seek care in more expensive settings, such as emergency rooms. People with insurance and businesses that provide employee health benefits would bear greater insurance expenses as providers charge more to cover the cost of uncompensated care.

In some areas of the state, doctors who accept Medicaid already are in short supply, particularly specialists. Adopting the HHSC recommendation for partial rate restoration for primary care physicians and specialists at least would help children maintain access to services. In 2009, children under age 21 constituted about 77 percent of the Medicaid program and 100 percent of the regular CHIP program. These providers would continue to operate with a rate reduction of 2 percent from fiscal 2010 levels.

Texas ranks 49th nationwide in nursing home Medicaid rate reimbursements, which now do not cover operating costs. CSHB 1 would further reduce access and hurt quality of care. Because labor accounts for two-thirds of nursing home costs, rate cuts would make finding competent, caring staff nearly impossible and ultimately cause facilities to close.

Decreased mental health funding

Department of State Health Services (DSHS)

CSHB 1 – decrease of $162 million all funds ($66 million in general revenue and general revenue-dedicated funds) from fiscal 2010-11 levels for community mental health services; decrease of $33.9 million in all funds ($32.5 million in general revenue funds) for state and community mental health hospital funding.

Agency request – for state and community mental health hospitals, $98 million to restore funding to fiscal 2010-11 levels and to meet increased costs, increase psychiatrists' salaries, and maintain additional capacity that was added during fiscal 2010-11.

CSHB 1 would reduce funding for community and inpatient mental health services by 10 percent in all funds from fiscal 2010-11 spending levels. It would reduce state and community mental health funding by about $18 million in general revenue funds, with a rider directing the agency to find efficiencies, implement step-down units, reduce acute-care reimbursements, and better manage lengths of stay. It also would direct DSHS to take steps to privatize two state mental health hospitals by requiring development of a request for proposal by September 1, 2012, for an expected savings of $10 million. Other reductions would come from the elimination of FTEs and loss of federal stimulus funding.

Supporters of the mental health funding cuts say they would constitute only about a 10 percent all-funds reduction for community and inpatient mental health services from fiscal 2010-11 funding. CSHB 1, unlike the base budget proposal, also would almost fully restore mental health crisis services appropriations to fiscal 2010-11 levels.

CSHB 1 would direct the privatization of two state mental health hospitals. Operating a hospital requires expertise and extensive and ongoing investments in capital, administration, and human resources, and the private sector is better suited to this task. Privately run hospitals are more effective and efficient and can serve more Texans. State hospital physicians are paid considerably less than their colleagues in the private market, and they may be better compensated at a privatized hospital, which also would result in better patient outcomes. CSHB 1 also would direct DSHS to contract with an independent entity to study the state's public mental health system and make recommendations for improvements by September 1, 2012. This study would help ensure that care was provided according to best practices and state dollars were spent wisely.

Critics of the CSHB 1 proposal say this is not the time to cut mental health services. The population is growing, as are general costs of hospital operations, medications, and services, and Texas expenditures already are low and inadequate. According to a Kaiser Family Foundation review of per-capita state agency expenditures on mental health for fiscal 2006, Texas ranked 50th in mental health spending. Continuing economic woes increase the likelihood of depression, suicide, and the loss of private health insurance coverage that could pay for needed mental health services and medications. Fewer mental health programs and beds would drive more mentally ill Texans into jails and prisons, which is a more costly way to address our mentally ill population. The expected inpatient hospital savings of $18 million from efficiencies and other measures is not realistic and the lowered funding likely would result in reduced capacity to meet essential needs and in lower payments to community hospital providers. The lowered general revenue spending in this bill also would eliminate the annual support of $31 million in federal mental health block grant money for which Texas has qualified in previous years.

State-run mental health hospitals provide a safety net for uninsured people, especially those with severe and persistent mental illness. State hospitals can treat patients more cost effectively than private hospitals, which must make a profit. Efforts to reduce administrative overhead at state hospitals have lowered costs for taxpayers while maintaining quality care. Private contractors cannot deliver the same services for the same cost, which raises concerns about quality of care and patient safety. When state hospital beds are not available, individuals with mental illness will seek care in hospital emergency rooms, ultimately passing the costs of their care to local taxpayers and the privately insured.

Decreased funding for community-based, long-term care

Department of Aging and Disability Services (DADS)

CSHB 1 – decrease of $1.8 billion in all funds for community services and supports for long-term care.

Agency request – priority request list included increased funding for non-Medicaid safety net programs ($112.8 million in general revenue funds); promoting independence initiatives ($22.5 million in general revenue funds; 53.1 million all funds), and Program for All-inclusive Care for Elderly (PACE) ($10.2 million general revenue; $24 million all funds).

CSHB 1 would reduce funding by 30 percent in all funds from fiscal 2010-11 levels for long-term community services and supports. For non-Medicaid "safety net" services, contingent on the enactment of CSHB 275, the proposed budget would double the funding from the base budget proposal with an increase of $112 million in general revenue funds to restore services to almost 11,000 Texans to fiscal 2010-11 levels.

Supporters say the proposed funding would increase the number of people served in Medicaid nonwaiver community services and supports from fiscal 2010-11 levels, increase the number who could transition from nursing facilities to community care, maintain Medicaid waiver caseloads at 2011 levels, and restore community services to people not enrolled in Medicaid. These non-Medicaid "safety net" programs encourage self-sufficiency by helping families to combine state-funded services with local and family resources to care for their relatives at home. Some of the funding reductions from fiscal 2010-11 result from the expansion of the Medicaid managed care program, STAR+PLUS, which is a more cost-effective approach to providing long-term and acute-care services to Medicaid recipients. The expansion of STAR+PLUS would transfer funding from DADS to HHSC, which funds Medicaid managed care programs.

CSHB 1 reflects a more cost-effective approach to long-term community care by directing the closure of one state-supported living center. Texas' 13 state-supported living centers are serving fewer people as demand for their services has dropped and they require increasing funding to maintain aging infrastructure.

Critics say CSHB 1 should fund expected caseloads and services at anticipated levels, not just fiscal 2010-11 levels. People with developmental and physical disabilities are more likely to thrive in their homes and communities, where they can maintain relationships with family, friends, and religious supports. Reduced community-care funding forces people into costlier settings, such as nursing facilities, ICFs/MR, and state-supported living centers. Community care would suffer from provider rate reductions of, on average, 35 percent, which could cause community-care providers to drop program participation, and from the loss of federal stimulus-related funds.

According to the LBB, Texas has the country's largest institutionalized population with intellectual and developmental disabilities, even as other states have moved toward deinstitutionalization and expansion of community services. The already-long waiting lists for community services strain the financial and emotional resources of families who strive to care for their loved ones at home.

Funding for Child Protective Services

Department of Family and Protective Services

CSHB 1 – increase of about $12.8 million, or 0.5 percent, in all funds from fiscal 2010-2011 spending.

CSHB 1 would appropriate about $2.3 billion in all funds for Child Protective Services. It would increase foster care funding by $28 million over fiscal 2010-11 to $788.9 million in all funds. CSHB 1 would decrease funds for adoption/permanent care assistance payments by $8.8 million in all funds from fiscal 2010-11 levels and for adoption services by $6 million in all funds.

Also, contingent upon the enactment of CSHB 275, CSHB 1 would increase general revenue spending by $85.2 million ($93.5 million in all funds) over the base budget proposal to increase caseworker staffing and relative caregiver payments. The base budget would have reduced CPS direct delivery staff from fiscal 2011 levels by 749.5 FTEs and eliminated funding for relative caregiver payments.

Supporters of the proposed CPS funding say CSHB 1 would go a long way toward meeting expected foster care caseload growth and help maintain provider rates so that the state could transition its foster care payment system to a performance-based payment, as outlined in the January 2011 DFPS report on foster care redesign. DFPS' highest-priority request to improve base budget funding was to fund caseload growth, asking for $35.4 million in general revenue funds, and it's fifth priority was maintaining foster care rates with $23 million. The bill also would help with caseload growth by increasing funding over the base budget proposal for direct-delivery workers and relative caregiver support. Contingent on enactment of CSHB 275, the proposed budget would add $48 million in general revenue funds ($56.2 million all funds) for another 565 caseworkers for expected caseload increases.

CSHB 1 also would add $37.2 million beyond the base budget proposal for relative caregiver and day care programs, pursuant to the agency's request and contingent on enactment of CSHB 275. The relative caregiver program would have been zero-funded in the base budget. This "kinship care" program supports relatives who agree to raise a foster child. Relatives must pass state-mandated assessment screenings before a child is placed in their care. This is a cost-effective way to meet rising caseloads because it costs the state almost a third less per child and keeps the child in a home environment near other family members. Relative caregiver support is more likely to keep siblings together, and children in this program have better outcomes than children placed in foster homes. Foster payments cost the state an average of $1,937 per month, while relative caregiver payments cost only $699 per month. Day care support helps relatives who otherwise may not adopt a child due to day care expenses.

Critics say the state would respond to all reports of child abuse and neglect, whether or not caseload growth was funded. If caseloads increased to the levels projected by the agency and LBB, the Legislature could supplement CPS funding next session when state revenue is expected to improve with the economy. CSHB 1 would not sufficiently fund new adoption subsidy payments, permanent care assistance, or post-adoption services. Adoption subsidies to parents plus state administrative costs total about $430 per month in all funds per child. For permanent care assistance, the state spends about $383 per month in all funds per child on administrative costs, plus guardian subsidies. Both programs cost the state substantially less than the $1,937 per month the state spends on foster care and provide a cheaper, healthier solution to children facing abuse and neglect. The agency's second highest priority request was for $33.5 million in general revenue and $60 million in all funds for new adoption subsidies related to caseload growth.

CSHB 1 would not cover the cost of about 184 caseworkers needed to fully meet anticipated caseload growth to process cases across the state. The agency had asked for $73.2 million in general revenue but would receive only $48 million for more CPS staff. The resulting increased caseload for CPS caseworkers would decrease response times for reports of abuse and neglect and increase staff turnover.

Public Education — Article 3

The public education agencies in Article 3 oversee the state's public education system. They set curriculum standards, approve instructional materials, certify educators, provide school district employee health care, and manage the retirement pension fund. For fiscal 2012-13, CSHB 1 would appropriate $48.6 billion in all funds to public education agencies, including the Texas Education Agency (TEA), the Teacher Retirement System (TRS), the School for the Blind and Visually Impaired, and the School for the Deaf.

Of the $48.6 billion in all funds, $45.4 billion would go to TEA, a 9.5 percent decrease from fiscal 2010-11. The general revenue and general revenue-dedicated portion of the proposed TEA appropriations, $29.4 billion, would be a 3.1 percent decrease from fiscal 2010-11. The decrease in CSHB 1 largely would be due to a $2.5 billion reduction in all funds for public education through the Foundation School Program and a $1.8 billion, or 66.7 percent, reduction for public education programs outside the Foundation School Program.

CSHB 1 would appropriate $34.8 billion in all funds to the Foundation School Program, a decrease of 9.9 percent from fiscal 2010-11. It would appropriate about $3.6 billion in all funds to the Teacher Retirement System (TRS) for fiscal 2012-13, a decrease of $398 million from fiscal 2010-11. This decrease would reflect a decrease in the state contribution rate to 6.0 percent of payroll, compared to the fiscal 2010-11 contribution rate of 6.445 percent.

Public education spending comparisons

(millions of dollars)

Type of funds	Estimated/budgeted Fiscal 2010-11	Recommended CSHB 1	Biennial change	Percent change
General revenue and general revenue-dedicated	$33,784.0	$32,502.1	($1,281.9)	(3.8%)
Federal	13,320.5	9,709.6	(3,610.9)	(27.1)
Other	6,597.1	6,425.0	(172.1)	(2.6)
All funds	53,701.5	48,636.6	(5,064.9)	(9.4)

Source: Legislative Budget Board, Summary of Committee Substitute for House Bill 1*, March 2011*

Decreased funding for Foundation School Program

Texas Education Agency

CSHB 1 – $34.8 billion in all funds, including $2 billion contingent on enactment of CSHB 275.

CSHB 1 would reduce funding for the Foundation School Program (FSP), the mechanism by which school districts receive part of their total state appropriation, by about 7 percent from fiscal 2010-11 levels. The bill would appropriate $2 billion more than the base budget, contingent on approval of CSHB 275 by Pitts, which would appropriate $3.1 billion from the rainy day fund for fiscal 2011 spending.

Supporters of reduced funding for the FSP point out that the public education system is not immune to the budget crisis and that school districts could use their fund balances to fill the gap. The education commissioner has indicated that the Texas Education Agency, which usually penalizes school districts for not reserving at least 60 days of expenses, would not penalize them through the financial accountability system for spending the district's fund balance to mitigate reductions in state appropriations.

Reduced appropriations in CSHB 1 would not mandate teacher layoffs. The teacher layoffs that have occurred or are imminent are the choice of individual school districts. Districts could choose to reduce administrative costs or cut programs not mandated by the state, such as athletics and fine arts, before resorting to teacher layoffs.

Critics say the decrease in funding for the FSP would harm classroom instruction and the ability of school districts to educate students. The proposed appropriation would decrease per-student funding by about $800 per student enrolled in Texas public schools. The proposed reductions would result in mass teacher layoffs, closed schools, and eradication of many specialized education programs. According to some estimates, between 80,000 and 100,000 jobs in school districts statewide could be lost due to the decreased appropriations.

The state's statutory financial obligation to the FSP is determined by the sum of the amounts to which each school district is entitled. The LBB has estimated the state's financial obligation to be $42.6 billion, which takes into account increased student enrollment. Assuming the additional $2 billion appropriation, contingent on enactment of CSHB 275, the proposed appropriation still would be about $7.8 billion below the state's statutory obligation, and it would not account for an expected 170,000 new students over the biennium.

Past school finance litigation has been based on whether or not state funding was adequate and equitable.The proposed appropriation likely would spur a lawsuit from parents and school districts because it would not meet the state's constitutional obligation and would not adequately or efficiently fund a general diffusion of knowledge for all public school students.

The reductions would require an estimated 24-cent increase in local property taxes to make up lost state revenue, an increase prevented by the existing property tax cap. The state cannot depend on local voters to approve tax increases, as has been shown by many districts not supporting recent tax ratification elections in light of bad economic times.

Decreased funding for grants to school districts outside FSP

Texas Education Agency

CSHB 1 – $17 million in general revenue funds, a decrease of $1.8 billion, or 66.7 percent, from fiscal 2010-11 spending.

CSHB 1 would appropriate $17 million in general revenue funds for public education outside the Foundation School Program (FSP), including:

- $10 million for Communities in Schools, a mentoring program for students at risk of dropping out;
- $2.5 million for Amachi, a mentoring program for at-risk students;
- $1.5 million for Academic Innovation and Mentoring (AIM), a program for minority, low-income, and limited English proficient students at risk of dropping out, and;
- $3 million for Teach for America to be spent on math teachers.

The bill would not provide funds to school districts to offset the cost of disciplinary alternative education programs. Other programs not receiving appropriations would include the Texas High School Completion and Success Initiative, which provides instructional support and professional development for teachers with students at risk of dropping out of school. Other major programs and initiatives not funded would include:

- incentive pay for teachers;
- teacher mentor programs;
- the technology allotment;
- certain dropout prevention programs;
- prekindergarten and early childhood program grants;
- the extended school day and extended school year programs;
- life skills classes for teen parents;
- initiatives to increase student interest and performance in math and science;
- science labs;

- the Virtual Schools Network;
- background checks for school personnel;
- the arts education grant; and
- random steroid testing for high school athletes.

Supporters of the funding proposed in CSHB 1 say funds appropriated to school districts outside the FSP are discretionary grant programs. Many grant program objectives, such as virtual schools and prekindergarten, are provided for in FSP payments. School districts could use their fund balances to maintain discretionary programs. The commissioner of education has indicated that the Texas Education Agency, which usually penalizes school districts for not reserving funds to cover at least 60 days of expenses, would not penalize them through the financial accountability system for spending the district's fund balance to mitigate reductions in state appropriations. It is important to prioritize the programs that would be funded because they serve students in high-need school districts. These programs have data demonstrating a successful track record of keeping students from dropping out, and they close the gap in services between schools and social services by helping with clothes, food, academics, and mentoring.

Critics say the funding proposed in CSHB 1 would eliminate funds for vital, effective programs, such as prekindergarten grants and teacher incentive pay. School districts would struggle to meet academic standards set by the state without these grant opportunities that supplement FSP payments to provide programs for at-risk students and those who require extra help to succeed. For example, the Student Success Initiative, a grant program that provides funding to schools whose students are unlikely to meet state assessment benchmarks, would not receive an appropriation. The state's prohibition against social promotion, when a teacher promotes a student despite failing grades, is tied to a provision requiring the commissioner of education to certify that there are sufficient funds appropriated to the Student Success Initiative. If no appropriation is made, social promotion no longer would be prohibited.

Decreased funding for TRS pension fund

Teacher Retirement System

CSHB 1 – $3.2 billion in all funds, a decrease of $153.2 million from fiscal 2010-11 spending.

CSHB 1 would appropriate $3.2 billion for the Teacher Retirement System (TRS) pension fund, a decrease of $153.2 million. The bill would decrease the state's contribution to the fund from 6.644 percent to 6 percent of active employee payroll.

Supporters of the CSHB 1 proposal to reduce the state's contribution rate to the TRS pension fund say the fund is financially stable with a balance of more than $100 billion. The fund could survive a 6 percent state contribution rate for a biennium or two. It may be harder to achieve solvency by decreasing contributions for a few years, but the decision would not irrevocably damage the fund.

Critics of the CSHB 1 proposal say decreasing the state's contribution rate would jeopardize the long-term solvency of the fund and place undue hardship on TRS retirees. The state has an obligation to protect the TRS pension fund for retired teachers who live on fixed incomes. Potential increases in health insurance premiums would further erode retirees' fixed incomes, which decrease in value each year due to inflation.

The substantial budget cuts in the upcoming biennium could trigger a decline in active employee payroll and an increase in retirements. TRS expects 30,000 active members to retire this year, twice as many as in years past. The state should continue contributing at the current 6.644 percent to minimize fund depletion. The fund's 2009 actuarial valuation recommended that to maintain the current benefit structure and amortize the fund would require a state contribution rate greater than 7.7 percent in future biennia, assuming the member contribution rate remained 6.4 percent.

Decreased state contribution rate to TRS-Care

Teacher Retirement System

CSHB 1– $275.4 million in general revenue funds, a decrease of $245.6 million from fiscal 2010-11 spending.

CSHB 1 would reduce the state's contribution rate to the public education retiree health insurance program, TRS-Care, from 1 percent of public education employee payroll to 0.5 percent. The bill also would reduce the base budget payroll growth assumptions by 1 percent to allow for a shift in appropriations of $49.7 million to a variety of public and higher education programs.

Supporters of the CSHB 1 proposal say that decreasing the state's contribution to TRS-Care is justified by the budget shortfall. While some have expressed concern that the comptroller would not approve a lower payroll growth assumption, these concerns are unfounded because it is reasonable to assume minimal payroll growth when layoffs are expected. While this could result in premiums increasing, they have remained the same since 2005 and are overdue for increases.

To mitigate the negative effects of the budget reductions, it is necessary to divide the $49.7 million among a variety of public education programs and higher education institutions.

While the state must maintain a certain level of funding in order to receive funds through the federal Early Retirement Reinsurance Program (ERRP), there is no standard definition or quantifiable measure of the federal government's expectations for the state's contribution.

Critics of the CSHB 1 proposal say the proposed appropriation would be too risky and that the state should appropriate an additional $275.4 million to restore the 1 percent state contribution rate.

The bill assumes a statutory change to the current requirement that the state maintain a contribution rate of 1 percent. If a statutory change did not occur, the state would have to make a supplemental appropriation to TRS-Care at the end of fiscal 2012 that would raise the state contribution rate to 1 percent.

If the comptroller did not approve a reduction in payroll growth assumptions, the Legislature would have to recover the $49.7 million in general revenue appropriated to various public and higher education programs. The $49.7 million should be used to restore the state's contribution rates to the TRS pension fund and TRS-Care.

The savings achieved by lowering the state contribution rate would not justify the loss of about $150 million in fiscal 2012-13 federal funding to TRS-Care. The decreased state appropriation could result in a decrease in federal ERRP funds. Lowering the state's contribution rate also would increase the chance that the financial burden to meet federal maintenance-of-effort requirements would shift onto school districts.

Experts expect state and school district budget reductions to prompt a wave of early retirements, which would spend down the fund before the end of fiscal 2013. TRS-Care is funded by retiree premiums, general revenue, active employee contributions, school districts, federal funds, and investment income. A wave of retirements would decrease the number of active employees contributing to the fund. This would, in turn, trigger a decrease in school district and state contributions, both of which are determined by a percentage of active employee payroll. These decreases would increase the fund's insolvency, prompting higher premiums and benefit reductions.

Other critics say that to avoid losing federal funds in fiscal 2012 only, the state should appropriate the entire $275.4 million for fiscal 2012, which would maintain the 1 percent contribution rate for fiscal 2012 but result in a 0 percent state contribution rate in fiscal 2013. The state could avoid losing federal funds in both years by increasing the school districts' contribution rate from 0.55 percent of active employee payroll to 1.05 percent. This would require a statutory change because state law caps the school districts' contribution rate at 0.75 percent.

Maintaining funding for TSBVI

Texas School for the Blind and Visually Impaired

CSHB 1 – $41.2 million in all funds.

CSHB 1 would appropriate $41.2 million in all funds for the Texas School for the Blind and Visually Impaired (TSBVI), which provides educational services to blind and visually impaired students, many of whom have multiple disabilities, including deaf-blindness. The proposed appropriation for TSBVI would be a decrease of $52.6 million from fiscal 2010-11 spending. The reduced appropriation is due largely to the scheduled December 2012 completion of campus renovations, eliminating the need for an appropriation of general obligation bond proceeds. Under the federal Individuals with Disabilities Education Act, children with disabilities may not be denied the same educational opportunities offered to their non-disabled peers.

Supporters of maintaining current levels of funding for TSBVI say the school must be a priority even in the face of a budget shortfall because its services are a legal entitlement to students with disabilities, enrollment at the school is increasing rapidly, and services to children with multiple disabilities are expensive. When a child meets admission disability requirements under federal law, the school is obligated to educate and provide support services for that student. Any reduction, especially one of 10 percent or greater, to the school's fiscal 2010-11 spending would reduce the school's capacity to provide educational programs and services outside those mandated in statute. The scope of educational programs would be reduced, the number of students served by the school would decrease, the waiting list would grow longer, and staff layoffs would ensue. The proposed appropriation would allow the school to maintain current student enrollment and serve incoming students. It would fund essential programs and services with funds for summer school and short-term programs for students enrolled in local school districts, as well as outreach programs that are the main source of support to local districts.

Adequately funding the school could help prevent a waiting list for enrollment. A waiting list could result in a lawsuit because the state could be deemed not to be providing all students with disabilities an equal and appropriate education.

It would be appropriate to reduce appropriations to regional education service centers by $3 million in order to fund TSBVI at the proposed level. Regional service centers, some of whom maintain fund balances, receive funding through contracts with the Texas Education Agency and school districts. State appropriations comprise a small percentage of individual centers' budgets. Regional service centers would not be affected significantly by reduced state appropriations, and any unlikely decrease in services would be countermanded by the benefit to students served by TSBVI. If TSBVI were unable to enroll a student, the obligation would fall to the student's local school district. If the school district were able to educate these students, they would not have referred them to TSBVI. Reduced appropriations to service centers would be necessary to ensure that TSBVI continued to serve students referred by school districts.

Critics of the CSHB 1 proposal point out that it would reduce appropriations to regional education service centers by $3 million in order to fund TSBVI at the proposed level. They say every regional education service center uses its state appropriations differently, including for operations or for providing professional development or technical assistance to school districts. The decrease in state appropriations could increase the costs for a school district contracting with a regional education service center or decrease the services available to school districts.

Maintaining funding for Texas School for the Deaf

Texas School for the Deaf

CSHB 1 – $52.7 million in all funds, a decrease of $800,000 from fiscal 2010-11 spending.

CSHB 1 would appropriate $52.7 million in all funds for the Texas School for the Deaf (TSD), which provides direct educational services to students ages 0 to 22 who are deaf or hard of hearing and who may have multiple disabilities. The appropriated amount would be equivalent to TSD's fiscal 2010-11 appropriation. The proposed appropriation would fund current enrollment, but would not account for increased enrollment. Under the federal Individuals with Disabilities Education Act, children with disabilities may not be denied the same opportunities offered to their non-disabled peers.

Supporters of the CSHB 1 proposal say TSD must be a priority because the school's services are a legal entitlement to students with disabilities. When a child meets admission disability requirements under federal law, the school is obligated to implement an individualized education plan for that student and to provide support services, such as speech therapy, occupational therapy, physical therapy, interpreting, counseling, and necessary medical services.

The proposed appropriation should allow the school to maintain the status quo, but would not cover increased student enrollment. Serving children with multiple disabilities is expensive. If significant reductions were made to the school's fiscal 2012-13 appropriation, the programs provided at the school would be reduced, the number of students served would decrease, the waiting list for enrollment would grow longer, and the school would have to lay off a significant percentage of its faculty. Enrollment at the school is increasing rapidly. In light of possible decreased federal appropriations, it would be prudent for the state to invest in TSD to avoid a potential lawsuit in the event a waiting list formed for enrollment at the school or the school was unable to fund essential academic programs or services.

It would be appropriate to reduce appropriations to the regional education service centers by $3.6 million to maintain funding for TSD. Regional service centers receive funding through contracts with the Texas Education Agency and school districts. Individual service centers receive only a small amount directly from state appropriations, and any unlikely decrease in services would be offset by the benefit to the students served by TSD. If TSD were unable to enroll students, the obligation would fall to the students' local school districts, which would not have referred the students to TSD had the districts been able to serve them. The reduction in appropriations to service centers would be necessary to ensure that TSD could continue serving students who were referred by school districts.

Critics of the CSHB 1 proposal say CSHB 1 would reduce appropriations to the regional education service centers by $3.6 million in order to maintain funding for TSD. They say every regional education service center uses its state appropriations differently, including for operations or to provide professional development to school districts. Decreased appropriations could increase the costs for a school district contracting with a regional education service center or decrease the services available to school districts.

Decreased funding for textbooks and instructional materials

Texas Education Agency

CSHB 1 – $308 million in general revenue funds, a decrease of $133 million.

CSHB 1 would appropriate $308 million in all funds for fiscal 2012-13 to pay for continuing contracts for textbooks and other instructional materials. This would be a 30 percent decrease in general revenue funds from fiscal 2010-11 spending.

Supporters of the proposed funding say it would adequately fund continuing contracts for textbooks and instructional materials. In lean economic times, the Legislature must determine which materials are most critical. The contracts are a top priority because they replace consumable materials, such as workbooks, and provide textbooks and materials for new students. The $308 million would provide for the most essential needs at this time. Because of the drastic nature of the appropriations reductions to the Foundation School Program (FSP), it is necessary to prioritize direct appropriations to school districts over new textbooks and instructional materials. The Texas Constitution requires only that Available School Fund (ASF) funds be appropriated to the benefit of free public schools. It does not require those funds to be appropriated for textbooks and instructional materials, nor does it require a certain appropriation level.

Critics say another $490 million would be necessary to fund textbooks and instructional materials adequately for fiscal 2012-13. The proposed appropriation would not provide the $430 million needed for textbooks and instructional materials under Proclamation 2011, which includes English, language arts, reading, and pre-kindergarten materials, nor would it provide the $60 million necessary to fund supplemental science materials. Since the current textbooks were purchased, new standards have been adopted and new assessments developed. With the new state assessment being implemented in 2012, the state would be setting students and teachers up for failure if instructional materials were not aligned with material on the assessment.

The bill would not appropriate the total amount distributed from the PSF to the ASF for textbooks and other instructional materials. ASF funds transferred from the PSF historically have been used to fund the entirety of the upcoming biennium's textbook needs, with the remainder appropriated to school districts.

Higher Education — Article 3

CSHB 1 would allocate $21.1 billion in all funds to public institutions and agencies of higher education for fiscal 2012-13, 7.3 percent less than fiscal 2010-11 spending. The general revenue and general revenue-dedicated funds portion would be $13.6 billion, a 12.3 percent decrease from fiscal 2010-11 spending. CSHB 1 would reduce funding for student financial aid, higher education group insurance, state retirement contributions, and special-items funding. It also would reduce formula funding by $407.4 million, or 10 percent, for general academic and most of the health-related institutions. The bill would not provide funding for enrollment growth at any institution of higher education.

The bill would allocate $5.8 billion in all funds for general academic institutions, university system offices, Lamar State Colleges, and Texas State Technical Colleges, a decrease of 11.2 percent from current spending levels. This would include a 13.3 percent decrease of $608.1 million in general revenue funding. The bill also would appropriate $7.9 billion in all funds to health-related institutions, an increase of 1.1 percent from fiscal 2010-11 spending. General revenue funds would decrease by $376 million. Community colleges would receive $1.7 billion in general revenue funds, a decrease of 2.3 percent from fiscal 2010-11.

The bill would appropriate $980.4 million in all funds to the Texas Higher Education Coordinating Board (THECB), a 45 percent decrease from fiscal 2010-11 spending. A $629.3 million decrease in general revenue is primarily due to funding only students already participating in the TEXAS Grant Program and the B-on-Time loan program, plus elimination of other programs of THECB.

The bill would incorporate THECB's recommendation to implement outcomes-based formula funding for general academic institutions. Ninety percent of formula funding would continue to be based on enrollments, and 10 percent would be based on student outcomes.

Higher education spending comparisons

(millions of dollars)

Type of funds	Estimated/budgeted Fiscal 2010-11	Recommended CSHB 1	Biennial change	Percent change
General revenue and general revenue-dedicated	$15,578.4	$13,664.6	($1,913.8)	(12.3%)
Federal	694.1	394.4	(299.7)	(43.2)
Other	6,467.4	7,013.8	546.4	8.4
All funds	22,740.0	21,072.8	(1,667.2)	(7.3)

Source: Legislative Budget Board, Summary of Committee Substitute for House Bill 1*, March 2011*

Decreased funding for universities

General academic and health-related institutions

CSHB 1 – $572.9 million overall decrease in general revenue funds for general academic institutions; $376 million decrease in general revenue funds for health-related institutions.

CSHB 1 would appropriate $5.6 billion in all funds for general academic institutions for fiscal 2012-13, a decrease of 9.7 percent from fiscal 2010-11 spending. This reduction would include a decrease in general revenue funds of $572.7 million. Major reductions would include a $309.1 million decrease in formula funding, a $148.5 million decrease for special-items funding, a $43.4 million decrease for one-time fiscal 2010-11 expenditures, and a $19.2 million decrease in the Research Development Fund. Also included would be a $21 million decrease in system office operations and a $17.1 million reduction in tuition revenue bond debt service.

The bill would appropriate $7.9 billion in all funds for health-related institutions, an increase of 1.1 percent from fiscal 2010-11 spending. General revenue funding would decrease by $376 million from fiscal 2010-11 spending. Major decreases would include $111.3 million in formula funding and $85.2 million for hospital and dental clinic operations.

Supporters of reducing funds for general academic and health-related institutions say the cuts to higher education institutions are necessary in light of massive budget shortfalls.

Critics of reducing funds for general academic and health-related institutions say reductions in state appropriations beyond those already made in the current biennium could lead to increased tuition and staff layoffs, as well as faculty buyouts and unpaid furloughs. Other potential consequences include larger class sizes, fewer courses, and enrollment caps. In implementing reductions for the current biennium, higher education institutions bore 41 percent of the reductions taken among all state agencies. The additional reductions proposed in CSHB 1 would compromise operations at a time of increased enrollment. Reduced state appropriations, zero funding for enrollment growth, and reductions in student financial aid could negatively affect the affordability and quality of higher education in Texas. Some university leaders say their institutions would not be able to achieve the goals of Closing the Gaps, the state's higher education plan.

Proposed reductions to the Research Development Fund and the Texas Competitive Knowledge Fund would hinder the state's seven emerging research institutions' efforts toward attaining tier-one research status. The bill would eliminate funding for the Texas Research Incentive Fund (TRIP) established by the 81st Legislature in 2009 to provide matching funds and incentives to support emerging public research universities. Continued, uninterrupted funding for TRIP is important to maintain donor confidence in the program. Incentive funding for non-research universities, which would be eliminated under CSHB 1, is important for institutions that award degrees in critical fields or to at-risk students and is aligned with the state's higher education goals.

Decreased appropriations to health-related institutions as proposed by CSHB 1 would lead to faculty and staff layoffs, reductions in services to students and patients, and fewer health care graduates. To offset deep reductions in funding, significant tuition increases would be needed.

Decreased funding for community colleges

Community colleges

CSHB 1 – $36.1 million decrease in general revenue formula funding for community colleges; $252.2 million decrease in general revenue for Higher Education Group Insurance.

CSHB 1 would appropriate $1.7 billion in general revenue funds to community colleges, a decrease of $39.9 million from fiscal 2010-11 funding levels. Major reductions would include a $36.1 million decrease in general revenue for formula funding, a decrease of $1.2 million in small institution supplement funding, and a decrease of $1.7 million for certain special-items funding. No funding for new community college campus supplemental funding would be provided.

The bill would appropriate $59.7 million in general revenue for higher education group insurance contributions, a decrease of $252.2 million from fiscal 2010-11 spending levels. The state contribution rate would be $75 per eligible employee, the same as for independent school districts. Currently, higher education institutions receive state appropriations to help cover the cost of health insurance premiums. Community college employees are locally employed, but community colleges participate in the state group benefits program for health benefits through the Employee Retirement System (ERS). The state makes general revenue fund contributions for health insurance premiums for those district employees working in positions eligible to be paid with state general revenue funds. The 81st Legislature funded 83 percent of premium costs for these employees.

Supporters of CSHB 1 say the bill would restore funding for four community colleges that would have been eliminated in the base budget proposal. Maintaining state funding for Ranger, Odessa, Brazosport, and Frank Phillips colleges is necessary to keep these colleges as viable institutions in their respective communities.

Supporters say that community college personnel, like school district personnel, are local employees. The state allocates school districts $75 per month for each qualified participant in the state group benefits program through school finance formulas, and the same should apply to community college employees. The proposed funding would preserve as much formula funding for community colleges as possible while providing a cost savings to the state. It would be an effective way to help the state contain the rising costs of health care and address the budget shortfall because community college districts have a local tax base from which to draw funds to supplement local employee benefits.

Critics of CSHB 1 say Texas higher education institutions are seeing historic levels of enrollment growth and that the proposed funding would hamper the role community colleges play in educating Texans. State appropriations reductions already made this biennium, combined with zero funding for enrollment growth, reductions to formula funding, and reductions for health insurance and retirement benefits, would affect students, communities, faculty, employees, and the state.

Community colleges enroll more than 50 percent of the students in public higher education in Texas, more than 735,000 students. These institutions offer the best chance for turning around the state's economy with job training and education opportunities the state needs to continue moving forward economically. Police and fire academy courses would diminish, as would nursing and allied health courses. Reduced funding likely would result in lower graduation rates and fewer educated workers.

The proposed funding would force many community college districts to offset reductions by increasing tuition or local property tax rates. Most students who attend community colleges are first-generation students from low-income families and would not be able to afford much increase in tuition. Other options include reducing access to classes and advisers, eliminating programs, not replacing outdated technology, eliminating reduced tuition for dual-credit courses, or reducing staff.

College leaders say they must provide health insurance through the Employee Retirement System and do not have the option of school district employees to opt out of state-funded group insurance. Community college employees are classified as state employees and should continue to be treated similarly to other higher education employees. If state support declined, costs would have to be borne by the local colleges, and some have said they would have to increase tuition and taxes to pay for it.

Decreased funding for student financial aid

Texas Higher Education Coordinating Board

CSHB 1:

- **$256 million decrease in general revenue funds for TEXAS Grant Program ($50 million proposed additional spending, contingent on rider 43 for TEXAS Grants);**
- **$87.4 million decrease in general revenue funds for the Tuition Equalization Grant Program (TEG); and**
- **$25.8 million decrease in general revenue funds for the B-On-Time loan program (BOT).**

CSHB 1 would appropriate $625.6 for student financial aid programs in fiscal 2012-13, a decrease of $369 million from fiscal 2010-11 spending.

The Texas Higher Education Board (THECB) requested $614.2 million for the TEXAS Grant program for 2012-13, plus an additional $172.3 million. CSHB 1 would fund TEXAS Grants at $365.7 million, which is a $256 million decrease from fiscal 2010-11 spending and would cover only renewal awards.

For fiscal 2012-13, THECB requested $10 million beyond its 2010-11 spending level of $24.1 million for the Texas Educational Opportunity Grants (TEOG) program. CSHB 1 would propose spending $24.1 million in general revenue funds for TEOG, which is equal to fiscal 2010-11 spending. THECB also requested an additional $15 million beyond its fiscal 2010-11 spending level of $15.1 million for the Texas College Work Study program. CSHB 1 would propose spending $15.1 million in general revenue funds for the work study program, also equal to fiscal 2010-11 spending. The bill would appropriate $26.2 million in general revenue for the B-On-Time loan program, covering only renewals for students at private institutions. The Texas Equalization Grant program would be allocated $124.6 million, 41 percent below fiscal 2010-11 spending levels.

Supporters of CSHB 1 say the proposed funding for TEOG would serve about 9,000 students, and proposed funding for College Work Study would be enough to issue about 8,800 awards. Although CSHB 1 would not fund all of the programs at the fiscal 2010-11 level, it would address critical areas of student financial need, especially for students in community colleges. These two programs are small compared to other financial aid programs but effective in boosting student access, retention, and success.

Critics of CSHB 1 say it would not provide enough funding for student financial aid to make progress on the goals of the Closing the Gaps initiative, the state's higher education plan. Proposed funding for TEXAS Grants would cover only renewal students, or about 50,900 students. The program currently serves about 111,400 students. The reductions to TEXAS Grants in CSHB 1 would make higher education less affordable and negatively affect student retention and success.

The state saw the largest enrollment growth in history between 2008 and 2009, and data suggest this will continue. Many new students will come from the lower income segments of the state's population, where financial aid is indispensable. Some institutions, especially along the border, may even lose enrollment because of the high concentration of low-income students.

Other critics say legislators should adopt the governor's proposal to allocate more funds to student financial aid by making reductions in other areas of higher education, such as eliminating all but military-related tuition waivers.

Judiciary — Article 4

Article 4 covers the Texas court system and supporting agencies. CSHB 1 would fund Article 4 agencies at $638.8 million in all funds for fiscal 2012-13. This would be a decrease of $35.2 million, or 5.2 percent, from fiscal 2010-11.

Of the total appropriation for Article 4, $28.6 million would be contingent on enactment of legislation that would raise certain court filing fees and fees levied upon those convicted of crimes. The largest amount of the funds for Article 4 provided under the legislation, $20 million, would be used to fund civil legal aid programs in fiscal 2012-13, according to sec. 12 of the Article 4 special provisions.

About $5.4 million in Article 4 spending would be funded by a tax amnesty program that CSHB 1 would require the comptroller to establish. The single largest use for these funds in Article 4 would be $1.9 million to fund the operations of the State Law Library, according to sec. 11 of the Article 4 special provisions lists. The comptroller estimates the amnesty would raise total of about $75 million in general revenue funds in fiscal 2012-13.

Article 4 spending comparisons

(millions of dollars)

Type of funds	Estimated/budgeted Fiscal 2010-11	Recommended CSHB 1	Biennial change	Percent change
General revenue and general revenue-dedicated	$489.9	$443.1	($46.7)	(9.5%)
Federal	5.0	3.6	(1.4)	(27.9)
Other	179.1	192.0	12.9	7.2
All funds	673.9	638.8	(35.2)	(5.2)

Source: Legislative Budget Board, Summary of Committee Substitute for House Bill 1*, March 2011*

Funding civil legal aid programs

Supreme Court of Texas

CSHB 1 – $20 million in other funds, a $3.1 million decrease in all funds from fiscal 2010-11, contingent on enactment of SB 726.

Agency request – $23 million in all funds, the same level as fiscal 2010-11.

Civil legal aid provides emergency legal services to Texans who fall below 125 percent of the poverty line. Family law issues make up about half of the legal aid caseload. Since the mid-1980s, attorneys in Texas have turned over the short-term interest on funds held on behalf of clients to the Texas Access to Justice Foundation, which is overseen by the Supreme Court of Texas. The foundation disperses grants to legal aid groups throughout Texas. Funding for the foundation has declined because of the extended economic recession. As part of its efforts at economic recovery, the Federal Reserve has lowered the benchmark interest rate to historic lows of zero to 0.25 percent, affecting the Interest on Lawyers' Trust Accounts (IOLTA), which is used to fund legal aid. The drop in interest rates diminished funding for the IOLTA program from $20 million in 2007 to $5.5 million in 2010. IOLTA funds are generated and administered outside of the state appropriations process.

In fiscal 2010-11, the 81st Legislature appropriated $23 million to the Supreme Court for fiscal 2010-11 to make up for the IOLTA shortfall, and civil legal aid in Texas received a total of $174.6 million from all revenue sources, including federal grants. In fiscal 2012-13, civil legal aid is projected to receive $173.6 million from all revenue sources. This would include the $20 million appropriation from CSHB 1, an anticipated $8.8 million from the IOLTA program, $22.2 million from other state dedicated funds, such as a fee on attorneys, $87.6 million from federal grants, and $35 million from grants and donations from charitable foundations.

Supporters of CSHB 1 funding levels for civil legal aid say the $23 million appropriation for the current biennium was a one-time measure to shore up the IOLTA fund. The state cannot afford to fund the full appropriation again, and a $3 million reduction would be minimal in light of the $173.6 million in overall projected funding for fiscal 2012-13. The Texas Access to Justice Foundation estimates that about 24,000 to 26,000 poor Texans could be served with an appropriation of $20 million.

Critics of CSHB 1 funding levels say the appropriation should not be decreased because civil legal aid services in Texas already are underfunded. Texas civil legal aid groups are able to meet only 20 percent of demand for their services. A $3 million reduction would result in between 3,500 and 4,000 poor Texas not receiving legal assistance. Any reduction in funding would mean services were cut across the state, even as the economic crisis has generated a greater need for the services these programs provide. Cuts would affect rural areas the most, as many smaller legal aid programs would be unable to absorb any more cuts and instead would simply shut down. These cuts would mean that Texans who could not afford a lawyer would be unable to obtain restraining orders against abusive spouses or unable to obtain wrongfully withheld wages from their employers. They also could lose other benefits to which they were lawfully entitled.

Funding for criminal indigent defense grants

Task Force on Indigent Defense in the Office of Court Administration

CSHB 1 – $54.6 million in general revenue-dedicated funds for grants to counties in fiscal 2012-13, a 15 percent decrease from fiscal 2010-11 spending levels of $63.4 million.

The Task Force on Indigent Defense, housed within the Office of Court Administration, distributes grants to help counties carry out provisions of the Fair Defense Act enacted by the 77th Legislature in 2001. Under the act, counties must meet certain standards and follow guidelines in appointing attorneys for defendants who cannot afford to hire them. The Task Force on Indigent Defense awards formula grants to counties to help offset costs of providing legal services to indigent defendants and awards discretionary grants to help counties or regions start up public defender offices or change how they provide services. It also collects and disseminates evidence-based, best-practice information and conducts training.

Supporters of the funding proposed in CSHB 1 say that while reducing grant funding for the Task Force on Indigent Defense would not be desirable, the program still would be able to award $54.6 million to counties. The task force has collected significant data on how best to target their grant awards to shore up existing programs or to start new ones.

Critics say the $8.6 million reduction in grants to counties would harm their ability to provide indigent defense at a time when costs of providing those services are rising rapidly. Counties say indigent defense is one of the major uncontrollable costs in their budgets because they have no control over the number of defendants who must be represented at a level of quality that meets the minimum standards imposed by state law. The state should pay for the standards it mandates for counties. Since 2001, total indigent defense expenditures have increased by $104 million, almost 120 percent, according to the Texas Association of Counties. According to the Task Force on Indigent defense, $8.6 million reflects the cost of providing indigent defense in either 14,750 non-capital felony cases or 47,110 misdemeanor cases, and the reduction would mean counties had to find alternative funding.

Collecting fees for one purpose and allocating them for another, including for budget certification, is not a conservative and fiscally sound approach to budgeting and violates the principle of truth in taxation. The funds used to pay for indigent defense grants come from general revenue-dedicated funds: about $27 million in court costs levied on defendants convicted of crimes, $2 million from fees assessed on surety bonds, and just over $2 million in fees levied on attorneys when they annually renew their licenses. These funds should be spent on indigent defense.

Supplemental funding for felony prosecutors' expenses

Judiciary section, Office of the Comptroller

CSHB 1 – $2.7 million in general revenue funds for felony prosecutor office expenses.

CSHB 1 would reduce the supplement for felony prosecutors' offices from the current $35,000 for each of 157 offices that receive supplemental funding under the Professional Prosecutor Act. The supplement would be reduced to $27,500 for offices in jurisdictions where the average population of counties was less than 50,000 and to $22,500 for all other offices covered by the act. The Harris County District Attorney's Office would receive $11,803.

Supporters say the funding reductions for felony prosecutors in CSHB 1 are smaller than reductions in the original bill, which would have reduced funding to all offices to the statutory minimum of $22,500 that was set in 1979 under the Professional Prosecutor Act. CSHB 1 would provide additional funding to rural prosecutors offices, where it is expected to be more effective. Rural prosecutors have small budgets, and many use their current $35,000 supplement to pay salaries of criminal investigators and other critical support staff, without whom the offices could not function. Larger, urban offices with larger budgets could absorb the reduction in the supplement more easily.

Critics of the CSHB 1 proposal say the funding priority should be large, urban offices, rather than rural ones, because urban offices have larger workloads and often have higher rates of violent crime than rural counties have.

Criminal Justice — Article 5

Article 5 covers agencies responsible for criminal justice and public safety. CSHB 1 would fund Article 5 agencies at $11.0 billion in all funds for fiscal 2012-13, a 9.2 percent decrease from fiscal 2010-11. CSHB 1 would appropriate $8.0 billion in general revenue and general revenue-dedicated funds for Article 5, a decrease of $678.4 million or 7.8 percent from fiscal 2010-11.

Article 5 includes $314.0 million in general revenue appropriations and $50 million in general obligation bond proceeds for fiscal 2012-13 that are contingent on enactment of CSHB 275 by Pitts, which would appropriate $3.1 billion from the rainy day fund for use in fiscal 2011. About $38 million of the contingent appropriation would go to the Texas Juvenile Probation Commission and the rest to the Texas Department of Criminal Justice.

About $43.1 million in Article 5 spending would be funded by a tax amnesty program that CSHB 1 would require the comptroller to establish. Under sec. 3 of the Article 5 special provisions, it would be the intent of the Legislature that the program increase total general revenue funds by at least $75.0 million.

Article 5 spending comparisons
(millions of dollars)

Type of funds	Estimated/budgeted Fiscal 2010-11	Recommended CSHB 1	Biennial change	Percent change
General revenue and general revenue-dedicated	$8,695.8	$8,017.4	($678.4)	(7.8%)
Federal	1,895.0	1,619.9	(275.0)	(14.5)
Other	1,483.1	1,320.6	(162.5)	(11.0)
All funds	12,073.9	10,957.9	(1,116.0)	(9.2)

Source: Legislative Budget Board, Summary of Committee Substitute for House Bill 1*, March 2011*

Reduced state correctional capacity

Texas Department of Criminal Justice (TDCJ)

CSHB 1 –

- **$25.2 million decrease in general revenue funds from fiscal 2010-11 due to closing a prison;**
- **$50.9 million decrease in general revenue funds from fiscal 2010-11 funding levels for private beds in prisons, state jails, and residential pre-parole facilities; and**
- **potential revenue gain estimated at $33.5 million from sale of prison unit and its property.**

CSHB 1 would require TDCJ to close the Central Prison Unit in Sugar Land and reduce the number of private correctional beds it has under contract. The Central Unit, which houses about 1,060 offenders, would have to be closed by September 1, 2011, and TDCJ's funding would be reduced by $25.2 million because of the closure. The appraised value of the unit and its property is estimated at $33.5 million.

CSHB 1 also would reduce by $50.9 million TDCJ's fiscal 2010-11 funding level request of $300 million for privately operated correctional beds in prisons, state jails, and residential pre-parole facilities. Based on the $50.9 million reduction and the agency's fiscal 2012-13 per diem rates for private beds, the agency would decide where to make specific cuts of about 2,800 beds from total private beds of about 14,800.

Supporters say CSHB 1 would fund enough prison capacity to handle the state's offender population. It would fund the majority of treatment and diversion programs that have successfully kept the population from increasing. The Legislature also is considering numerous policies that could reduce the prison population, including changes in parole and mandatory supervision that could release more offenders than projected, deporting some illegal immigrants incarcerated in state facilities, and changing sentencing policies. It is unclear if projections estimating the number of inmates to be slightly above the state's current capacity at the end of the next biennium will hold true. If the state needs more beds, TDCJ could follow statutory procedures to identify ways to house additional offenders in existing facilities. In an emergency, TDCJ could request funds to contract for temporary beds with counties or private vendors.

CSHB 1 would adjust the state's prison capacity appropriately by closing an older unit that is more costly to operate than other units and sits on prime real estate. It is estimated that the unit and land could be sold by the state for about $33.5 million. It also would reduce funds to contract for private beds, which would not impact long-term, permanent state capacity.

Critics say cutting the number of prison beds without reducing the offender population could leave TDCJ with a shortage of beds. Projections show that, under current law, policies, and practices, the number of offenders incarcerated by the state in fiscal 2013 will be 1,121 above the state's current capacity. CSHB 1 is estimated to result in a shortfall of 4,700 beds by the end of fiscal 2013. The state could be facing untenable options, such as delaying the pick-up of inmates from county jails or exceeding the design capacity of units, resulting in overcrowding that could raise safety issues for inmates, staff, and the public. In the past, overcrowding and its effects have resulted in lawsuits and costly state remedies.

Other critics say that if the state is going to reduce prison capacity, it should be done in tandem with policy changes in sentencing or parole to reduce the number of offenders sent to prison.

Funding for treatment and diversion programs

Texas Department of Criminal Justice

CSHB 1 – $75.2 million increase from introduced version of HB 1, contingent on enactment of CSHB 275 by Pitts, which would appropriate $3.1 billion from the rainy day fund for fiscal 2011 spending.

If CSHB 275 were enacted, $75.2 million in general revenue would go to the following:

- $54.5 million for substance abuse felony punishment facilities (SAFP) and in-prison treatment facilities in addition to base budget funding of $139.2 million;
- $8.4 million for intermediate-sanction (ISF) facilities over base budget funding of $53.5 million; and
- $12.3 million for halfway house facilities in addition to base budget funding of $34.9 million.

Supporters of CSHB 1 say it would fund adequately the offender treatment and diversion programs created in 2007 by continuing most of them at the levels at which they were used in fiscal 2010-11. These programs were created in response to a growing offender population and a projected need at the time for more prison capacity. Without harming public safety, the programs have successfully kept the adult offender population from increasing beyond the state's capacity and kept the state from spending hundreds of millions of dollars to build and operate new prisons. CSHB 1 includes funding for treatment beds for offenders convicted of driving while intoxicated; halfway-house beds for offenders released on parole; substance abuse treatment through beds in SAFP facilities; and intermediate-sanction facilities for offenders who violate their parole or probation.

Critics of the CSHB 1 proposal say it would not go far enough in funding the state's package of treatment and diversion programs. While it would fund many programs at the level at which they were used in fiscal 2010-11, some of the programs were cut when the agency made fiscal 2010-11 reductions ordered by state leaders, and these funds should be restored.

CSHB 1 would not restore the base budget's reductions to other parts of the treatment and diversion package, including the treatment alternatives to incarceration program and mental health services for juvenile offenders. Funding that probation departments use for residential treatment beds and outpatient treatment also would not be completely restored, meaning that many probation programs that divert offenders from prison could be reduced. These programs have helped to slow prison population growth and reduce the need for prison beds. They need full funding so the offender population does not increase beyond state capacity. The treatment and diversion package has contributed to positive outcomes, such as fewer revocations of probation and parole and a lower crime rate, and it should be supported fully.

Funding for Windham School District

Texas Education Agency (TEA)

CSHB 1 – $115.3 million, a decrease of $12.8 million from fiscal 2010-11 spending level of $128.1 million.

CSHB 1 would reduce funding for the Windham School District, which provides educational programs for adult offenders in the Texas Department of Criminal Justice (TDCJ), by $12.8 million from its fiscal 2010-11 level. Windham is funded through the Texas Education Agency.

Supporters say that the Windham School District should continue to provide adult education classes in TDCJ, but with an appropriate reduction to take into account the state's current fiscal situation. Last school year, Windham educated about 77,500 inmates with classes that included literacy programs, vocational programs, a pre-release program that covers work ethics and skills for employment, and a behavioral modification program. Under the CSHB 1 proposal, the district could operate effectively while reducing operating and administrative expenses and the number of teachers. Larger cuts could lead to schools closing, which could result in some offenders not being able to prepare through education for life outside of prison. This could cost the state more in the long run if more offenders returned to prison.

Through Windham, trained teachers deliver quality educational programs to inmates with a school district model. Studies of Windham have shown that educational achievement for offenders was associated with higher post-release employment and lower recidivism rates. Windham students have earned about 24,800 GED certificates over the last five years. Trained teachers, counselors, and others are especially important in motivating offenders, many of whom have a history of failure in school and a negative attitude about their abilities. Moving responsibility for adult inmate education to TDCJ could diminish the program's focus on education through quality teaching, reducing its effectiveness.

Critics say that Windham should take additional reductions, in the range of about $34 million. Money could be saved by substituting online courses for some current classes and by examining the other programs offered by Windham that may not be successful or crucial to the core mission of educating offenders. Funds cut from Windham could be better used by TEA. Educating Texas' children should take priority over high levels of funding for Windham.

Other critics say the Windham School District should be eliminated and TDCJ given the responsibility for in-prison education. It is not necessary for adult education classes in TDCJ to be provided through a school district that includes certified teachers, principals, counselors, and with the bureaucracy that comes with a school district. It would be more efficient for TDCJ to provide literacy and other education classes as a part of its general responsibilities, and there is no reason to think it could not be successful.

Decreased funding for prison health care

Texas Department of Criminal Justice (TDCJ)

CSHB 1 – $707.1 million, a decrease of $222.7 million in general revenue funds from fiscal 2010-11 level of $929.8 million.

Other requests – Correctional Managed Health Care Committee request of $99.4 million above base budget amount of $490.6 million for psychiatric care, unit care, and pharmacy, plus an unknown amount for hospital care.

CSHB 1 would reduce funding for managed health care for inmates by $222.7 million in general revenue funds from the fiscal 2010-11 level of $929.8 million. These reductions would come from limiting payments to certain health care providers to a specific state Medicaid rate and from reducing expenditures for psychiatric care, pharmacy care, care on the prison units, and indirect charges made by providers to the state that were not specified in their contracts.

CSHB 1 would eliminate funding for the state's Correctional Managed Health Care Committee (CMHCC). TDCJ, through the committee, currently contracts with the University of Texas Medical Branch (UTMB) at Galveston and the Texas Tech University Health Sciences

Center (TTUHSC) to provide managed health care to inmates. CSHB 1 would transfer to TDCJ the responsibility for contracting with the university providers.

Supporters say that the funding in CSHB 1, plus the potential for more funding later in the budget process, would be adequate to provide for a constitutional level of health care for inmates. Moving the contracting authority from CMHCC to TDCJ would be more efficient than continuing to use the CMHCC as an intermediary and would better reflect the roles and responsibilities of the universities and TDCJ. When the state changed to a managed health care system for inmates, the CMHCC was necessary to develop and launch the new system, but it no longer is needed as an intermediary.

Changes in the health care system for inmates may be needed to deal with increasing costs, provider capability, and oversight issues, some of which were outlined by the State Auditor's Office in two February 2011 reports. Final decisions, some through legislation, are yet to be made about who will provide health care, who should contract for it if the universities continue to provide it, and at what level it should be funded. If necessary, CSHB 1 could be altered to reflect both changes in policies and appropriations.

In November 2010, UTMB proposed changing its arrangement with the state to no longer operate in-prison medical clinics but continue to treat inmates at the UTMB hospital in Galveston. UTMB proposed contracting directly with TDCJ, instead of using the CMHCC as an intermediary, and cited a desire to avoid interim budget shortfalls. Other options being explored include the state's providing the care directly or contracting with private medical companies to operate the in-prison clinics.

Critics of CSHB 1 say that the state should increase funding for inmate health care to ensure that access and quality are not adversely affected and that the state avoids renewed costly litigation by maintaining a constitutional prison health care system. The university providers say that despite cost-saving measures, they consistently must spend more than their appropriation to provide the minimum required level of care and that more funding is needed to bring appropriations in line with expenditures. Additional funding would be used to address needs of an aging prison population and increased costs to treat chronic diseases, such as diabetes and hepatitis C.

The state should continue the CMHCC as a way to manage inmate health care delivery, monitor access to and quality of inmate care, and to ensure public input. The need continues for the committee to coordinate and manage the efforts of the university providers and TDCJ.

Notes. Article 11 of CSHB 1 includes an appropriation of $305.9 million for correctional managed health care. CSHB 4 by Pitts, the supplemental appropriations bill, contains a $40 million appropriation to TDCJ for providing correctional managed health care.

Texas Youth Commission capacity

Texas Youth Commission (TYC)

CSHB 1 – $72.3 million decrease in general revenue funds from fiscal 2010-11 level of $347.3 million for residential services, primarily due to proposed reduction in capacity.

CSHB 1 would limit TYC to a maximum of 1,600 beds beginning January 1, 2012, excluding halfway houses. Agency Rider 22 would authorize TYC to close up to three facilities and would require the agency to report to the LBB by October 1, 2011, its plan to reduce capacity.

Supporters of the CSHB 1 funding proposal say closing TYC facilities and reducing the agency's appropriation would match the agency's budget and capacity to its estimated population for fiscal 2012-13. According to the LBB, TYC's population at the end of fiscal 2012-13 will be about 425 youths below current state capacity of 2,118. TYC currently operates 10 institutional facilities and nine halfway houses and contracts with 12 providers and one county for residential services. The funding reduction in CSHB 1 likely would result in the agency closing three facilities by the start of fiscal 2012-13. The bill would allow the agency to study which facilities were most appropriate to close, given their population and the availability of services.

Continued funding to TJPC to divert youth from TYC

Texas Juvenile Probation Commission

CSHB 1 – $39.0 million in general revenue funds for grants to local probation departments.

CSHB 1 would continue the fiscal 2010-11 funding to TJPC of $39.0 million for local programs to divert youths from TYC. Under agency rider 15, if admissions to TYC exceeded 1,278 in fiscal 2012, $51,100 would be transferred from TJPC to TYC for each commitment over that cap, upon LBB approval.

Supporters of the CSHB 1 proposal say that this grant program has supported local programs, including residential, community-based, family, and aftercare programs, so that judges have more choices in handling juvenile offenders. It has been successful in diverting youths from TYC, where incarceration costs per youth are higher than the cost of supervising them on probation. Commitments of youths to TYC dropped from 1,589 in fiscal 2009 to 1,119 in fiscal 2010.

CSHB 1 also would reduce TYC's budget and require TYC to close up to three facilities, making the continuation of this diversion program important in keeping the TYC population below state capacity.

Notes. The Sunset Advisory Commission has recommended that TYC and TJPC be merged into a new state agency, the Texas Juvenile Justice Department.

Border security

Department of Public Safety (DPS) and other agencies

CSHB 1 –

- **$19.5 million from Highway Fund 6 to DPS;**
- **$40.1 million from general revenue-dedicated Operators and Chauffeurs License Account 99 to DPS;**
- **$13.0 million from general revenue-dedicated Operators and Chauffeurs License Account 99 to trusteed programs in the Governor's Office; and**
- **$3.8 million from general revenue and from general revenue-dedicated Operators and Chauffeurs License Account 99 to Texas Parks and Wildlife Department.**

CSHB 1 would give DPS a total of $59.6 million for border security operations. This would be the same funding level as fiscal 2010-11, excluding funds for capital expenditures.

Of the $59.6 million, CSHB 1 would appropriate $19.5 million from Highway Fund 6. DPS Rider 39 would require that the funding be used for salaries, training, operations, and equipment for the agency's highway patrol, criminal investigations, Texas Rangers, and aircraft operations. The remaining funds, about $40.1 million from general revenue-dedicated Operators and Chauffeurs License Account 99, would be designated by DPS Rider 41 to be spent on the following local border security initiatives:

- DPS troopers along the border;
- Texas Ranger positions;
- increased patrol and investigation costs for DPS and local peace officers;
- operations of the Texas Military Forces;
- operations of the Border Operations Center and the Joint Operations and Intelligence Centers; and
- operations of the Rio Grande Valley Border Security and Technology Training Center.

Border security operations for DPS also would be funded with a $13.0 million appropriation from Account 99 to the trusteed programs in the Governor's Office, including $2.0 million each year for border prosecutions.

In addition, CSHB 1 would appropriate funds for border security to the Texas Parks and Wildlife Department. Agency Rider 17 would appropriate $2.1 million in general revenue and $1.7 million from the general revenue-dedicated Operators and Chauffeurs License Account 99 for enhancing border security.

Supporters of the CSHB 1 proposal say the state needs to maintain at least fiscal 2010-11 levels of border security funding because serious threats remain. Funding for border security has been a state priority since 2007 and should remain stable for the next biennium. With the state's previous investments, troopers now have the necessary equipment, vehicles, and resources to combat border-related crime. This is not the right economic environment to add high-cost extras, such as high-altitude planes, to the DPS arsenal.

Funds to the governor's trusteed programs would go to DPS and other entities to provide resources to prosecutors; equipment, training, and support for patrol operations; overtime for expanded gang enforcement patrols; expanded multidistrict gang investigations; and increased gang prevention efforts. Appropriations to TPWD for border security efforts of game wardens also would remain at fiscal 2010-11 levels.

Critics of the CSHB 1 proposal say that maintaining border security funding at current levels is not enough. DPS requested $190.7 million more for border security efforts and should receive at least some of that funding. An increase in transnational gang and cartel crime is spilling over the border, and DPS needs extra resources to combat the problem. For example, it is increasingly important for DPS to be able to follow crime using a high-altitude surveillance aircraft. The $8.4 million aircraft that DPS has requested would allow it to follow criminals without being seen as the criminals bring drugs across the border to stash in houses in urban areas. It would help break up transnational gangs in big cities that fuel border crime. Other requested items, such as gasoline, vehicles, and information technology, also are needed. The gasoline appropriation in CSHB 1 would be about $17.6 million less than DPS requested, and other areas could have to be cut to keep vehicles on the road.

Critics say CSHB 1 should follow the lead of the Senate base budget and appropriate additional funds for border security. The Senate base budget would give $4.8 million more in base funding to DPS for border security and $30.0 million more than CSHB 1 to the governor's trusteed programs to be transferred to DPS for local border security initiatives.

Natural Resources — Article 6

Article 6 agencies are entrusted with protecting, managing, and developing Texas' agricultural, wildlife, environmental, water, and oil and gas resources, as well as state parks and lands. CSHB 1 would fund Article 6 agencies at $3.1 billion in all funds for fiscal 2012-13, 15.1 percent less than in fiscal 2010-11. The general revenue and general revenue-dedicated funds portion, $1.6 billion, would represent a 26 percent decrease from fiscal 2010-11.

Decreased funding for emissions reductions programs

Texas Commission on Environmental Quality

CSHB 1 – $139.3 million decrease in general revenue-dedicated funds for the Texas Emissions Reduction Program (TERP); $75 million decrease in general revenue-dedicated funds for the Low Income Repair Assistance Program (LIRAP).

CSHB 1 would reduce funding for fiscal 2012-13 from the TERP general revenue-dedicated fund account by $114.3 million, a 50 percent decrease from fiscal 2010-11 funding. CSHB 1 also would transfer $25 million for the biennium ($12.5 million per fiscal year) from the TERP account to the Clean Air Account for LIRAP. Both the funding reduction and the transfer to LIRAP would amount to an overall decrease in program funding for fiscal 2012-13 for TERP of $139.3 million, or 61 percent, from the previous biennium.

CSHB 1 would reduce funding for LIRAP to $25 million in general revenue-dedicated funds for fiscal 2012-13 from fiscal 2010-11 funding levels of $100 million in general revenue-dedicated funds.

Article 6 spending comparisons
(millions of dollars)

Type of funds	Estimated/budgeted Fiscal 2010-11	Recommended CSHB 1	Biennial change	Percent change
General revenue and general revenue-dedicated	$2,169.9	$1,606.8	($563.1)	(26.0%)
Federal	1,230.2	1,196.4	(33.8)	(2.7)
Other	248.9	296.2	47.2	19.0
All funds	3,649.0	3,099.4	(549.7)	(15.1)

Source: Legislative Budget Board, Summary of Committee Substitute for House Bill 1, *March 2011*

Contingency riders. Contingent upon enactment of TCEQ's sunset bill, HB 2694/SB 657, funding would be restored in the amount of $25 million ($12.5 million per fiscal year) for TERP and $25 million ($12.5 million per fiscal year) for LIRAP. HB 2694/SB 657 would extend the petroleum products delivery fee, which would provide money above the budget revenue estimate.

Contingent upon enactment of the Railroad Commission's (RRC) sunset bill, HB 3106/SB 655, funding would be restored in the amount of $10 million ($5 million per fiscal year) for TERP and $25 million (12.5 million per fiscal year) for LIRAP. HB 3106/SB655 would create a new general revenue-dedicated account at the RRC, the Oil and Gas Cleanup Fund, that would cover costs of the RRC's oil and gas related programs and generate new fee revenues by placing surcharges on drilling permits.

Both contingency riders were placed in Article 11.

Supporters of the CSHB 1 proposal to reduce funding for emissions reductions programs say these reductions will free up funds for other budget areas. Projects under these grant programs could be reduced for two years and restored in the next biennium when more funding was available.

Critics say CSHB 1 would make drastic cuts in two key air quality programs at TCEQ that are designed to directly clean up air in major urban areas like Dallas, Houston, Fort Worth, Austin, Tyler-Longview, El Paso, San Antonio, and Corpus Christi.

TERP generates money to retrofit or replace diesel engines from construction equipment, locomotives, and on-road and off-road heavy-duty vehicles that create pollution in the most populous urban environments. For about $5,000 per ton of pollution averted, these programs have taken 158,000 tons of nitrogen oxides (NOx) out of the urban air, helping Dallas and Houston get closer to meeting clean air ozone standards and keeping other cities, such as Austin, San Antonio, and Corpus Christi, in attainment.

LIRAP helps low-income drivers with older cars or with cars that fail the air emissions inspection to replace or repair their vehicles with grants of up to $3,500. From December 2007 through November 2010, 16,838 cars were repaired and 41,671 replaced with $134 million in grants. When model year vehicles 1984 through 1999 are replaced with vehicles from 2005 or later, NOx emissions are reduced by more than 90 percent.

Other critics say that while both TERP and LIRAP have proven positive impacts on emissions reductions and need to be fully funded, taking money from TERP to fund LIRAP would have an overall smaller effect in NOx reductions since the TERP is aimed at high emitting, large diesel engines and LIRAP is aimed at small engine older cars.

No new debt service funding for water infrastructure planning

Texas Water Development Board (TWDB)

CSHB 1 – no funding.

Agency request – $29.7 million in general revenue funds for debt service on $300 million in general obligation bonds.

CSHB 1 would not fund the TWDB's request for $29.7 million in general revenue for debt service on an additional $300 million in general obligations bonds for water and wastewater infrastructure planning, including:

- $17.6 million in general revenue funds for non-self-supporting debt service to finance $200 million in bonds for the Water Infrastructure Fund for state water projects; and

- $12.1 million in general revenue funds for non-self-supporting debt service funds to finance about $100 million in bonds to fund 35 water and wastewater projects in economically distressed areas in the next biennium.

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

Critics say the bonds are necessary for the Texas Water Development Board to continue funding water and wastewater projects, especially those that are part of the State Water Plan. As the population of the state increases, so will the demand for water resources. Without funding, the state would fall behind in completing projects to meet future demand. Because the state water plan is a multi-year project, the state should take a long-term approach to funding it and use general obligation bonds.

Eliminating dam safety funding

Texas State Soil and Water Conservation Board (TSSWCB)

CSHB 1 – elimination of funding.

Agency request – $4 million in general revenue to address repairs at highest-priority flood control dams.

CSHB 1 would eliminate all funding in fiscal 2012-13 for TSSWCB grants to operate, maintain, repair, and rehabilitate about 2,000 federally designed and built flood-control dams in Texas.

Supporters say TSSWCB's flood control dam grant program is not an immediately essential need and that eliminating funding for projects in fiscal 2012-13 could free up funds for other budget areas. Projects under this grant program could be delayed for two years, then restarted in the next biennium when more funding was available.

Critics of eliminating funding say TSSWCB's inability to maintain flood-control dams across the state and to repair structural defects could pose a safety risk to growing downstream populations. These dams, many of which were built in the 1960s, are an important component of the state's infrastructure because they protect lives, property, roads, and bridges. They function by impeding and containing floodwaters, then releasing them in a deliberate and controlled manner. There is currently a backlog of $11 million in maintenance needs and $53 million in structural repair needs.

Critics say flood-control structural repair involves multi-year projects, and funding obligated to address structural repairs in 2010 and 2011 will require work in 2012-13 to complete. About $7 million of structural repair work obligated in fiscal 2010-11 will be in need of completion in fiscal 2012-13. Engineering design and inspection services are purchased each year to outsource the inspection of ongoing projects.

Other critics say $4 million in general revenue is needed to address two or three of the most critical-need, high-hazard structures, which have the greatest potential to cause property damage and loss of life. TSSWCB revised its legislative appropriations request to $4 million to initiate these projects. In addition, the agency says it will need flexibility to move dollars forward to cover engineering inspection costs for sites already obligated by the state for repair through 2013.

Reduced funding for state and local parks

Texas Parks and Wildlife Department (*TPWD*)

CSHB 1 – decreases for state and local parks totaling $56.8 million in all funds, including 89.1 FTEs.

CSHB 1 would decrease funding for state and local parks by $56.8 million in all funds. This would include a decrease in all funds to TPWD of $7.8 million, including 76.3 FTEs, for park operations, such as maintenance, minor repair of state parks, and parks support, including regional offices.

The decrease would include eliminating funding for grants to develop and acquire new local parks projects, including boating access, outreach and education grants, and hike-and-bike trail development. Administration costs for the grants program also would be reduced by 50 percent, including 8.5 FTEs. This would be an overall decrease to this program of $46.7 million in all funds from fiscal 2010-11.

Other reductions would include a decrease in general revenue-dedicated funds of $2.3 million, including 4.3 FTEs. The introduced budget bill would have achieved this reduction by deferring minor repair projects in the state park system for six months in 2012. CSHB 1 would give the agency flexibility to move funding from fiscal 2013 into fiscal 2012, effectively leveling the reduction over the biennium rather than deferring projects for six months in 2012.

Supporters of reducing funding for state and local parks say that outdoor recreation, while desirable, is not an immediately essential need. Eliminating grants for local parks and reducing funds for state park operations and repairs for fiscal 2012-13 could free up funds for higher priority budget areas, such as public education and health care. Funding for these projects could be delayed for two years and restarted in the next biennium when more funding was available.

Critics of reducing funding for state parks say that progress in rebuilding the state parks system that began in 2005 needs to be maintained to meet growing public demand for outdoor recreation in Texas. The parks program reached a low point in 2005 when infrastructure was deteriorating and operating hours at many parks were scaled back due to insufficient funding over several biennia. The Legislature responded to public concern by increasing funding to start rebuilding the system. The state parks are a reservoir of natural, historic, and cultural heritage. They provide physical and mental health benefits and are economic engines for neighboring communities, generating revenue and jobs. They bring new money into Texas through tourism. Closing parks would send a message that Texas was "closed" because we could not afford to provide services for citizens and guests. Eliminating funding for grants to develop and acquire new local parks projects also would lead to loss of revenue. Studies have found that for every dollar Texas spends on local parks, it receives a return of seven to one in economic development, higher property values, and tourism.

Other critics say the recommendation from the LBB to close seven state parks and two regional offices in order to meet the $7.8 million reduction in all funds is based on a report by an independent contractor that assumes the parks would remain open and be run locally. However, if the local community opted not to take a park, this could result in it closing. CSHB 1 would not obligate TPWD to use the LBB recommendation, so the agency should consider an alternate plan with more targeted reductions in parks funding that would allow TPWD to ramp back up as the state's financial picture improved.

Economic Development — Article 7

Article 7 includes agencies that support business and economic development, transportation, and community infrastructure — including the Texas Department of Transportation (TxDOT), Texas Workforce Commission (TWC), Texas Department of Housing and Community Affairs (TDHCA), Texas Department of Motor Vehicles (TxDMV), Texas Lottery Commission, and Texas Department of Rural Affairs (TDRA). CSHB 1 would appropriate to Article 7 agencies $20.8 billion in all funds, including $9.1 billion in federal funds, $10.8 billion in other funds, mostly from Fund 6, and $894.6 million in general revenue and general revenue-dedicated funds.

CSHB 1 would represent a decrease in all funds of 10.5 percent for Article 7 agencies from fiscal 2010-11, when $23.2 billion was appropriated. Most of the decrease is due to reductions in one-time federal Recovery Act funds available in fiscal 2010-11. The remaining decrease stems from cuts in general revenue funds for automobile theft prevention, housing for low-income and homeless individuals, and workforce training and development programs administered by TWC.

Article 7 spending comparisons
(millions of dollars)

Type of funds	Estimated/budgeted Fiscal 2010-11	Recommended CSHB 1	Biennial change	Percent change
General revenue and general revenue-dedicated	$968.1	$894.6	($73.5)	(7.6%)
Federal	12,004.1	9,088.0	(2,916.0)	(24.3)
Other	10,230.6	10,790.1	559.5	5.5
All funds	23,202.8	20,772.8	(2,430.0)	(10.5)

Source: Legislative Budget Board, Summary of Committee Substitute for House Bill 1*, March 2011*

General obligation bond proceeds for highways

Texas Department of Transportation

CSHB 1 – $875 million in new general obligation bond proceeds for highways; $64.4 million in general revenue funds for debt service for bonds to finance existing highway construction contracts, from unexpended balances of general revenue available in the current biennium.

Agency request – $64.5 million in general revenue for debt service on $875 million in general obligation bond proceeds for existing highway construction contracts; $65 million in general revenue for debt service on $1 billion in general obligation bond proceeds for the State Infrastructure Bank; $1 billion in general obligation bond proceeds for development of projects on the state's Top 100 Most Congested list, which would not require debt service until fiscal 2014.

Supporters of appropriating general obligation bond proceeds for existing highway construction contracts say these bonds are necessary to continue making payments on projects authorized in 2009. A rider in the 2009 general appropriations act authorized $1 billion in general obligation bond proceeds to make "progress payments" on up to $1.85 billion in multi-year highway construction contracts. TxDOT authorized about $850 million more in projects than can be funded by the $1 billion in previous bond appropriations. Without additional funds to cover these authorized projects, supporters say, TxDOT would have to divert funds from other planned projects to those already authorized with the initial appropriation.

Supporters say that the proposal in CSHB 1 would strike a balance between issuing additional bonds necessary to sustain currently authorized highway projects and responsible spending practices. The state should appropriate general obligation bonds sparingly, as the financial obligations they create cannot be reversed until the term of the contract is satisfied — often 30 years. Appropriating more bond funds than necessary to complete authorized projects could be risky and create future financial obligations in a time of economic and fiscal uncertainty.

Critics say long-term borrowing to pay for highway improvements through general obligation bonds would require general revenue appropriations for debt service that the state cannot afford. Texas should pay for the construction it can afford, rather than obligate scarce general revenue and drive up the cost of already expensive projects with interest payments. Adding more debt would increase the general revenue needed for debt financing for decades, committing funds that could be used for other pressing state needs, such as public education and health care. Appropriating more general obligation bond proceeds merely would postpone difficult transportation funding decisions. The state should consider options for raising more revenue for transportation this session, rather than opting for the costlier but more politically expedient bond funding.

Other critics say CSHB 1 would not appropriate sufficient general obligation bond funds for the highway construction the state needs. They say that while the Texas Constitution prohibits state-supported debt issued from exceeding 5 percent of uncommitted general revenue, state debt issued currently is well below that at 1.4 percent, leaving room to issue more general obligation bonds backed by state general revenue. Issuing the full amount TxDOT has requested would not significantly affect the state's fiscal standing, and Texas still would have a low debt burden compared to other states. Improving transportation mobility would aid economic development and job creation in the wake of a severe national economic recession. Issuing the additional general obligation bonds soon is critical in light of diminishing availability of Fund 6 revenue bonds and Texas Mobility Fund (TMF) bonds and in view of recent highway funding shortfalls.

Automobile Burglary and Theft Prevention Authority (ABTPA)

Texas Department of Motor Vehicles

CSHB 1 – $2.1 million for Automobile Burglary and Theft Prevention Authority (ABTPA) staff and additional revenue for grants, contingent on the program generating revenue beyond the comptroller's revenue estimate for certain insurance fees.

Agency request – $27.7 million in general revenue funds for ABTPA grants

The ABTPA provides grants to local law enforcement authorities to prevent and reduce automobile theft. It traditionally has been funded by a fee on automobile insurance policies of $1 per vehicle per year that goes into general revenue.

CSHB 1 would eliminate current general revenue funding for ABTPA. A contingency rider would appropriate revenue to ABTPA if a certain revenue threshold were met. The rider would establish as a 'base level' the comptroller's estimated revenue for insurance fees of $1 per vehicle per year that traditionally has gone to ABTPA, a total estimated to be $38.7 million for fiscal 2012-13. If the comptroller certified that the state would collect more than this amount from the fee, the first $2.1 million would go to fund ABTPA staff, and any additional revenue would go to ABTPA grants. The rider would express the intent of the Legislature that ABTPA seek federal funding for the program.

Supporters of the CSHB 1 proposal say that potentially suspending funds to ABTPA is necessary in light of massive budget shortfalls. According to the LBB, Texas appropriates almost twice as much funding as any other state for auto theft prevention authority activities. Providing grants to local entities for automobile burglary and theft prevention, supporters say, is not a core mission of TxDMV, and the functions the grants serve could be absorbed temporarily by local police and sheriffs offices until funds could be restored.

Supporters say the CSHB 1 proposal offers a compromise by leaving open the possibility of funding for ABTPA. HB 2153 by Eiland would raise the annual ABTPA fee from $1 to $2 and dedicate half of the total fee to ABTPA. A contingency rider in CSHB 1 would authorize funds to ABTPA if the comptroller certified that funds collected from the fee would exceed the biennial revenue estimate of funds collected from such fees. Supporters say the rider would allow the state to preserve core services in a budget shortfall while possibly funding ABTPA fully should the Legislature choose to do so.

Critics of the CSHB 1 proposal say it would leave funding uncertain for a program that has successfully prevented vehicle theft and helped retrieve many stolen vehicles. In fiscal 2010-11, ABTPA provided 56 grants totaling $27.5 million to local enforcement entities. More than 90 percent of the program's expenses are for grants to local sheriff's offices and police forces. While Texas has a comparatively high vehicle theft rate, it would be significantly higher without funding for ABTPA. With the proposed funding, vehicle recovery rates would plummet because many local authorities fund their theft teams with grants from the program. Many local authorities, strapped due to recent budgetary shortfalls, would have to make deep cuts to auto theft prevention and recovery activities without the grants.

Other critics say collecting fees for one purpose and allocating them for another is not a fiscally sound or conservative approach to budgeting. Using fee revenue specifically earmarked for ABTPA for other, unidentified purposes would violate the principle of truth in taxation. If the state does not intend to use fees for their express purpose, then it should stop collecting them or change the stated purpose for their assessment.

Reduced funding for workforce development programs

Texas Workforce Commission (TWC)

CSHB 1 – $30 million decrease to Skills Development Program; elimination of funding for the Texas Back to Work (TBTW) program and Project Reintegration of Offenders (Project RIO). (Article 11 rider would appropriate $15 million to TBTW from funds appropriated to the Texas Enterprise Fund).

CSHB 1 would reduce general revenue funding for TWC's Skills Development Program, a worker training program, to $48.5 million for fiscal 2012-13 from $78.5 million in fiscal 2010-11. It would eliminate funding for TBTW, a program that provides businesses with a $2,000 incentive to hire first-time unemployment insurance (UI) claimants for at least four months. TBTW received $15 million in general revenue funds in fiscal 2010-11. CSHB 1 also would eliminate funding for Project RIO, a job assistance program for those released from prison. Project RIO received $19.4 million in general revenue funds in fiscal 2010-11.

Supporters of proposed reductions to workforce development programs say they are necessary in light of massive budget shortfalls. The Skills Development Program still could function successfully with reduced resources. While eliminating funding to Project RIO would reduce certain case-managed employment services for ex-offenders, it would not prevent them from seeking other TWC employment services. In addition, as the economy emerges from the recession, the need should diminish for the incentives the TBTW program provides to hire workers receiving unemployment benefits.

Critics of the CSHB 1 proposal say it would be unwise to cut funding for employment and workforce development programs in the wake of a severe national recession. The Skills Development Program connects businesses with community colleges and technical schools to provide customized worker training programs. TWC was able to grant only 61 percent of funds requested in fiscal 2009 and 72 percent in fiscal 2010. Proposed reductions would result in about 5,500 fewer trainees per year than would the agency's baseline request of about $64 million.

The current TBTW program has proven successful in moving UI claimants into the workforce. As such, TWC believes there is a continuing need for the incentive program. By restoring funding to TBTW in fiscal 2012-13, the state would reduce payments made from the UI trust fund, and TWC has estimated that 7,000 Texans would gain employment and 1,800 employers would receive subsidies.

Critics of the cuts point out that the Skills Development and TBTW programs could be funded by other means. A rider in the Article 11 "wish list" would appropriate funds from the Texas Enterprise Fund in Article 1 for TBTW. Similarly, a rider in the introduced version of SB 1 would, with necessary legislation, restore the programs' funding from appropriations made to the Texas Enterprise Fund.

Critics say eliminating funding for Project RIO, the job assistance program for those released from prison, would cost the state more in the long run because the program helps prevent returns to prison, where state costs are even higher. Participants in Project RIO had a 23 percent recidivism rate, much lower than the 38 percent rate of comparable non-participant ex-offenders. In fiscal 2010, TWC served more than 50,000 people who were eligible for RIO.

Reduced funding for low-income housing and homeless services

Texas Department of Housing and Community Affairs

CSHB 1– $10.3 million decrease in general revenue funds for Housing Trust Fund (HTF) grants and elimination of $20 million in general revenue funds for the Housing and Homeless Services Program (Article 11 includes a rider that would move $20 million from the trusteed programs of the Office of the Governor to TDHCA for Homeless and Housing Services).

CSHB 1 would reduce Housing Trust Fund grants by $10.3 million, from about $22 million in fiscal 2010-11 to $11.7 million for fiscal 2012-13. The bill also would eliminate funding for the Homeless Housing and Services program, which totaled about $20 million for fiscal 2010-11.

Supporters of the reductions in CSHB 1 say the cuts to the Housing Trust Fund and the Housing and Homeless Services programs are necessary in light of massive budget shortfalls. The reductions, supporters say, would return TDHCA funding to fiscal 2008-09 levels. They say that some of these services could be assumed temporarily by non-profits that provide housing services for low-income and homeless residents and that TDHCA should be able to use other resources to provide services to vulnerable populations.

Critics of the proposed reductions to housing services say they would strip important services from vulnerable populations who are facing especially difficult circumstances in the wake of a major recession. They say the cuts would reduce or suspend programs targeted to those who are underserved by federal and local funds, such as those with disabilities, veterans, and rural communities.

The Housing Trust Fund grants provide funding to programs such as the Veterans Housing Support Program, the Rural Housing Expansion Program, and the Amy Young Barrier Removal Program for persons with disabilities. The Bootstrap Loan Program under the Housing Trust Fund, which builds or improves residential housing through self-help construction for low-income individuals and families, could have its funding reduced to the statutorily required $3 million per year. The overall reduction in funding to the Housing Trust Fund would result in at least 300 fewer households being served.

CSHB 1 also would eliminate a new program established in fiscal 2010-11 to fund homeless housing services to the eight largest cities in Texas. This would reduce services for 16,000 of the neediest people in the state each year and eliminate funding to many organizations that have proved effective at targeting the sources of homelessness.

Fund 6 appropriations to Department of Public Safety

Department of Public Safety (DPS)

CSHB 1 – $1.1 billion in Fund 6 revenue to DPS, a continuation of current funding levels.

CSHB 1 would appropriate about $1.1 billion in revenue from the State Highway Fund (Fund 6) to the Department of Public Safety (DPS) for fiscal 2012-13. This is about the same funding level appropriated to DPS from Fund 6 in fiscal 2010-11.

Supporters of the CSHB 1 proposal say current Fund 6 appropriation levels for DPS should be maintained because, with a severe statewide deficit, replacing those highway funds with general revenue funds for DPS would be prohibitively costly. It also would place DPS in competition with other state needs for limited resources. Both the Texas Constitution and the Transportation Code explicitly authorize using Fund 6 revenue for policing state highways. DPS enforcement activity helps ensure the safety of motorists, which is directly related to the motor fuels taxes and registration fees that provide ongoing revenue streams for Fund 6. With a significant deficit of general revenue, supporters say, the state must use other available resources to meet critical needs like funding DPS.

Critics of maintaining current Fund 6 funding for DPS say the practice diverts funds from TxDOT that are collected to build and maintain the state's roads. Fund 6 is funded largely through user fees, such as taxes on motor fuels and vehicle registrations, and these funds should be dedicated to the purposes for which they are collected — maintaining and expanding the state's transportation network. DPS serves critical state functions that should be funded out of general revenue, which is appropriate for an agency that serves a statewide need but does not have dedicated revenue sources sufficient to pay its costs. The general appropriations act for fiscal 2010-11 made modest progress by reducing diversions of highway funds, and the Legislature should continue the transition to using Fund 6 money exclusively for its core function of highway maintenance and construction.

Regulatory Government — Article 8

Article 8 includes agencies that regulate business professionals and service industries. The agencies range in size from the Public Utility Commission and Department of Insurance to the Racing Commission and Board of Professional Land Surveyors.

CSHB 1 would appropriate $701.9 million in all funds to Article 8 agencies in fiscal 2012-13, including $672.2 million in general revenue and general revenue-dedicated funds. This would be a decrease in all funds of $96.8 million, or 12.1 percent, from fiscal 2010-11 funding.

Most of the decreased funding for Article 8 for fiscal 2012-13 would be due to a decrease in the appropriation from the System Benefit Fund to the Public Utility Commission for the low-income discount program, which provides utility discounts to low-income electricity customers during the hottest months, May through September. The program is funded by the System Benefit Fund, a general revenue-dedicated account containing fees collected from electricity ratepayers.

Reductions for low-income discounts through System Benefit Fund

Public Utility Commission (PUC)

CSHB 1 – decrease from fiscal 2010-11 funding of $56.4 million in general revenue-dedicated funds for programs funded by System Benefit Fund.

CSHB 1 would decrease general revenue-dedicated funding for programs paid for with System Benefit Fund money by $56.4 million. The decrease would stem mainly from a

Article 8 spending comparisons
(millions of dollars)

Type of funds	Estimated/budgeted Fiscal 2010-11	Recommended CSHB 1	Biennial change	Percent change
General revenue and general revenue-dedicated	$739.2	$672.2	($67.0)	(9.1%)
Federal	7.2	6.2	(0.9)	(13.0)
Other	52.3	23.4	(28.8)	(55.2)
All funds	798.7	701.9	(96.8)	(12.1)

Source: Legislative Budget Board, Summary of Committee Substitute for House Bill 1*, March 2011*

25 percent reduction to the discount program for low-income customers of $54.9 million from fiscal 2010-11 funding. Other decreases include $400,000 less for customer education, $600,000 less for electric market oversight contracts, and $500,000 less for the administration of chapter 39 of the Utilities Code, which governs industry restructuring.

Supporters say that although funding for System Benefit programs would be reduced in CSHB 1, the appropriations would continue some level of support for low-income electricity customers during the upcoming biennium. The proposal also would leave an appropriate System Benefit Fund unspent balance for certification of the budget that would allow funding for other programs, such as Medicaid, which aids low-income Texans. In these tough economic times, the Legislature, like Texas families, must make difficult choices in allocating available funding. CSHB 1 would provide a reasonable balance in assisting low-income citizens with their utility bills and providing other much-needed state programs.

Critics say that reducing the discount program would penalize unfairly both low-income customers and eligible senior citizens. Decreasing funding for the low-income discount program would reduce the current 17 percent discount for eligible customers to about 11.5 percent. The Legislature should consider funding the discount at the statutory maximum rate of 20 percent and restoring the program to cover the entire year, rather than only the five hottest months. Freezing temperatures across the state for an extended period of time this past winter showed a need for help paying heating bills in the winter as well as cooling bills in the summer. Money is readily available in the System Benefit Fund balance and could be appropriated. CSHB 1would leave an estimated unspent balance in the System Benefit Fund of $933 million at the end of fiscal 2013.

Other critics say that collecting fees for one purpose and allocating them for another, including for budget certification, is not a conservative and fiscally sound approach to budgeting. Leaving the money in fund balances where it cannot be used for the intended discounts violates the principle of truth in taxation. The Legislature needs to stop collecting the fee on utility bills if it will not be used for its stated purpose.

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