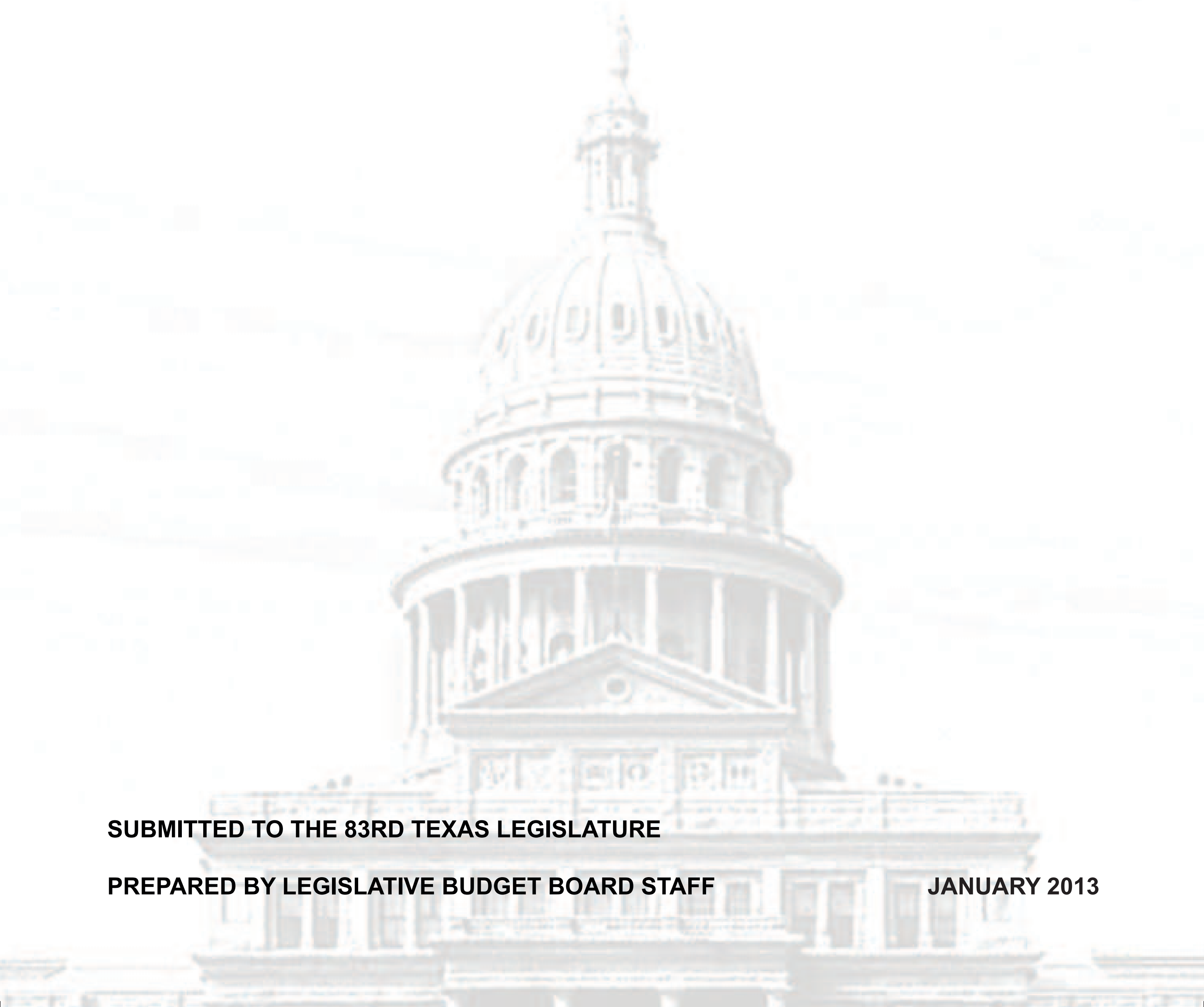
LEGISLATIVE BUDGET BOARD

Executive Summary
of
Legislative Budget Board Reports



SUBMITTED TO THE 83RD TEXAS LEGISLATURE

PREPARED BY LEGISLATIVE BUDGET BOARD STAFF

JANUARY 2013

Executive Summary of Legislative Budget Board Reports

SUBMITTED TO THE 83RD TEXAS LEGISLATURE JANUARY 2013

LEGISLATIVE BUDGET BOARD STAFF

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HIGHER EDUCATION

OVERVIEW OF AFFORDABLE CARE ACT FUNDING AND COSTS IN THE TEXAS STATE BUDGET

LBB FACTS AND FINDINGS

- For fiscal years 2010 to 2013, six state agencies and nine public institutions of higher education received $669 million in federal ACA grants. They received another $318 million in federal grants as match for state expenditures.
- State costs associated with the ACA for fiscal years 2010 to 2013 total approximately $101 million. This is offset by approximately $79 million in savings to the General Revenue Fund through coverage of children under the Children's Health Insurance Program (CHIP) at HHSC.
- Three agencies and two public institutions of higher education expect to receive $276 million in federal ACA grants for the 2014–15 biennium. They have identified another $414 million in federal grants as match for state expenditures.
- State costs associated with ACA requirements for the 2014–15 biennium total approximately $151 million. This is offset by approximately $82 million in expected savings to the General Revenue Fund.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report does not have a fiscal impact for the 2014–15 biennium. It describes federal grants received and state costs to Texas state agencies and public institutions of higher education as a result of the Affordable Care Act of 2010 (ACA). It shows federal grants and state costs of ACA-funded programs for fiscal years 2010 to 2015. The report provides details by state agency and public institution of higher education for each program funded. The report also identifies fiscal and policy issues that arise as a result of the ACA.

The ACA changes the healthcare market in the U.S. Some of these changes have brought and will bring new federal funding to state budgets, while others require additional state funds. Most of the federal grants and additional state costs resulting from ACA requirements expand healthcare coverage or health insurance benefits. However, some of the funds support patient education and outreach, develop organizational infrastructure, and provide healthcare professional training. The Health and Human Services Commission (HHSC) and benefit systems that provide health insurance to state employees, teachers, and university personnel will incur additional state costs during the 2014–15 biennium.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 1.

IMPROVE FUTURE SIGNIFICANT FEDERAL FUNDS AND STIMULUS OVERSIGHT

LBB RECOMMENDATIONS

1 Include a rider in the introduced 2014–15 General Appropriations Bill to direct the CPA to set state reporting standards and procedures, including performance benchmarks, if the state receives federal stimulus funds or other large, significant awards outside the usual federal appropriations process.

The introduced 2014–15 General Appropriations Bill includes a rider implementing Recommendation 1.

This recommendation would not have a fiscal impact for the 2014–15 biennium. The Comptroller of Public Accounts (CPA) would improve administration and set state reporting standards, timelines, and performance benchmarks should agencies receive a large, one-time federal award separate from the annual federal appropriations bills.

This report describes how the State of Texas managed economic stimulus funds granted by the American Recovery and Reinvestment Act (ARRA). Texas agencies and public institutions of higher education reported nearly $25 billion in ARRA funds in September 2012. At that time, they had spent 95 percent of these funds. In general, oversight officials found few significant issues with how the state administered programs, and ARRA funds were expended in a timely manner.

New, large awards posed challenges. Federal and state reporting requirements were redundant, which increased agencies' workloads. In Texas, ARRA administration was decentralized. There was no single state entity that administered programs or set procedures. A few programs had implementation challenges that led to program delays and inefficiencies.

To improve future significant federal funds oversight, the paper recommends that if 10 or more state agencies are awarded, by the U.S. government, a combined amount greater than or equal to $1 billion in federal stimulus funds or other one-time allocations appropriated through legislation separate from the annual federal appropriations bills, CPA shall set state reporting standards and timelines, including performance benchmarks, for all affected agencies, including institutions of higher education, that align with any related federal reporting requirements.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 14.

EXPAND THE USE OF THE SYSTEM BENEFIT FUND TO SUPPORT ENERGY-RELATED PROJECTS

LBB RECOMMENDATIONS

1 Amend statute to implement a proportional allocation system within the SBF to fund currently allowable uses.

2 Include a contingency rider to reduce SBF appropriations to the PUC, and appropriate a like amount to TDHCA for energy efficiency and weatherization programs.

3 Amend statute to expand the allowable use of the SBF to finance a credit enhancement program at TDHCA to assist in providing low-interest loans for financing energy-related projects.

4 Include a contingency rider to appropriate $10 million in General Revenue–Dedicated Funds from the balance of the SBF to TDHCA as capitalization for the loan program created by Recommendation 3.

5 Include a contingency rider directing TDHCA to submit a report to the Legislature on loan program performance.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of these recommendations. Recommendations 1 and 3 require statutory change and recommendations 2, 4 and 5 require riders.

These recommendations would cost $10 million in General Revenue–Dedicated Funds for the 2014–15 biennium and would assist in the financing of energy-related projects that could have a positive effect on utility obligations of low-income residents.

The System Benefit Fund (SBF) is administered by the Public Utility Commission (PUC). Revenue collected from an electricity usage fee is expended primarily to provide utility rate discounts that may range from 10 percent to 20 percent for qualifying low-income populations in deregulated areas. Additional uses may include programs that have secondary public benefits, such as weatherization and energy efficiency. Studies show that the benefits of energy efficiency can be greater than the subsidy the low-income discount program has been able to provide. Weatherization and energy efficiency measures also contribute to supporting jobs in these industries, as well as reducing energy consumption and, thereby, marginally reducing air pollution.

Credit-enhancement programs assist in providing low-interest loans and other appealing financing terms that benefit a particular sector of the economy. Implementing a program such as this for energy-related projects, through the Texas Department of Housing and Community Affairs (TDHCA), would provide an additional benefit to low-income populations and provide a means of reducing the current balance of the SBF account.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 19.

FIVE-YEAR FISCAL IMPACT OF RECOMMENDATION 4, FISCAL YEARS 2014 TO 2018

FISCAL YEAR	PROBABLE SAVINGS/(COST) IN GENERAL REVENUE–DEDICATED FUNDS
2014	($5,000,000)
2015	($5,000,000)
2016	--
2017	--
2018	--

Source: Legislative Budget Board.

IMPROVE WEATHERIZATION ASSISTANCE PROGRAM AND EXPANDED FEDERAL PROGRAMS

LBB RECOMMENDATIONS

1 The Texas Department of Housing and Community Affairs needs to have contracts in place to scale-up programs when necessary.

2 The agency also needs to set minimum, mandatory training requirements for providers and contractors.

3 Include a rider in Article IX of the introduced 2014–15 General Appropriations Bill that requires agencies to report their operational capacity for scaled federal programs to the Legislative Budget Board under certain program expansion conditions. Reports should explain goals, resources, and timeframes.

The introduced 2014–15 General Appropriations Bill includes a rider implementing Recommendation 3. Recommendations 1 and 2 can be implemented by agency management directive.

These recommendations would not have a fiscal impact for the 2014–15 biennium. They would improve the Weatherization Assistance Program or other federal programs that increase in scope.

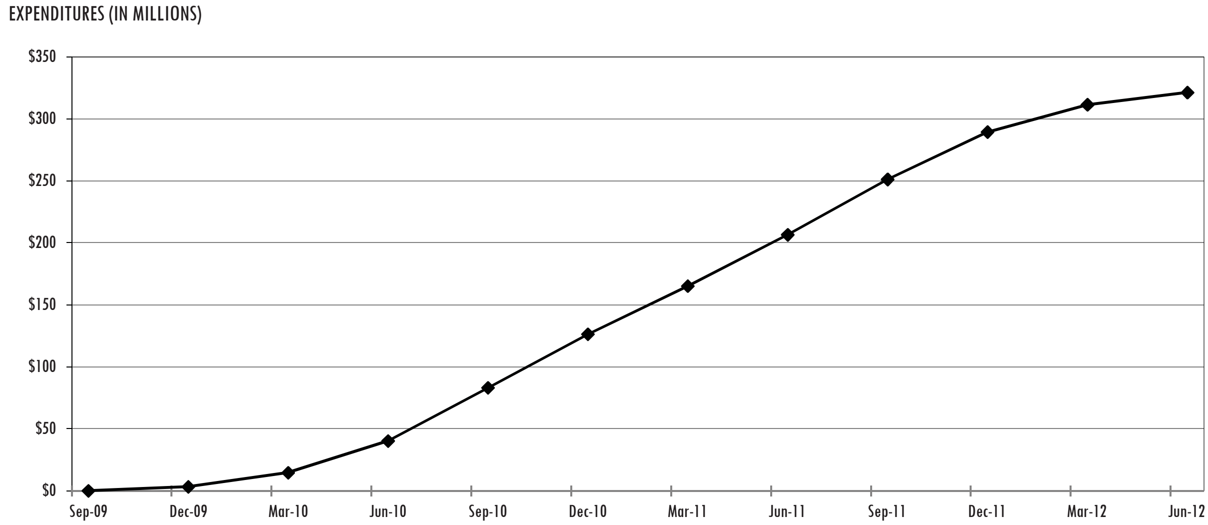
The Weatherization Assistance Program (WAP) helps low-income families reduce home energy costs. The U.S. Department of Energy grants federal funds to states. The Texas Department of Housing and Community Affairs (TDHCA), in turn, pays local providers. Providers hire contractors to weatherize homes. Energy efficiency services range from safety checks to replacing heating and cooling units.

The American Recovery and Reinvestment Act of 2009, economic stimulus legislation, greatly increased the WAP. TDHCA's annual program budget is usually $13 million. The American Recovery and Reinvestment Act granted $327 million to the state WAP. The increased funding led to new challenges. This paper examines how TDHCA administered this program.

While TDHCA exceeded the target number of homes it planned to weatherize, the program got off to a slow start. The agency could not procure weatherization services quickly. It did not have operational capacity or contracts in place, so it had to add providers to its network, which delayed the program. As **Figure 1** shows, however, the agency eventually increased expenditures. The agency offered training to providers and contractors, but it was not mandatory. The agency later ordered them to re-do work due to deficiencies. Some providers made accounting errors. Mandatory training might have reduced these issues.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 28.

FIGURE 1
CUMULATIVE WEATHERIZATION EXPENDITURES BY QUARTER
SEPTEMBER 2009 TO JUNE 2012



SOURCE: Comptroller of Public Accounts.

OVERVIEW OF FEDERAL HOMELAND SECURITY FUNDS IN TEXAS

LBB FACTS AND FINDINGS

- From fiscal years 2008 to 2012, Texas state agencies and public institutions of higher education were awarded an estimated $1.1 billion from major federal homeland security programs.
- The Texas DPS has implemented administrative changes to comply with federal homeland security grant accounting procedures as a result of a SAO report published in February 2012. The agency has implemented procedures to monitor grant sub-recipients to communicate all required award information in sub-recipient agreements.
- In a February 2012 report, the U.S. GAO recommended that the U.S. Department of Homeland Security and the Federal Emergency Management Agency improve their coordination, administration and monitoring of federal homeland security and disaster grant programs.
- The U.S. Department of Homeland Security Office's Inspector General, in a June 2012 report, recommended that the Federal Emergency Management Agency improve their oversight of state management of HSGP.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. It provides information on homeland security grants received by Texas and the need for state agencies to more effectively monitor the disbursement and use these grants.

The federal Homeland Security Act of 2002 appropriated $37.0 billion to federal grant programs since fiscal year 2002. The largest federal grant program providing funds to states is the Homeland Security Grant Program (HSGP). Recently, the federal Consolidated Appropriation Act of 2012 modified distribution formulas and consolidated programs in the federal HSGP. The legislation also reduced the amount of time states have to expend HSGP funds from four years to two years. These and other federal provisions have made it necessary for state agencies to improve disbursement and monitoring of the HSGP. Audits by the U.S. Government Accountability Office (GAO) and Texas State Auditor's Office (SAO) of the administration of homeland security grants reveal a need for better monitoring of federal funding.

Texas has been receiving federal homeland security funding since fiscal year 2002. The amount of recent federal appropriations indicate that less federal homeland security funding will be available to Texas and other states in the future. As recent state and federal audits indicate, it would be prudent for state and federal agencies to more effectively monitor the disbursement and use of homeland security funds. The Texas Department of Public Safety (DPS) has implemented a management improvement plan for recording, disbursing, and monitoring federal homeland security funds.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 34.

USE PUBLIC-PRIVATE PARTNERSHIPS TO INCREASE THE NUMBER OF GROCERY STORES IN LOW-INCOME AREAS

LBB RECOMMENDATIONS

1 Amend statue to authorize a public-private partnership between the TDA and a CDFI, to establish a revolving loan fund for grocery stores in underserved areas.

2 Include a contingency rider appropriating $10.1 million in General Revenue Funds to the TDA for the purpose of establishing a public-private revolving loan fund.

3 Include a rider requiring TDA, in coordination with a CDFI, to submit a report by December 1 of each even numbered year on the activities of the loan fund.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of these recommendations. Recommendation 1 would require a statutory change and Recommendations 2 and 3 would require riders.

These recommendations result in a cost of $10.1 million in General Revenue Funds for the 2014–15 biennium. The recommendations amend statute to authorize the Texas Department of Agriculture (TDA) and a community development financial institution (CDFI) to establish a revolving loan fund to support investment in low-income areas in need of grocery stores.

The U.S. Department of Agriculture estimates that 15 percent of Texans reside in a food desert. A food desert is a geographic location in which residents are of low to moderate income and lack access to a grocery store within one mile. Low-income populations within a food desert have disproportionately higher rates of heart attacks, coronary heart disease, stroke, obesity, and diabetes. Other states have created similar initiatives and Pennsylvania has created 5,000 jobs since 2004 through its public private partnership. The University of Texas Medical Branch at Galveston has determined a grocery store in an area is associated with higher fruit and vegetable consumption and lower rates of overweight and obese individuals.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 41.

FIGURE 1
FIVE–YEAR FISCAL IMPACT, FISCAL YEARS 2014 TO 2018

FISCAL YEAR	PROBABLE SAVINGS/(COST) IN GENERAL REVENUE FUNDS	PROBABLE ADDITION/ (REDUCTION) OF FULL-TIME-EQUIVALENT POSITIONS
2014	($10,056,985)	1.0
2015	($68,168)	1.0
2016	($68,286	1.0
2017	($68,406)	1.0
2018	($68,530)	1.0

Source: Legislative Budget Board.

REDUCE OBESITY BY AUTHORIZING A CONSUMPTION FEE ON SUGAR-SWEETENED BEVERAGES

LBB RECOMMENDATIONS

1 Amend statue to levy a $0.01 per ounce consumption fee on bottlers of sugar-sweetened beverages and deposit the revenue in the General Revenue Fund. It is recommended that a portion of this revenue be dedicated to programs or grants designed to treat, reduce, or prevent obesity.

2 Include a contingency appropriation rider to appropriate $1.2 million in General Revenue Funds and 16 full-time-equivalent positions each fiscal year of the biennium for the CPA to administer the consumption fee.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of these recommendations. Recommendation 1 would require a statutory change and Recommendation 2 would require a rider.

These recommendations would result in a net revenue gain of $1.7 billion for the biennium. The recommendations would reduce consumption of sugar-sweetened beverages by increasing prices. It is estimated consumption would decrease by 24 percent. The recommendations would also appropriate $1.2 million to the Comptroller of Public Accounts (CPA) each year to administer the fee.

Texas is facing a growing obesity crisis. In 2000, the Centers for Disease Control and Prevention estimated Texas' obesity rate to be 23.1 percent, in 2010 their estimate had risen to 31.0 percent. Obesity is associated with a host of other health conditions including type 2 diabetes, coronary heart disease, and hypertension. Fifty-nine percent of Texans with obesity have type 2 diabetes. The Institute of Medicine estimates that 1 out of 2 children born today will experience type 2 diabetes in their lifetime. The Texas Medical Association estimates that Texans spent $15.6 billion in 2011 on all costs relating to obesity, including indirect costs.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 46.

FIGURE 1
FIVE–YEAR FISCAL IMPACT, FISCAL YEARS 2014 TO 2018

FISCAL YEAR	PROBABLE SAVINGS/ (COST) IN GENERAL REVENUE FUNDS	PROBABLE REVENUE GAIN/(LOSS) IN GENERAL REVENUE FUNDS	PROBABLE ADDITION/ (REDUCTION) OF FULL-TIME-EQUIVALENT POSITIONS
2014	($1,200,000)	$642,024,365	16.0
2015	($1,200,000)	$1,105,745,852	16.0
2016	($1,200,000)	$1,114,304,325	16.0
2017	($1,200,000)	$1,122,929,041	16.0
2018	($1,200,000)	$1,131,620,511	16.0

Source: Legislative Budget Board.

OPTIONS TO REDUCE RELIANCE ON GENERAL REVENUE–DEDICATED ACCOUNTS FOR CERTIFICATION OF THE STATE BUDGET

LBB RECOMMENDATIONS

1 Amend statute to cap the amount of General Revenue–Dedicated account funds that may be counted toward certification of the General Appropriations Bill. The cap would decrease each biennium until it reaches a level the Legislature determines to be an appropriate amount that may be counted toward certification.

2 Amend statute to allocate interest accrued on General Revenue–Dedicated account balance to the General Revenue Fund so that interest accrual will not contribute to the growth of dedicated balances.

3 Amend statute to require the Legislative Budget Board, in consultation with the Comptroller of Public Accounts, to develop and implement a process to review the dedication, appropriation, and accumulation of General Revenue–Dedicated Funds.

4 Implement account specific strategies to reduce reliance on General Revenue–Dedicated account balances for certification of the General Appropriations Bill.

The introduced 2014–15 General Appropriations Bill includes adjustments for account specific options identified by Recommendation 4. Recommendations 1, 2, and 3, and additional options identified by Recommendation 4 require statutory change.

These recommendations provide the Legislature with options to reduce reliance on General Revenue–Dedicated account balances for certification of the General Appropriations Bill. Reducing the amount of General Revenue–Dedicated account balances that may be counted toward certification could require the Legislature to reduce appropriations or generate additional revenue to support appropriations to comply with the constitutional pay-as-you-go limit.

Each legislative session since 1991, unappropriated and unobligated General Revenue–Dedicated account balances are counted toward the amount of revenue available to certify the state budget. The practice of counting unappropriated General Revenue–Dedicated account balances toward certification began in the early 1990s at the time when the Legislature sought to implement funds consolidation. Funds consolidation was initiated to end the practice of dedicating revenue for limited purposes and to make more state revenue available for general purposes. While the efforts of subsequent legislatures to further implement funds consolidation ended, the practice of counting dedicated balances toward certification continues. The amount of unappropriated dedicated balances counted toward certification has grown, from $540 million in the 1992–93 biennium to $4.9 billion in the 2012–13 biennium.

As General Revenue–Dedicated account balances grew, the more those balances were being relied upon to comply with the Texas Constitution, Article III, Section 49a, commonly referred to as the "pay-as-you-go" limit. Counting unappropriated General Revenue–Dedicated balances among the funds available for certification of the General Appropriations Bill creates an incentive to appropriate less of these dedicated accounts funds for their dedicated purpose, leaving them to help facilitate compliance with the pay-as-you-go limit and to help fund budget priorities set by each legislature.

The report includes options the Legislature could consider to reduce reliance on specific General Revenue–Dedicated account balances counted toward certification of the General Appropriations Bill. Options the Legislature could choose to apply to a specific dedicated account include the following three types of strategies:

- adjust revenue deposited to accounts;
- amend statute to modify account dedication; or
- appropriate revenue and balances.

Appendices A and B of the report provide a detailed summary of the application of the strategies described above to each of the nine dedicated accounts shown in **Figure 1**.

The full text of this report can be found in the publication *Options to Reduce Reliance on General Revenue–Dedicated Accounts for Certification of the State Budget* (Legislative Budget Board, January 2013).

FIGURE 1
GENERAL REVENUE–DEDICATED ACCOUNTS WITH THE HIGHEST BALANCES, 2012–13 BIENNIUM

ACCOUNT NUMBER	ACCOUNT NAME	BALANCE COUNTED TO CERTIFY 2012–13 GENERAL APPROPRIATIONS BILL (IN MILLIONS)
5100	System Benefit Fund	$851.0
5071	Texas Emissions Reduction Plan	$653.9
5111	Designated Trauma Facility and EMS	$388.0
5050	9-1-1 Service Fees	$164.5
0655	Petroleum Storage Tank Remediation	$156.7
0151	Clean Air	$144.5
5000	Solid Waste Disposal Fees	$119.9
5103	TX B-On-Time Student Loan	$119.5
0009	Game, Fish, Water Safety	$106.6

Source: Comptroller of Public Accounts.

TOP 100 FEDERAL FUNDING SOURCES IN THE TEXAS STATE BUDGET – LEGISLATIVE PRIMER

REPORT HIGHLIGHTS

- For the 2012–13 biennium, $54.7 billion in Federal Funds were appropriated to state agencies.
- Federal Funds accounted for approximately 31.5 percent of the state budget during the 2012–13 biennium.
- Most of the Federal Funds Texas receives (92.4 percent) are for services provided through the Health and Human Services, Education, and Business and Economic Development functions within the 2012–13 General Appropriations Act.
- Health and Human Services agencies were appropriated $31.1 billion in Federal Funds over the 2012–13 biennium. This was 56.8 percent of total Federal Funds appropriated.
- Education agencies and Business and Economic Development agencies were appropriated most of the remaining Federal Funds ($10.9 billion and $8.5 billion, respectively).

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. Federal Funds represent a large share of state funding. This report describes the top 100 federal programs that support state functions in fiscal year 2012. These programs comprise approximately 98 percent of all Federal Funds in the state budget.

The report describes the different types of federal funds, such as entitlements, block grants, and competitive grants. It separates the top 100 federal programs according to state budget functions, such as Health and Human Services, Education, and Labor. The introduction for each of these state budget functions includes information on legislation and federal issues that affect each function.

For each federal funding source, the report describes:

- the purpose of the Federal Funds;
- how the Federal Funds are distributed to states;
- any state matching funds or maintenance of effort requirements;
- federal uses or restrictions;
- eligibility requirements to receive services using the federal funds;
- transferability of the Federal Funds to another purpose;
- state agencies that receive the federal funding; and
- a five-year history of the federal awards to Texas.

The full text of this report is available in the *Top 100 Federal Funding Sources in the Texas State Budget* report (Legislative Budget Board, January 2013).

OVERVIEW OF THE TEXAS WORKFORCE DEVELOPMENT SYSTEM

LBB FACTS AND FINDINGS

- State and federal funding provided approximately $1.7 billion to support workforce development programs in Texas in fiscal year 2012. This estimate includes state and federal funds directly appropriated by the legislature for these programs.
- The number of students and customers served by workforce development programs is estimated be to over 3.5 million in fiscal year 2012.
- Performance outcomes varied among these programs. The median percentage of all workforce program participants entering employment for fiscal year 2012 is estimated to be approximately 72 percent. The percentage of community and technical college students who earned technical credentials, a subset of the participants group, is estimated to be approximately 86 percent in fiscal year 2012. Actual performance may differ from these initial estimates.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. It provides an overview of the services, costs, and results of the workforce development system in Texas from fiscal years 2008 to 2012.

Texas' workforce development system consists of education, training, guidance and career development programs administered by seven state agencies and many institutions of higher education. Funding for these programs comes from federal, state, local, and non-profit sources. The federal government is the primary source of funding for training programs serving adults; whereas a mix of state and federal funding sources support workforce development programs for youth.

Most workforce development programs experienced fluctuations in customers or students served, as well as in federal and state funding from fiscal years 2008 to 2012. Federal funding for some programs was significantly lower in fiscal year 2012 than fiscal year 2008. This resulted in a reduction in the number of customers served by those programs, such as the Workforce Investment Act programs for adults and youth.

This report summarizes the state's workforce development programs and functions, their inter-relationships with other programs, how they receive and allocate funding, and how they are held accountable for their results. It also provides five-year funding, service levels, and outcome performance measure data from fiscal years 2008 to 2012.

The full text of this report can be found in an Overview of the *Texas Workforce Development System* (Legislative Budget Board, February 2013).

ANNUAL REPORT: OVERVIEW OF MAJOR INFORMATION RESOURCES PROJECTS REPORTED TO THE QUALITY ASSURANCE TEAM

LBB FACTS & FINDINGS

- The Quality Assurance Team (QAT) identifies and monitors potential major information resources projects from agency Biennial Operating Plans (BOP).
- QAT provides summaries of 53 projects in QAT's state-technology project portfolio.
- QAT reviewed 13 development projects at seven different agencies with the assistance from State Auditor's Office. QAT selected the projects for review because they had been reported as complete or were nearing completion.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. It provides details for each major information resources project in the QAT's project portfolio regarding timeline, budget, and scope commitments made to state leadership.

Of the 53 projects in QAT's state-technology project portfolio, 33 are late by an average of 22 months. In addition, 29 of the projects are over their initial budget by an average of $6.8 million or 84 percent. One project was canceled by the agency after it spent an estimated $7.6 million, while another agency terminated a contract on which the vendor had been working for three years.

QAT reviewed 13 development projects at 7 different agencies with assistance from the SAO, (see Appendix D for project review summaries). QAT selected the projects for review because they had been reported as complete or nearing completion.

Nine of the projects were complete and had been implemented. Three projects were scheduled to be completed in fiscal year 2013. One project expanded its scope and was scheduled to be completed in January 2013. During the reviews, several observations were made.

The first observation is that 12 of the 13 projects were completed late or were projected to be completed late. The average delay for all of those projects exceeded 14 months, which represents a 71 percent increase from the original estimated completion dates.

The second observation is that improvements are needed in developing initial project cost estimates. Overall, the 13 projects exceeded their budgets by an average of 91 percent.

The third observation is that agencies understated the costs of their projects by not including the costs related to state employees who worked on the projects.

The fourth observation is that three of the four projects that were complete and had been in production for more than more than six months did not submit their *Post Implementation Review of Business Outcomes* report to QAT.

The full text of this report can be found in the *Overview of Major Information Resources Projects Reported to the Quality Assurance Team* report (Legislative Budget Board, December 2012).

OVERVIEW OF THE TEXAS MOVING IMAGE INDUSTRY INCENTIVE PROGRAM

LBB FACTS AND FINDINGS

- Most states have an incentive program intended to attract film and television productions with the expectation that they will increase local employment, tax revenues, and private spending.
- Compared to other states, Texas has relatively strict guidelines for its incentive awards, such as making incentive payments only at the end of a production and only to reimburse in-state spending or hiring.
- Evaluations of publicly funded entertainment industry incentives reported varied conclusions about the incentives' outcomes.
- Several states have either suspended or capped incentive programs in order to balance their budgets.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. It provides an overview of the Texas Moving Image Industry Incentive Program and compares it to similar incentives offered by other states.

The Texas Moving Image Industry Incentive Program provides publicly funded grants to film, television, commercial, and video game productions. The intent of these grants is to bring these productions to Texas and increase local employment, tax revenues, and private spending in the state.

Nationally, entertainment industry incentives take the form of either tax credits or direct payments. Texas offers two types of grants to eligible productions. The first would reimburse the production for up to 25 percent of eligible wages paid to Texas residents. The other option is for a grant for up to 15 percent of eligible in-state spending.

Two recent studies evaluated the Texas program. Each noted several strengths in the design of the program compared to incentive programs in other states. One evaluation found the Texas program more efficient than similar incentives in other states in terms of direct costs and jobs created. The other evaluation, by the Comptroller of Public Accounts, found that the Texas program is inefficient in its allocation of incentive awards.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 51.

OVERVIEW OF VETERANS' EMPLOYMENT CHALLENGES AND RESOURCES IN TEXAS

LBB FACTS AND FINDINGS

- The unemployment rate for all Texas veterans, from September 2011 to September 2012, decreased from 8.2 percent to 5.8 percent, and the nationwide unemployment rate for post-9/11 (Gulf War II) veterans decreased from 11.7 percent to 9.7 percent.
- In a 2011 nationwide survey of veterans, 60 percent indicated that explaining how their military experience translated into skills that would interest a civilian employer was a significant barrier to employment.
- TVC staff located throughout the state conduct outreach to employers to open new job opportunities for veterans, and provide guidance to help veterans become employable, especially those with barriers to employment such as a disability or homelessness.
- The Texas Workforce Commission's Veterans Leadership Program offers information and referral services to post-9/11 veterans by directing them to employment, training, medical care, mental health and counseling services.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. It provides an overview of the challenges facing veterans in developing their careers and the resources they can access to obtain employment.

Shifting from military to civilian life can pose serious challenges for veterans. Many veterans experience difficulties such as selecting a career, finding a job, accessing veterans' benefits, and adjusting to the civilian world. Finding meaningful employment is something many veterans view as their most significant obstacle. While veterans may have unique needs, many resources in Texas can help them in their efforts to find employment.

Both the federal and state government, as well as private sector entities, offer employment services to assist veterans. The primary state program for this purpose is the Texas Veterans Commission (TVC), Veterans Employment Services, whose staff is located in local workforce solution centers, VA medical facilities, Brooke Army Medical Center, and military installations. Program staff provide veterans with career development and job search services, and work with employers to open job opportunities for veterans.

Veterans can also access general employment services at workforce solution centers and through the Texas Workforce Commission (TWC). Workforce solution centers statewide offer a variety of job-search services, tools for people with disabilities, and networking opportunities. TWC's Texas Veterans Leadership Program uses Veterans Resource and Referral Specialists to help post-9/11 find community and employment resources that will meet their specific military to veterans transition needs.

Employers have made efforts to hire more veterans, as indicated by the fact that from September 2011 to September 2012, veterans had greater success in finding a job than in the past. As more military service members return from the conflicts overseas and acquire veteran status, however, employment resources will remain a priority.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 56.

CONDUCT A NEEDS ASSESSMENT TO IMPROVE THE EFFICIENCY OF VETERANS GRANT ALLOCATIONS

LBB RECOMMENDATION

1 Amend statute to require TVC to conduct a needs assessment that will direct the allocation of grants from the FVA. The needs assessment should be conducted at least every two years and incorporated into the grant award decision-making process.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result this recommendation. Recommendation 1 requires a statutory change.

This recommendation would not have a fiscal impact in the 2014–15 biennium. It would make grant allocations more efficient and help the agency better direct its resources to veterans' high priority needs.

The Fund for Veterans Assistance (FVA), a program administered by the Texas Veterans Commission (TVC), awards reimbursement grants to entities that offer direct services to veterans and their families. These services include financial assistance, housing/homelessness, counseling, referral, family services; supportive services, legal, employment, and transportation. From fiscal years 2010 to 2012, the TVC awarded $23.8 million in state funds through grants to 74 non-profit organizations and local governments.

Grants are awarded on a competitive basis after grant applications are reviewed by agency staff and an advisory committee. Award decisions are made by the agency's governing commission. These reviews include agency staff evaluations of grant applications and advisory committee development of grant funding recommendations. The review process does not include a needs assessment, which would identify the most critical challenges facing veterans.

A needs assessment would allow TVC to allocate FVA grants in a way that would result in services that target specific high priority needs and thereby improve outcomes. The results of the TVC needs assessment should identify specific high priority needs of veterans, determine services that address those needs, and set priorities to allocate funds across service categories and geographic regions.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 63.

INCREASE STATE EMPLOYEE AWARENESS OF LIFE AND DISABILITY INSURANCE BENEFITS

LBB RECOMMENDATION

1 Include a rider to encourage ERS to provide more information about optional life and disability insurance, including overlap with other income sources and more easily accessed disclosure of limitations and exclusions.

The introduced 2014–15 General Appropriations Bill includes a rider implementing Recommendation 1.

This recommendation would not have a fiscal impact for the 2014–15 biennium. It would increase state employee awareness about the risks of not having life or disability coverage as well as the limitations of these coverages.

The state employee benefits package includes optional enrollment in term life, short-term disability, and long-term disability insurance coverage, administered by the Employees Retirement System (ERS). Premiums paid by employees who elect to participate in these plans cover the full cost of these benefits.

Life and disability insurance address risks related to premature death and disability. State employees purchase this insurance at a comparable or higher rate than other employee populations. However, some employees may underestimate their risk of premature death or disability, which can affect their decision to enroll in these coverages. Also, although ERS and insurance vendors disclose all limitations for these coverages, this information is not readily available or easily understandable.

Increasing awareness of life and disability insurance coverages, including its benefits, eligibility and limitations, may increase state employee participation and ensure covered employees better understand these insurance programs.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 67.

BENEFITS FOR STATE EMPLOYEES AND PUBLIC AND HIGHER EDUCATION EMPLOYEES

REPORT HIGHLIGHTS

- ERS covers approximately 312,000 state members, manages $22.9 billion in assets, pays $1.6 billion in pension benefits, and pays $2.4 in healthcare benefits (fiscal year 2012).
- TRS covers approximately 1.3 million members, manages $111.4 billion in assets, pays $7.7 billion in pension benefits, and pays $2.95 billion in health care benefits (fiscal year 2012).

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. It provides details for each retirement system regarding retirement eligibility, funding structure, benefit plans, fund actuarial condition, as well as information about the healthcare benefit programs.

The Texas Constitution requires the creation of two separate retirement systems to provide retirement benefits to: (1) state employees and officers; and, (2) employees of public education, including higher education. The Employees Retirement System of Texas (ERS) and the Teacher Retirement System of Texas (TRS) were established by the Texas Legislature over six and seven decades ago, respectively. Each system is managed by different boards of trustees that oversee administration of benefits delivery and management of trust fund assets. ERS has approximately 312,000 members and retirees, and manages $22.9 billion in assets. TRS is one of the largest pension systems in the nation with 1.3 million members and retirees, and manages $111.4 billion in assets. Retirement benefits paid annually by ERS total $1.8 billion, while TRS pays $7.7 billion annually to its retirees and their beneficiaries.

Actuarial soundness for each retirement system has been a topic of discussion in the past decade as investment performance has shown considerable volatility, but performance rebounded in the past few years following all-time lows weathered in fiscal year 2009. The current funding ratio (per respective actuarial valuations as of August 31, 2012) indicates ERS is 81.1 percent funded, while the TRS funded ratio is 81.9 percent.

ERS and TRS also administer health benefit programs for each of their respective active employee and retiree populations. The healthcare program at ERS covers 540,660 participants, including dependents, and pays $2.4 billion in health benefit claims each year. Two separate TRS programs for retirees and active members cover health care expenses totaling $2.95 billion per year for 689,000 total participants, including dependents. **Figure 1** shows key benchmarks for each system.

The full text of this report can be found in the *Benefits for State Employees and Public and Higher Education Employees* report (Legislative Budget Board, January 2013).

FIGURE 1
AT A GLANCE -- EMPLOYEES RETIREMENT SYSTEM AND TEACHER RETIREMENT SYSTEM, AS OF AUGUST 31, 2012

KEY BENCHMARKS	EMPLOYEES RETIREMENT SYSTEM [ALL PLANS]	TEACHER RETIREMENT SYSTEM
Members and Retirees	312,011	1,335,402
Assets	$22.9 billion	$111.4 billion
Retirement Benefits Paid (fiscal year 2012)	$1.8 billion	$7.7 billion
Actuarial Funded Ratio	81.1%	81.9%
Unfunded Actuarial Accrued Liability	$5.9 billion	$26.1 billion
Healthcare Participants	540,660	689,000
Healthcare Benefits Paid (fiscal year 2012)	$2.4 billion	$2.95 billion

Sources: Employees Retirement System; Teacher Retirement System.

MODIFY THE HIGH-COST GAS TAX-RATE REDUCTION TO INCREASE ITS COST TRANSPARENCY AND EFFECTIVENESS

LBB RECOMMENDATIONS

1 Amend statute to use mean drilling and completion costs instead of median drilling and completion costs in the calculation of the high-cost gas tax benefit.

2 Amend statute to require CPA to include the estimated value of exemptions, discounts, and exclusions, when identifying taxes for inclusion in the biennial Tax Exemptions and Tax Incidence report.

3 Include a rider to require CPA to conduct a study to determine at what natural gas prices, if any, the high-cost gas-rate reduction incentivizes production.

The introduced 2014–15 General Appropriations Bill includes a rider implementing Recommendation 3. Recommendations 1 and 2 require statutory change.

The fiscal impact for Recommendation 1 cannot be estimated but would likely result in a gain to the General Revenue Fund. These recommendations would increase the transparency about the costs of the high-cost gas tax-rate reduction and improve its effectiveness.

The oil and gas industry generates both jobs and wealth in Texas. The last several decades have seen continued growth in this industry, first through the development and production of resources from the Barnett Shale, a gas rich geological formation lying beneath several counties in north Texas, and more recently in the Eagle Ford Shale in south Texas. The continuing economic development potential of natural gas production led Texas to develop a severance tax policy that provides financial benefits to natural gas producers, specifically those who choose to undertake non-traditional forms of gas production. High-cost gas tax-rate reductions are based on production definitions established in the late 1970s, which allow drilling operations to be certified as “high-cost” regardless of the actual production cost. Relatively inexpensive recompletions are defined by statute and classified by the Railroad Commission of Texas as high-cost wells. These wells reduce the median drilling and completion costs used to calculate the tax benefit for future wells.

Natural gas production in the state is taxed at 7.5 percent of market value; however, deductions, exemptions, and rate reductions have reduced many producers’ tax liabilities to zero and reduced the overall effective rate in recent years. In fiscal year 2011, 7.7 billion thousand cubic feet (Mcf) of natural gas was produced in Texas, resulting in tax collections of $1.1 billion or 2.9 percent of total state tax collections. This amount is a fraction of the total amount that would be collected at the full tax rate. The high-cost gas tax-rate reduction reduced tax-payer liabilities for the natural gas production tax by $984 million in fiscal year 2011. Public information about the cost of the high-cost gas-rate reduction is not readily available. The natural gas tax and its related exemptions, deductions and reductions were not included in the Comptroller of Public Accounts’ biennial *Tax Exemptions and Tax Incidence* report in 2011 because the tax did not meet the statutory thresholds for inclusion in the report.

The high-cost gas rate reduction reduces costs for some natural gas producers. However, it is not clear whether or not this cost reduction leads to increased natural gas production or increased secondary economic activity. Legislative Budget Board staff used economic modeling software to model the impacts of eliminating the rate reduction at current prices and increasing government spending on education with the increased revenue. The model found a small negative impact on short-term total employment and a small positive impact on long-term employment. Because the tax benefit is administered as a tax-rate reduction, the benefit is most valuable when the price of natural gas is highest and in those situations a high market price, absent increases in the cost of production, is likely sufficient to incentivize production. Conversely, when the price of natural gas is lowest, the value of the rate reduction is also lowest. There may be some natural gas prices at which the high-cost gas-rate reduction incentivizes the production of natural gas that would not otherwise exist, but we are unable to determine at what prices, if any, this occurs. More information on the break-even price of natural gas production in the state is needed before that determination can occur.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 73.

INDEX CERTAIN STATE TAXES AND FEES TO THE CONSUMER PRICE INDEX TO REDUCE LOSS OF PURCHASING POWER

LBB RECOMMENDATIONS

1 Amend statute to direct the annual adjustment of taxes on the purchase of beer, wine, distilled liquor, malt liquor and alcoholic beverages sold on aircraft and trains by the previous year's Consumer Price Index inflation rate, up to a maximum of 3 percent.

2 Amend statute to direct the annual adjustment of taxes on the purchase of cigarettes, cigars, and other tobacco products by the previous year's Consumer Price Index inflation rate, up to a maximum of 3 percent.

3 Amend statute to direct the annual adjustment of certain professional fees by the previous year's Consumer Price Index inflation rate, up to a maximum of 3 percent. Rates will only be adjusted if the change would be greater than one dollar, and any new rate would be rounded to the nearest whole dollar.

4 Amend statute to direct the annual adjustment of the Motor Vehicle Certificate of Title Fee by the previous year's Consumer Price Index inflation rate, up to a maximum of 3 percent.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of these recommendations. Recommendations 1 through 4 require statutory changes.

These recommendations would generate $93.5 million in General Revenue Funds and General Revenue–Dedicated Funds and $2.7 million in local funds during the 2014–15 biennium. This would help maintain the purchasing power of certain taxes and fees.

Texas law includes multiple taxes calculated at a set rate per quantity sold of a taxable product rather than calculated as a percentage of the value of each sale. Because the rate per quantity does not increase with inflation, the tax eventually loses its relative value, thereby decreasing the purchasing power of state revenue collections. Texas' alcoholic beverage and tobacco taxes are examples of the decline in purchasing power of such structures. Certain fees are also set in statute as flat amounts that will eventually lose purchasing power if not adjusted for inflation. Adjusting these tax rates and fees annually for changes in inflation, up to a maximum of 3 percent, would help maintain the purchasing power of revenue collections. **Figure 1** shows the five-year fiscal impact.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 84.

FIGURE 1
FIVE–YEAR FISCAL IMPACT, FISCAL YEARS 2014 TO 2018

	FISCAL YEAR				
PROBABLE REVENUE GAIN/(LOSS) TO:	**2014**	**2015**	**2016**	**2017**	**2018**
General Revenue Fund	$6,285,669	$16,225,282	$28,908,838	$42,671,985	$55,996,716
Property Tax Relief Fund	$20,129,357	$43,374,781	$71,602,104	$100,988,958	$127,547,499
Physician Education Loan Repayment Program	$50,368	$616,284	$1,351,390	$2,177,282	$2,997,608
Foundation School Fund	$353,943	$730,366	$1,256,225	$1,815,402	$2,409,864
Texas A&M University Real Estate Research Center Local Fund	$25,449	$50,683	$84,115	$117,265	$150,133
Texas Emissions Reduction Plan	$1,494,438	$3,394,706	$5,753,948	$8,311,947	$10,736,237
Texas Mobility Fund	$1,202,655	$2,731,903	$5,753,948	$8,311,947	$10,736,237
Local Sales Tax	$409,872	$936,166	$1,582,528	$2,264,532	$2,891,796
Counties	$400,885	$910,634	$1,543,504	$2,229,690	$2,880,009
PROBABLE SAVINGS/(COST) TO:					
State Highway Fund	($961,617)	($2,184,369)	($4,825,891)	($6,971,311)	($9,004,586)

Source: Legislative Budget Board.

CLARIFY ELIGIBILITY FOR THE EXEMPTION OF PROPERTY USED IN MANUFACTURING FROM THE SALES AND USE TAX

LBB RECOMMENDATION

1 Amend statute to expressly authorize CPA to clarify what businesses and property are eligible for the sales tax exemption of property used in manufacturing.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this recommendation. This recommendation requires a statutory change.

The recommendation would not have a fiscal impact for the 2014–15 biennium. It would help mitigate the loss of revenue to the state due to the ambiguity of the exemption.

Texas foregoes a significant amount of revenue due to various sales tax exemptions provided to businesses. The exemption of property used in manufacturing from the sales tax has the highest value of all sales tax exemptions. In fiscal year 2012, the estimated value of the exemption of property used in manufacturing was $11.1 billion and is expected to increase in the 2014–15 biennium as shown in **Figure 1**.

While statute stipulates the exemption of property used in manufacturing is for manufacturers, businesses other than manufacturers can claim the exemption. These businesses include grocers, restaurants, bakeries, and butcher shops.

Since the exemption was enacted in 1961, numerous lawsuits have been filed challenging the Comptroller of Public Accounts' (CPA) interpretation of who may claim the exemption. The number of categories of property that may be claimed for exemption and the number of businesses filing those claims is increasing. Each additional item made eligible for exemption represents additional revenue being foregone by the state.

The complexity in developing a definition that is explicit and sufficiently detailed to cover every exclusion or inclusion to the exemption is great, given that technology, equipment, and materials are constantly changing. The continued expansion of the exemption and legal challenges relating to its application are evidence of the constant evolution of this exemption and of the need for clarification of what businesses and property are eligible. These changes, coupled with a statutory construction that does not define "manufacturer," results in a lack of clarity which increases the risk to the state of future revenue loss.

The state is at risk of losing potential sales tax revenue because of the ambiguity of the exemption and lawsuits seeking to expand eligibility for the exemption. Amending statute to expressly authorize CPA to clarify what types of businesses and property are eligible for the exemption of property used in manufacturing from the sales tax would help mitigate that risk.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 92.

FIGURE 1
VALUE OF EXEMPTION OF PROPERTY USED IN MANUFACTURING, FISCAL YEARS 2011 TO 2016 (IN MILLIONS)

PROPERTY USED IN MANUFACTURING	2011	2012	2013	2014	2015	2016
Materials	**$9,573.8**	**$10,159.9**	**$10,743.6**	**$11,364.7**	**$11,983.4**	**$12,523.1**
Machinery and Equipment	538.6	571.6	604.4	639.4	674.2	704.5
Packaging and Wrapping Supplies	296.1	314.2	332.3	351.5	370.6	387.3
Total	**$10,408.5**	**$11,045.7**	**$11,680.3**	**$12,355.6**	**$13,028.2**	**$13,614.9**

SOURCE: Comptroller of Public Accounts.

RESTRUCTURE ANY FUTURE ROUNDS OF THE CERTIFIED CAPITAL COMPANY PROGRAM TO IMPROVE EFFICIENCY

LBB RECOMMENDATION

1 If a third round of the Certified Capital Company program is enacted, amend statute to address the Certified Capital Company program's inefficiencies. Options for amending or restructuring the program include the following:

- **Option 1:** increasing certified capital company investment requirements;
- **Option 2:** offering discounts for premium credits while prohibiting certified capital companies from making payments to insurance companies;
- **Option 3:** requiring insurance companies to bid for tax credits while prohibiting certified capital companies from making payments to insurance companies;
- **Option 4:** allowing the Texas Employee Retirement System to participate in the program through the purchase of securitized tobacco settlement payments; and
- **Option 5:** returning a portion of program capital and profits to the state.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this recommendation. The options in Recommendation 1 would require statutory changes.

The recommendation would have no fiscal impact unless a third program is enacted. If a third program is enacted, Options 1-3 would have no fiscal impact to the state, but could increase the amount of money available for investment in portfolio companies. Option 4 could result in a savings to the state by reducing the Employee Retirement System unfunded liability. Option 5 would result in a direct return to the state from the program.

The Certified Capital Company (CAPCO) program is a state-sponsored economic development mechanism funded through deferred insurance tax credits. The state has implemented two rounds of the program with each round costing the state $200 million in tax credits. The credits began in fiscal year 2009 and the last credits will be available in fiscal year 2016.

Under the program, insurance companies invest in state approved investment companies called certified capital companies. The insurance companies receive one dollar of deferred premium tax credits for each dollar invested in the capital companies. Over a period of years, each certified capital company invests a portion of its capital in small Texas businesses called portfolio companies. Qualified investments must comply with certain restrictions and meet a statutory timeline. After satisfying its investments targets, a capital company can distribute all its funds to its owners. The current program will expire after the existing certified capital companies meet their investments requirements.

While the CAPCO program has certain strengths, the program is inefficient. A significant portion of program revenue is used for purposes other than investment in portfolio companies. The state, the principal source of the revenue for the program, receives no direct benefit from the program. As a result, the program does not provide an ongoing source of venture capital in the state. If legislation creating a third round of the CAPCO is enacted, the state can address the program inefficiencies by amending statute to modify or restructure the program.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 99.

CREATE TAX PARITY FOR CONSUMERS OF CUSTOM COMPUTER SOFTWARE PROGRAMMING SERVICES

LBB RECOMMENDATION

1 Amend statute to remove the sales tax exclusion for the repair, maintenance, creation and restoration of software not sold by the provider performing the service.

The introduced 2014–15 General Appropriations Bill does not include adjustments as a result of the recommendation. This recommendation requires a statutory change.

This recommendation would generate $331.1 million in General Revenue Funds during the 2014–15 biennium. Local entities imposing a sales tax would also realize a gain of approximately $87.9 million in local funds during the same period.

The Texas Tax Code is inconsistent regarding the taxation of custom computer programming services. In Texas, modifying off-the-shelf, or canned, software is taxable if the service provider making the modification also sells software. Modifications made by a provider who does not sell software are excluded from taxation. This exclusion creates an inequity in that it taxes the same service differently depending on the provider.

Modifying canned software is taxable in 35 states and the District of Columbia. It is common for states to exempt the service under some circumstances, such as when it is for the exclusive use of a certain customer or if the modification is separately stated on the invoice. According to the 2012 *State Tax Handbook*, Texas is the only state that taxes or excludes the modification of canned software depending on the provider.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 111.

FIGURE 1
FIVE–YEAR FISCAL IMPACT, FISCAL YEARS 2014 TO 2018

FISCAL YEAR	PROBABLE REVENUE GAIN/(LOSS) IN GENERAL REVENUE FUNDS	PROBABLE REVENUE GAIN TO CITIES	PROBABLE GAIN TO TRANSIT AUTHORITIES	PROBABLE GAIN TO COUNTIES
2014	$146,333,333	$24,493,234	$8,470,750	$3,460,888
2015	$184,800,000	$34,716,800	$11,886,898	$4,855,974
2016	$194,000,000	$36,079,571	$12,478,400	$5,098,893
2017	$203,200,000	$42,812,872	$14,806,857	$6,050,329
2018	$212,800,000	$39,576,488	$13,686,743	$5,591,894

Sources: Legislative Budget Board; Comptroller of Public Accounts.

CLARIFY HOTEL TAX STATUTES TO PREVENT FUTURE REVENUE LOSSES

LBB RECOMMENDATIONS

1 Amend statute to explicitly include online travel company mark-ups in the price of the room subject to the hotel tax.

2 Amend statute to specify which parties in an online booking transaction are responsible for remitting the hotel tax.

3 Amend statute to address the hotel tax liability for online travel company mark-ups on bundled travel services.

4 Amend statute to conform the state statute authorizing local hotel taxes to changes in the state hotel occupancy tax statute.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of these recommendations. Recommendations 1 to 4 require statutory changes.

The recommendations, with the exception of Recommendation 3, would have no fiscal impact relative to how the Comptroller of Public Accounts (CPA) interprets current law. These recommendations would protect the state against prospective revenue annual losses of between $11 million and $15 million in the event of an unfavorable outcome of litigation. Recommendation 3 could result in a revenue gain, but the amount of the gain cannot be determined.

The state is engaged in a dispute with online travel companies such as Expedia, Orbitz, and Hotels.com over how the state hotel tax should be calculated. Online travel companies contract with hotels to book rooms on behalf of a hotel. The online travel companies pay hotels a discounted price for rooms and book rooms to consumers at a marked-up price. This practice creates two prices: the price the online travel company pays the hotel, and the price the customer pays the online travel company. The state's dispute with the companies is over which of these prices is the taxable price.

State statute imposes the tax on the amount paid by the occupant for the right to occupy a room. CPA has ruled that the tax must be calculated on the price the customer pays the online travel company. Online travel companies contend that the tax should be collected on the discounted price they pay the hotel. The online travel companies are challenging the CPA ruling through the hearings process at the State Office of Administrative Hearings. While the dispute is under administrative review, the online travel companies are not collecting tax on their mark-up. As a result, collections for the state hotel occupancy tax are reduced by $11 million to $15 million annually. A similar issue affects hotel taxes levied by Texas cities and counties, resulting a loss of local hotel tax revenue of $15 million to $19 million each year.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 114.

MODIFY THE EVEN-EXCHANGE EXEMPTION TO THE MOTOR VEHICLE SALES TAX TO LIMIT THE RISK OF ABUSE

LBB RECOMMENDATION

1 Amend statute to define an even exchange as a transaction where the standard presumptive value or professional appraisals of the exchanged motor vehicles are within $80 of each other.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this recommendation. This recommendation requires a statutory change.

This recommendation would generate $8.5 million in General Revenue Funds for the 2014–15 biennium and limit the risk of abuse of the provision in the future.

Texas statute allows a person who exchanges a motor vehicle for another to be exempt from paying the motor vehicle sales tax and instead pay a $5 even-exchange tax at the time of vehicle registration. Statute does not define "even-exchange" and, as a result, vehicles with significant value differences may be traded pursuant to this provision. Moreover, controls intended to ensure the validity of claims for the even-exchange exemption are insufficient and open the provision to fraud and abuse.

Data obtained from the Comptroller of Public Accounts (CPA) shows that of the 18,429 even exchange transactions for fiscal year 2011, only 60 exchanges included vehicles whose values were equal, while 1,303 pairs of vehicles had a difference in value of more than $10,000. The monetary benefit of paying less sales tax coupled with the ease in claiming a motor vehicle as an even exchange when titling the vehicle may incentivize people to falsely identify vehicles as even exchanges.

Absent an audit of each even exchange transaction, CPA does not have the information necessary to validate each claim of an even exchange or its compliance with statutory requirements. The lack of such validation measures increases the risk of abuse and makes it difficult to detect. Defining an even exchange as a transaction where the standard presumptive value or professional appraisals of the exchanged vehicles are within $80 of each other would help limit the abuse of the even-exchange claims and ensure that the state receives tax revenues that are due. All other transactions not qualifying as even-exchanges would be subject to current statutory requirements that provide that motor vehicle sales tax is owed on the purchase price of the vehicle minus the value of the trade-in.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 119.

FIGURE 1
FIVE-YEAR FISCAL IMPACT, FISCAL YEARS 2014 TO 2018

FISCAL YEAR	PROBABLE REVENUE GAIN/(LOSS) IN GENERAL REVENUE FUNDS	PROBABLE REVENUE GAIN/ (LOSS) IN LOCAL REVENUE FUNDS
2014	$4,242,430	$1,386,468
2015	$4,242,430	$1,386,468
2016	$4,395,158	$1,436,381
2017	$4,553,383	$1,488,091
2018	$4,717,305	$1,541,662

Source: Legislative Budget Board.

OVERVIEW OF RESEARCH AND DEVELOPMENT TAX INCENTIVES

REPORT HIGHLIGHTS

- The federal income tax credit for research and development expenditures, first enacted in 1981, expired on December 31, 2011.
- 43 of the 50 states offer some type of business or sales tax incentive for research and development activities, with most tied to the federal income tax credit. As of 2008, Texas does not offer any specific incentives for research and development activities.
- From fiscal years 2001 to 2011, the R&D credit has reduced Texas franchise tax revenue by $270.8 million. Reenacting the credit would reduce biennial franchise tax revenue by $50 to $60 million.
- Extensive research exists on the costs and benefits of federal and state research and development tax incentives.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. It provides an overview of R&D tax incentives available from the federal and other state governments and a discussion of the costs and benefits of the incentive.

House Bill 2383, Eighty-second Legislature, Regular Session, 2011, added Section 171.215 to the Texas Tax Code, requiring the Legislative Budget Board to conduct a study of the costs and benefits to the state of reenacting the franchise tax credit for research and development (R&D) activities previously available to taxpayers from tax year 2001 to 2007. The legislation also requires the study to include information on the type of research and development incentives available in other states.

The *Overview of Research and Development Tax Incentives* report begins with an overview of the economic theory behind government support of research and development activity. The report also discusses in detail the incentives available for companies incurring research and development expenditures at both the federal and state level, as well as a history of the previously available Texas incentive. The report concludes with a discussion of the large amount of research conducted on these incentives, as well as the costs and benefits of research and development incentives.

The full text of this report can be found in the *Overview of Research and Development Tax Incentives* report (Legislative Budget Board, January 2013).

IDENTIFY STATE COSTS RELATED TO DETERMINING CLIENT ELIGIBILITY FOR ENTITLEMENT PROGRAMS

LBB RECOMMENDATION

1 Include a rider requiring HHSC to include the fiscal impact of the federal Eligibility Modernization Program from fiscal years 2012 to 2015 in the Texas Project Delivery Framework, Project Monitoring Report to the states Quality Assurance Team.

The introduced 2014–15 General Appropriations Bill includes a rider implementing this recommendation.

The recommendation would not have a fiscal impact for the 2014–15 biennium. It would enable the state to identify reduced costs or cost savings achieved by the Texas Integrated Eligibility Redesign System through participation in the federal Eligibility Modernization Program.

The federal Affordable Care Act of 2010 (ACA) requires that states provide the Centers for Medicare and Medicaid Services and future health insurance exchanges access to state eligibility systems. The state uses the Texas Integrated Eligibility Redesign System (TIERS) to determine eligibility and enroll clients in affected entitlement programs such as the Texas Medicaid program, the Supplemental Nutrition Assistance Program and Temporary Assistance for Needy Families. The state also plans to integrate the Children's Health Insurance Program (CHIP) eligibility system, currently operated by a contractor, with TIERS.

The ACA authorized funding for enhanced Federal Financial Participation for a new Eligibility Modernization Program. The enhanced federal match is available to states from federal fiscal years 2012 to 2015. It will provide up to a 90 percent federal match for developing an eligibility determination system. The federal match rate for administrative costs related to these systems is 50 percent.

The Health and Human Services Commission (HHSC) estimates that by the end of December of 2013 the combined costs for the Eligibility Modernization Program will be $148.2 million in All Funds, which includes $110.3 million in Federal Funds and $38.0 million in General Revenue Funds. The integration of the CHIP eligibility determination process with the state-operated system will generate an estimated cost savings of $54.8 million in All Funds, which includes $39.0 million in Federal Funds and $15.8 million in General Revenue Funds for the 2014–15 biennium. To identify further fiscal impact to the state, HHSC should be required to report any costs or cost savings to the Quality Assurance Team—the state entity responsible for oversight of technology projects.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 125.

PROVIDE OVERSIGHT OF MANAGED CARE ORGANIZATIONS TO ENSURE APPROPRIATE USE OF STATE FUNDS

LBB RECOMMENDATIONS

1 Amend statute to require HHSC's Office of Inspector General to establish an annual utilization review process for managed care organizations in the STAR+PLUS program that includes review of functional assessment activities.

2 Include a contingency rider to transfer $761,741 in General Revenue Funds from strategy B.1.2, Medicaid Disability-Related to strategy G.1.1, Office of Inspector General, and to increase the agency's full-time-equivalent cap by 9.0 positions for the purpose of conducting utilization review in the STAR+PLUS program.

The introduced 2014–15 General Appropriations Bill includes a contingency rider implementing Recommendation 2. Recommendation 1 requires a statutory change.

These recommendations would not have a net fiscal impact for the 2014–15 biennium because reduced premiums would offset the cost of implementing a utilization review process for MCOs. They would reduce inappropriate premium and administrative payments to managed care organizations, resulting in savings in the Texas Medicaid program.

The State of Texas Access Reform Plus (STAR+PLUS) program is a capitated Medicaid service delivery model that integrates acute and long-term services and supports. The Health and Human Services Commission (HHSC) contracts with five managed care organizations in 10 service areas to provide STAR+PLUS services to certain consumers who are aging and/or have physical disabilities. Within STAR+PLUS, consumers may receive home and community-based services and supports if they qualify. The monthly premiums paid by HHSC to managed care organizations for persons receiving STAR+PLUS home and community-based services and supports waiver services are significantly higher than the monthly premiums for other clients in the STAR+PLUS program. The managed care organizations are responsible for assessing a consumer's need for services and submitting documentation used to determine if the assessed consumer is functionally eligible to receive services. Given the managed care organizations' (MCOs) financial incentive to recommend enrollment of persons in the STAR+PLUS home and community-based services and supports waiver and a lack of sufficient controls in this process, the state is at risk of paying a higher level of premiums than is necessary. Expansion of the STAR+PLUS program magnifies this risk. Implementation of a utilization review process at HHSC's Office of Inspector General for the STAR+PLUS program would provide state oversight and deter inappropriate client placements in STAR+PLUS home and community-based waiver services. The process would also provide a means for measuring any occurrences of inappropriate placements.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 131.

FIGURE 1
FIVE–YEAR FISCAL IMPACT, FISCAL YEARS 2014 TO 2018

FISCAL YEAR	PROBABLE ADDITION/(REDUCTION) OF FULL–TIME–EQUIVALENTS
2014	9.0
2015	9.0
2016	9.0
2017	9.0
2018	9.0

Source: Legislative Budget Board.

REQUIRE NON-PHYSICIAN MEDICAID SERVICES BE REIMBURSED AT NON-PHYSICIAN RATES

LBB RECOMMENDATION

1 Amend statute to require that Medicaid services provided by advanced practice nurses and physician assistants are billed and reimbursed at the rate set by HHSC for those providers.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this recommendation. This recommendation requires a statutory change.

The fiscal impact of this recommendation cannot be estimated; however, amending statute to require services provided by APNs and PAs be reimbursed at the designated rates would help contain Medicaid costs.

Medicaid, financed with both federal and state funds, is a healthcare program for certain low-income families, the elderly, and persons with disabilities. The Texas Medicaid program is administered by the Health and Human Services Commission (HHSC), which determines reimbursement rates for different healthcare services and levels of provider. HHSC administrative rules set Medicaid reimbursement for services provided by advanced practice nurses (APNs) and physician assistants (PAs) at 92 percent of the physician rate. However, HHSC rules also allow services provided by these midlevel practitioners to be reimbursed at 100 percent of the physician rate, even when a physician was not involved in the visit.

Medicare has a somewhat similar allowance for reimbursing at physician rates services rendered by advanced practice nurses and physician assistants. The Medicare policy allows this when the patient's visit with an APN or PA follows up on a course of treatment initiated by a physician at an initial visit and when the physician is physically present in the same office suite and available to provide assistance and supervision. Texas' rules are more permissive, allowing services provided by APN or PA to be reimbursed at 100 percent of the physician rate as long as the provider is practicing in accordance with Texas Medical Board and/or Texas Board of Nursing rules.

This statutory change would reimburse fee-for-service Medicaid services provided by APNs and PAs at the 92 percent rate currently designated for those practitioners by HHSC.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 140.

REDUCE UNNECESSARY IN-OFFICE DIAGNOSTIC ANCILLARY SERVICES IN THE TEXAS MEDICAID PROGRAM TO CONTROL COSTS

LBB RECOMMENDATIONS

1 Include a rider that would require HHSC to collect data necessary to allow the agency to quantify the amount of in-office diagnostic ancillary services provided to clients in the Texas Medicaid fee-for-service and managed care programs and routinely analyze this data.

2 Amend statute to direct HHSC to strengthen existing methods used to limit unnecessary diagnostic ancillary services and adopt new cost-effective strategies to ensure appropriate use of these services in the Texas Medicaid fee-for-service and managed care programs, including steps to improve payment accuracy for diagnostic ancillary services.

3 Include a rider that would require HHSC to submit a report on in-office diagnostic ancillary service use in the Texas Medicaid program to the Legislative Budget Board and the Office of the Governor by December 1, 2014. The report would include strategies the agency implements to reduce unnecessary diagnostic ancillary services.

The introduced 2014–15 General Appropriations Bill includes a rider that implements Recommendations 1 and 3. Recommendation 2 requires statutory change.

These recommendations would not have a fiscal impact for the 2014–15 biennium. They could reduce unnecessary diagnostic ancillary services and result in savings for the Texas Medicaid program.

Self-referrals occur when physicians refer patients to medical facilities in which they have a financial relationship. Congressional concern with the implications of self-referral arrangements led to changes in the Social Security Act beginning in 1989 and a series of federal regulations that prohibit physicians from referring Medicare and Medicaid patients for certain health services at medical facilities in which they, or an immediate family member, have a financial relationship. Federal law provides an exception to the physician self-referral ban for some health services that meet the definition of an in-office ancillary service. In-office diagnostic ancillary services are a subset of in-office ancillary services and include clinical laboratory and radiology services.

From fiscal years 2008 through 2011, Texas Medicaid program spending on diagnostic ancillary services increased by 51.5 percent, from $562.1 million in All Funds to $851.7 million in All Funds. During this same period, overall Texas Medicaid program spending increased by 32.2 percent. The federal government has identified trends linking the increase in Medicare spending on certain diagnostic ancillary services to the in-office provision of these services. National research findings indicate that increased use of in-office diagnostic ancillary services may increase overall healthcare spending without shortening illness duration or improving patient convenience. Despite these national findings, the Health and Human Services Commission (HHSC) has not identified the amount of in-office diagnostic ancillary services provided to Texas Medicaid clients. Furthermore, existing efforts to limit unnecessary diagnostic ancillary services in the Texas Medicaid program are not uniformly implemented across the program and may be insufficient to ensure appropriate use of these services, particularly in-office diagnostic ancillary services.

HHSC should take steps to reduce unnecessary in-office diagnostic ancillary services in the Texas Medicaid program, including analyzing in-office diagnostic ancillary service use, strengthening existing methods used to limit unnecessary diagnostic ancillary services, and adopting new cost-effective strategies to ensure appropriate use of these services. Efforts to ensure appropriate use of diagnostic ancillary services in general should also help reduce unnecessary in-office services. However, it may be helpful to place additional focus specifically on reducing unnecessary in-office diagnostic ancillary services.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 143.

INCREASE FOOD SECURITY BY IMPROVING THE CONSISTENCY OF SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM ELIGIBILITY POLICIES

LBB RECOMMENDATIONS

1 Amend statute to require HHSC to impose only an individual, instead of household, disqualification when the primary wage earner in a household receiving Supplemental Nutrition Assistance Program benefits fails to comply with employment and training requirements.

2 Amend statute to prevent the disqualification of otherwise eligible individuals from receiving Supplemental Nutrition Assistance Program benefits due only to having a felony drug conviction.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of these recommendations. These recommendations require statutory changes.

These recommendations would not have a fiscal impact for the 2014–15 biennium. They would reduce the risk of food insecurity for tens of thousands of Texans and increase the flow of federal funds into the state.

Texas has the second highest rate of food insecurity in the country. Food insecurity has been associated with poorer health outcomes and academic performance in children. The Supplemental Nutrition Assistance Program, formerly known as the Food Stamps Program, is a state-administered federal program that provides low-income recipients with money to purchase food. Texas is one of only three states that deny benefits to an entire household, including children, when the primary wage earner does not comply with employment and training requirements of the program. Other states sanction the individual but not the entire household. The state also bans potential participants with felony drug convictions from the program for life, even if they are otherwise. Participants with other felony convictions, such as for theft or murder, are not banned from the program. This policy reduces the household benefit for children with a disqualified parent. These two policies create inconsistencies within the program. They also limit access to program benefits for household members who would otherwise be eligible, thus increasing their risk of food insecurity. Amending these policies would increase the consistency of program administration and increase food security for tens of thousands of Texans.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 151.

AUTHORIZE COUNTIES TO FUND MEDICAID COVERAGE FOR NEWLY ELIGIBLE ADULTS WITH LOCAL REVENUE

LBB RECOMMENDATIONS

1 Amend statute to authorize intergovernmental transfers from counties to finance the option to expand Medicaid to 138 percent of the federal poverty level to reduce the number of uninsured Texans.

2 Amend statute to direct the Health and Human Services Commission to either amend the Medicaid State Plan or to submit a Section 1115 Waiver that would authorize counties to expand Medicaid to 138 percent of the federal poverty level.

3 Amend statute to require the Health and Human Services Commission to promulgate eligibility standards and requirements for counties expanding Medicaid.

The introduced 2014–15 General Appropriations Bill does not contain any adjustments as a result of these recommendations. Recommendations 1, 2, and 3 require statutory changes.

These recommendations could generate a net gain of $2.5 billion in Federal Funds for the 2014–15 biennium and would allow Texas counties the option of expanding Medicaid using local revenues as the non-federal matching share.

Most Texas hospitals provide health services free of charge (i.e., charity care) to individuals who meet certain financial criteria. Uncompensated care provided by 535 hospitals in fiscal year 2011 totaled approximately $3.1 billion. Some portion of this uncompensated care is spent on services provided to persons who may be eligible for health insurance coverage through Medicaid expansion. Beginning in January 2014, the provisions of the federal Affordable Care Act of 2010 will provide an enhanced federal match for states to provide Medicaid coverage of adults with income below 133 percent of poverty (increases to 138 percent with the allowable five-percentage point exclusion of income). In calendar years 2014 to 2016, the federal match for services for these adults is 100 percent, decreasing to 90 percent by calendar years 2020 and beyond. Administrative costs for program support will remain at a 50 percent federal match for all years. A potential source of matching funds for a Medicaid expansion is local healthcare dollars, including local revenue devoted to public hospitals and hospital districts. In the 2014–15 biennium when the federal match for services is 100 percent, local revenues could be used to provide the non-federal share of Medicaid administration for the newly eligible population. In subsequent years as the federal match gradually decreases, local revenues could also be used to provide the non-federal match for Medicaid services.

Of the 535 hospitals in Texas, 108 hospitals owned by city, county, or hospital districts accounted for 48 percent ($1.5 billion) of charity care spending reported in fiscal year 2011. Most of the charity care (94 percent) local public hospitals provided was attributable to six hospital districts—Bexar, Dallas, El Paso, Harris, Tarrant, and Travis. Local public hospitals that account for a significant amount of uncompensated care spending report that 90.8 percent of patients receiving some form of charity care were non-elderly adults. With certain exceptions, federal law allows states to use intergovernmental transfers to obtain funds for use as the non-federal share for Medicaid services. By using local funds as the non-federal share for expanding Medicaid to newly eligible population, Texas could generate an estimated additional $2.5 billion in Federal Funds for fiscal years 2014 and 2015.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 158.

MAXIMIZE FEDERAL FUNDING TO TEXAS HOSPITALS RECEIVING MEDICAID SUPPLEMENTAL PAYMENTS

LBB RECOMMENDATIONS

1 Include a rider authorizing health-related institutions of higher education to make intergovernmental transfers of funds to the Health and Human Services Commission to draw down federal funds from the new Uncompensated Care and Delivery System Reform Incentive Payment pools.

2 Include a rider to ensure that state-owned teaching hospitals maximize federal funding by excluding uncompensated care payments for clinical, pharmacy, and physician services from amounts subject to deposit in unappropriated General Revenue.

3 Amend statute to require non-public hospitals pay an assessment fee, which will be used to generate the non-federal share of Disproportionate Share Hospital payments to local hospitals.

The introduced 2014–15 General Appropriations Bill includes riders implementing Recommendations 1 and 2. Recommendation 3 would require a statutory change.

Recommendations 1 and 2 would generate an undetermined amount of additional Federal Funds depending on the participation of health-related institutions, project selection, and federal and state approvals. Recommendation 3 could generate between $325.0 and $510.7 million of revenue in the 2014–15 biennium to be used as the nonfederal share of Texas' Disproportionate Share Hospital program. All the recommendations would maximize Medicaid supplemental payment federal funding.

The Health and Human Services Commission's Medicaid Transformation Waiver replaces Upper Payment Limit payments with a new Medicaid supplemental funding structure. Under the waiver, federal funds drawn down with intergovernmental transfers will now be pooled and distributed to hospitals (1) based on their uncompensated care and (2) to provide delivery system reform incentive payments for healthcare improvements. There is now an opportunity to generate new federal funds because the waiver authorizes the inclusion of new categories of uncompensated care costs provided at hospitals in the calculation of total uncompensated care reimbursements. However, the receipt of the new Federal Funds is contingent on the provision of additional non-federal match. The finite amount of available local funds has strained the existing Disproportionate Share Hospital funding structure as large public hospital districts explore using intergovernmental transfers to fund new waiver opportunities in lieu of Disproportionate Share Hospital payments. Although eight large public local hospitals put up the non-federal share, about 172 local hospitals receive a Disproportionate Share Hospital payment.

Expanding appropriation authority to select health-related institutions of higher education and establishing a hospital assessment fee for non-public hospitals would maximize federal funding to hospitals. Establishing a hospital assessment fee on the gross inpatient revenue of non-public hospitals to be used as the state matching share of Disproportionate Share Hospital payments could provide relief to the local public hospitals currently providing the non-federal share. Depending on the design and amount of the assessment, the annual revenue generated would range from approximately $325.0 million to $510.7 million annually and would be used as the non-federal match for the non state-owned Disproportionate Share Hospital program.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 167.

OVERVIEW OF STATE-FUNDED SERVICES FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES IN TEXAS

LBB FACTS AND FINDINGS

- Local authorities used state funds to serve 22,181 individuals in fiscal year 2010 and 20,993 individuals in fiscal year 2011 (unduplicated).
- Local authorities reported receiving $110.0 million and $108.7 million in fiscal years 2010 and 2011, respectively, in General Revenue Funds.
- The Texas Legislature has expanded the responsibilities of local authorities in recent years to include the community living options information process and service coordination for certain consumers.
- The Eighty-second Legislature directed DADS to refinance up to 5,000 consumers from services funded with General Revenue Funds to the Texas Home Living 1915(c) Medicaid waiver program.
- Having the capacity to respond to crisis situations is becoming a significant issue for the local authority system. Local authorities anticipate spending approximately 17 percent of their state funding.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. The report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. It provides an overview of state-funded services provided by local authorities to persons with intellectual and developmental disabilities, oversight of local authorities, local authority finance, and major budget and policy issues affecting the local authority system.

Local authorities are the single-point of access to publicly funded services and supports for persons with intellectual and developmental disabilities in their service area. A "local authority" is a local government entity formed through an inter-local agreement, typically between one or more counties, cities, hospital districts, and school districts. The Department of Aging and Disability Services (DADS) contracts with 39 local authorities to perform certain delegated tasks and to oversee provision of state-funded services, sometimes called safety net services.

Local authorities have two primary responsibilities: authority functions and provider functions. As authorities, they are responsible for the community living options information process for state supported living center residents; conducting intake, eligibility, and enrollment activities; performing safety-net functions and ensuring provision of General Revenue-funded services, conducting service coordination, conducting planning for a local service area, and protecting the rights of an individual. As providers, local authorities provide direct services to consumers in various Medicaid and non-Medicaid programs. DADS is responsible for oversight of the authority functions performed by local authorities; as providers, local authorities are subject to the same regulation as other providers by entities overseeing those programs.

There are several major budget and policy issues affecting the local authority system. Changes in DADS' budget structure and performance measures for the introduced fiscal years 2014–15 General Appropriations Bill will increase clarity and transparency about the amount of funding provided to local authorities and the purposes for which the funds are spent. Challenges confronting the local authority system include providing service coordination for certain Medicaid clients, refinancing of state-funded clients, adjusting service provision based on budget reductions that occurred during the Eighty-second Legislature, 2011, and building capacity to respond to crisis situations.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 177.

IMPROVE ASSESSMENT AND RESOURCE USE IN COMMUNITY PROGRAMS

LBB RECOMMENDATIONS

1 Amend statute to require DADS to implement an automated functional assessment tool across state programs serving clients with intellectual and developmental disabilities and for persons on the interest lists.

2 Amend statute to require DADS to implement a resource allocation methodology in the Home and Community-based Services waiver program.

3 Include a contingency to increase appropriations to DADS by $1.5 million in General Revenue Funds.

4 Include a contingency rider to require DADS and the Health and Human Services Commission to submit a report summarizing information made available by the new assessment tool and making recommendations for long-term system reform.

The introduced 2014–15 General Appropriations Bill includes a contingency rider implementing Recommendations 3 and 4. Recommendations 1 and 2 require statutory changes.

The recommendations would have a cost of $1.5 million in General Revenue Funds for the 2014–15 biennium. Use of a standard assessment tool and resource allocation methodology could improve better align resource allocation with needs, resulting in savings in the Texas Medicaid program.

Texas offers individuals with intellectual and developmental disabilities a continuum of services including safety net services delivered by local authorities, four federal Medicaid 1915(c) waiver programs offering home and community-based services, and an entitlement program offering institutional services. The current system of service provision maximizes budget certainty for the state but does not control the over- and under-provisioning of services. In addition, demand for community services exceeds the availability of services, despite significant expansion of the waiver programs. While many other states rebalanced their long-term care service and supports through savings achieved from deinstitutionalization, Texas continues to operate a dual-funded system of care. With this system, expansion of the number of persons served in community settings can only be funded by new appropriations or from cost savings achieved within existing programs.

Requiring the Department of Aging and Disability Services (DADS) to use an improved assessment process across waivers could more precisely identify consumer needs and allow the state to implement a resource allocation initiative to ensure individuals receive the appropriate services. The state could use any cost savings gained from the initiative to serve more individuals on the interest lists. Information collected from the assessment tool could improve long-term planning of system services for persons with intellectual and developmental disabilities. The tool could also provide the information needed to assess the benefits and costs of various redesign proposals other states are considering.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 192.

FIGURE 1
FIVE-YEAR FISCAL IMPACT, FISCAL YEARS 2014 TO 2018

FISCAL YEAR	PROBABLE SAVINGS/ (COST) IN GENERAL REVENUE FUNDS	PROBABLE SAVINGS/ (COST) IN FEDERAL FUNDS	PROBABLE ADDITION/ (REDUCTION) OF FULL-TIME-EQUIVALENT POSITIONS
2014	($500,000)	($500,000)	0.0
2015	($1,000,000)	($1,000,000)	0.0
2016	($625,000)	($625,000)	0.0
2017	($250,000)	($250,000)	0.0
2018	($0)	($0)	0.0

Source: Legislative Budget Board.

LEVERAGE THE STATE INSPECTION PROCESS TO INCREASE PERSON-CENTERED CARE IN NURSING FACILITIES

LBB RECOMMENDATION

1 Include a rider to direct DADS to implement and evaluate a person-centered care pilot project that uses the regulatory inspection process to enhance nursing facility providers' knowledge and implementation of person-centered care practices.

The introduced 2014–15 General Appropriations Bill includes a rider implementing Recommendation 1.

This recommendation would not have a fiscal impact for the 2014–15 biennium. It would increase the use of best practice methods to improve the quality of care and quality of life of Texas nursing home residents.

As of fiscal year 2011, there were 87,533 Texans residing in 1,211 nursing facilities. The federal Omnibus Budget Reconciliation Act (OBRA) of 1987 established uniform minimum standards of care for Medicare and Medicaid-certified nursing facilities. The standards are meant to improve the quality of care in nursing facilities by making it more person-centered and by guaranteeing various quality-of-life rights to nursing home residents. In the long-term care field, person-centered or individualized care is a best practice that allows residents to decide their own routines and schedules and cultivates interdisciplinary collaboration among staff within the facility.

Despite the passage of OBRA 25 years ago, a 2008 national survey revealed that many nursing facility administrators are not putting into practice the principles of OBRA because they believe that federal regulations are barriers to providing individualized care. Thus far, few efforts have been successful at correcting administrators' misperceptions. According to the Texas Department of Aging and Disability Services (DADS), similar misperceptions exist in Texas despite agency efforts to educate administrators to the contrary.

One effort that has achieved success was used as a pilot project by Rhode Island. The Individualized Care Pilot used the annual nursing home inspection process to unofficially grade nursing homes on their person-centered practices and offered technical assistance to nursing facilities that requested it. At the end of the project, person-centered care practices increased among facilities that received the intervention. The most significant results showed that facilities increased residents' freedom to choose when and what to eat and when and how often to shower or bathe. Resident involvement in nursing home decision-making also increased significantly. Research from other studies demonstrates that increasing residents' choices and involvement can: (1) reduce behavioral incidents between residents, (2) lower rates of depression, (3) improve residents' emotional well being, and (4) decrease the decline in functional abilities.

Authorizing a pilot project that uses the nursing facility inspection process to educate nursing facility administrators about person-centered care practices and to change their misperceptions about regulations could improve the quality of life for Texas nursing facility residents.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 208.

USE ALTERNATIVE SETTINGS TO REDUCE FORENSIC CASES IN THE STATE MENTAL HEALTH HOSPITAL SYSTEM

LBB RECOMMENDATIONS

1 Amend statute to provide access to jail-based competency restoration for individuals found incompetent to stand trial.

2 Amend statute to provide access to conditional release for certain individuals under forensic commitment.

3 Include a contingency rider that would authorize DSHS to use funds appropriated for hospital facilities for jail-based competency restoration and conditional release programs for certain individuals under forensic commitment.

4 Include a rider that would authorize the Court of Criminal Appeals to use funds appropriated for judicial education to educate judges, prosecuting attorneys and criminal defense attorneys involved with forensic commitment cases on alternatives to inpatient treatment.

The introduced 2014–15 General Appropriations Bill includes riders implementing Recommendations 3 and 4. Recommendations 1 and 2 require statutory changes.

These recommendations would not have a fiscal impact for the 2014–15 biennium. They would increase the use of treatment alternatives for individuals under forensic commitment, reduce the use of inpatient services, and allow the state to avoid some of the costs associated with treating these individuals in the state mental health hospital system.

Individuals under forensic commitment fall into two categories. The first category includes individuals charged with a misdemeanor or felony offense who are ordered by the court to receive mental health treatment because they are incompetent to stand trial (IST). The second category includes individuals acquitted of an offense that involved dangerous conduct because a judge or jury has determined them to be not guilty by reason of insanity (NGRI) and who are ordered by a court to receive mental health treatment. Individuals under forensic commitment must be committed to a mental health facility or residential care facility or they may be ordered to participate in an outpatient treatment program. Individuals under forensic commitment who have been committed to a mental health facility are served primarily at state mental health facilities (SMHFs) managed by the Texas Department of State Health Services (DSHS), but may also be served at community mental health hospitals funded in part by the agency.

The state mental health hospital system in Texas, which includes 10 SMHFs and state-funded mental health beds at hospitals not operated by DSHS, does not have the capacity to meet current demand for services. Meanwhile, the state treats certain individuals under forensic commitment in the state mental health hospital system who could potentially be served in a less expensive alternative setting. Statute does not provide explicit authority for the operation of jail-based competency restoration or conditional release programming that is less expensive than treatment in the state mental health hospital system. Also, the state may not be maximizing its use of existing outpatient competency restoration programs and residential rehabilitation units. As a result, access to and use of less-expensive alternative settings, which could help reduce demand for inpatient treatment in Texas, is limited. To avoid some of the costs associated with treating individuals under forensic commitment in the state mental health hospital system, the state should take steps to increase access to and use of alternatives to inpatient treatment.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 216.

MAXIMIZE THE USE OF PRIVATE HEALTH INSURANCE COVERAGE FOR CERTAIN CLIENTS SERVED BY THE DEPARTMENT OF STATE HEALTH SERVICES

LBB RECOMMENDATIONS

1 Reduce appropriations to realize net savings and revenue gains of $14.4 million in All Funds in the 2014–15 biennium for programs projected to have reduced costs due to the health insurance exchange.

2 Include a rider requiring DSHS to notify the LBB if savings and revenue gains related to the implementation of a health insurance exchange are greater or lower than projected. The rider would also require the agency to obtain written approval before expending any additional General Revenue Funds related to the health insurance exchange.

3 Include a rider requiring DSHS to submit a report on caseload impact, consumer awareness outcomes, and the fiscal impact of the exchange on the agency's programs by December 1, 2014.

4 Amend statute requiring programs at DSHS that are anticipated to be impacted by the health insurance exchange to distribute and collect attestation forms from clients stating that they do not have access to other sources of healthcare coverage, and increase consumer awareness of the health insurance exchange.

The introduced 2014–15 General Appropriations Bill includes a reduction in appropriated amounts to implement Recommendation 1 and a rider implementing Recommendations 2 and 3. Recommendation 4 requires a statutory change.

These recommendations would have a net positive fiscal impact of $14.4 million in All Funds for the 2014–15 biennium and would ensure ways to maximize the use of private health insurance for certain clients served by the agency.

The federal Affordable Care Act of 2010 requires states to have an operational health insurance exchange in place by January 1, 2014. Health insurance exchanges are intended to facilitate the purchase of health insurance coverage for individuals and small businesses. Individuals with household incomes between 100 percent and 400 percent of the federal poverty level who do not have access to employer-sponsored insurance or public coverage will be eligible for premium assistance credits. These credits help pay for health insurance purchased through the new health insurance exchange. These individuals will also be eligible for reduced cost-sharing in the health insurance exchange plans.

The Texas Department of State Health Services (DSHS) anticipates that beginning in fiscal year 2015, 18 of the agency's programs could be affected by the creation of a health insurance exchange. The health insurance exchange is projected to expand insurance coverage for many individuals and impact close to 44,000 clients served by programs at DSHS. In fiscal year 2015, the agency estimates that the health insurance exchange will result in a net positive fiscal impact of $11.6 million in All Funds, as shown in **Figure 1**. However, DSHS does not account for any savings or revenue gains in fiscal year 2014, and does not account for the projected fiscal impact of the health insurance exchange in the agency's base request for the 2014–15 biennium.

As clients currently served by programs at DSHS obtain greater access to health insurance coverage through the exchange, the agency should ensure ways to maximize the use of private health insurance for clients receiving care provided by the agency. Additionally, the agency should monitor the caseload and fiscal impacts of the health insurance exchange on agency clients and programs.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 231.

FIGURE 1
FIVE-YEAR FISCAL IMPACT, FISCAL YEARS 2014 TO 2018

FISCAL YEAR	PROBABLE SAVINGS/(COST) IN GENERAL REVENUE FUNDS	PROBABLE SAVINGS/(COST) IN GENERAL REVENUE-DEDICATED FUNDS	PROBABLE REVENUE GAIN/(LOSS) IN OTHER FUNDS
2014	$3,139,217	$262,790	$585,294
2015	$12,883,638	$1,051,159	$2,341,178
2016	$12,883,638	$1,051,159	$2,341,178
2017	$12,883,638	$1,051,159	$2,341,178
2018	$12,883,638	$1,051,159	$2,341,178

Source: Legislative Budget Board.

ENSURE SUFFICIENT OVERSIGHT OF THE FOSTER CARE REDESIGN

LBB RECOMMENDATIONS

1 Amend statue to require DFPS to collect data for early identification of lead agency problems, and report to the LBB and the Office of the Governor.

2 Amend statute to limit the direct provision of services a lead agency provides to not more than 35 percent of total expended amounts.

3 Amend statute to require HHSC to contract with SAO to conduct audits of a lead agency.

4 Include a rider to require DFPS to report performance measures that compare the legacy and redesigned systems.

5 Include a rider to require DFPS to provide contract management staff with training to perform financial analysis of a lead agency contracts.

6 Amend statute to require DFPS to develop an assessment tool to determine readiness of lead agency before services are transferred.

7 Amend statute to require DFPS to develop contingency plans for the continuity of foster care service delivery.

8 Amend statute to require guardians ad litem to report if court-ordered services are not provided.

The introduced 2014–15 General Appropriations Bill includes a rider implementing Recommendations 4 and 5. Recommendations 1, 2, 3, 6, 7, and 8 require statutory change.

These recommendations would not have a fiscal impact for the 2014–15 biennium. They would improve the oversight of the foster care redesign initiative and help to ensure the continuity and quality of foster care services, adherence to state and federal requirements, and accountability and transparency in the use of public funds.

Redesigning the Texas foster care system is underway. The Texas Department of Family and Protective Services (DFPS) is directed via Senate Bill 218, Eighty-second Legislature, Regular Session, 2011, to implement a redesign of the foster care system in accordance with the agency's 2010 recommendations to the Legislature. Thus far, only an area in northwest Texas which includes Midland, San Angelo, Abilene, and Wichita Falls will be affected.

What is changing is how foster care services are provided and who provides them. At present, DFPS contracts with many entities across the state to provide foster care services. However, not all foster care services are available in all areas of the state which often results in children receiving care in placements far away from siblings, relatives and friends. In the redesigned system, DFPS will contract with one entity to provide all foster care services for a designated catchment area or region of the state. This entity is referred to as the lead agency. The lead agency will have the option to provide all or some of the foster care services directly or establish a network of sub-contractors. With this change, DFPS' role becomes primarily one of oversight. To date, there is not a signed contract and DFPS remains in negotiations regarding the final contract terms.

Monitoring foster care services provided by lead agencies will be critical given the vulnerable population served and the provider failures that have occurred with this model in other states. This report focuses on three areas that proved problematic for other states. They include: (1) contract monitoring, (2) assessment and contingency planning, and (3) communication. Contracting with a lead agency to provide foster care services without statutory safeguards to ensure the continuity of services if a lead agency fails, increases the risk for service delivery interruptions, cost overruns, and harm to children and families. This report offers recommendations about how Texas can try to reduce the impact of these issues as redesign moves forward. Establishing a comprehensive and coordinated system of oversight is essential to ensure improved client outcomes, continuity and quality of foster care services, adherence to state and federal requirements, and accountability and transparency in the use of public funds.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 238.

IMPLEMENT ADDITIONAL COST CONTAINMENT STRATEGIES FOR FOSTER, RELATIVE AND PROTECTIVE DAYCARE SERVICES TO MAXIMIZE THE NUMBER OF CHILDREN SERVED

LBB RECOMMENDATIONS

1 Amend statute to require DFPS to implement a standardized and documented process for verifying that kinship and foster caregivers have attempted to find appropriate services to care for a child through community services prior to the authorization or reauthorization of daycare services funded through the agency.

2 Include a rider requiring DFPS to identify and implement appropriate cost-containment strategies for DFPS-funded daycare services.

3 Include a rider requiring DFPS to collect income and family size data on clients that receive relative or foster daycare services during the authorization and reauthorization process.

4 Include a rider requiring DFPS to evaluate and report on the impact of implemented cost containment strategies for daycare services to be submitted by December 1, 2014.

The introduced 2014–15 General Appropriations Bill includes a rider implementing Recommendations 2, 3, and 4. Recommendation 1 requires a statutory change.

These recommendations would have no significant fiscal impact for the 2014–15 biennium. The implementation of cost containment strategies would allow the agency to ensure the cost effectiveness of the program and maximize the number of children who receive daycare services.

In fiscal year 2011, an average of 9,000 children per month received foster, relative or protective daycare services funded by the Department of Family and Protective Services (DFPS). The 2012–13 biennial appropriations for daycare services totaled $71 million in All Funds. Daycare services the agency funds are not statutorily required. The purpose of these services is to recruit and retain qualified foster families, to reunify families and place children with relatives whenever possible, and to preserve families in crisis.

The agency manages daycare services by setting eligibility standards such as age limits. DFPS has taken steps to improve the service authorization process by standardizing employment verification and implementing controls to ensure that unauthorized services are not funded. However, the demand for childcare services is increasing and the agency's expenditures for services exceeded appropriated amounts for the last three biennia. The agency projects that the monthly average number of children expected to receive foster, relative or protective daycare services will increase each year from fiscal years 2011 to 2015. Expenditures for all types of daycare services are projected to increase by 6 percent from fiscal years 2011 to 2015, or by $2.1 million.

As the demand for DFPS-funded daycare services increases, the agency will need to implement additional cost-containment strategies. Strategies the agency could employ include priority lists, waiting lists, an income-based sliding fee scale on a case-by-case basis, and time limits on the receipt of services or cost-sharing exemptions.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 252.

IMPROVE THE COST-EFFECTIVENESS OF FAMILY COST-SHARE PROVISIONS IN THE EARLY CHILDHOOD INTERVENTION PROGRAM

LBB RECOMMENDATIONS

1 Amend statute to direct DARS to collect data necessary to allow the agency to determine the cost-effectiveness of both existing family cost-share provisions in the ECI program and any proposed changes to these provisions, including data on administrative costs and adjusted gross income.

2 Amend statute to direct DARS to evaluate the cost-effectiveness of existing family cost-share provisions in the ECI program and to implement changes to these provisions that would result in a net increase in family cost-share revenue after deducting the cost to administer family cost-share provisions.

3 Include a rider to require DARS to submit a report on changes implemented to improve the cost-effectiveness of family cost-share provisions in the ECI program to the Legislative Budget Board and the Office of the Governor by December 1, 2014.

The introduced 2014–15 General Appropriations Bill includes a rider that implements Recommendation 3. Recommendations 1 and 2 require statutory change.

These recommendations would not have a fiscal impact for the 2014–15 biennium. They could improve the cost-effectiveness of family cost-share provisions in the ECI program and allow the ECI program to collect additional cost-share revenue.

High quality early childhood intervention services can change a child's development trajectory and improve outcomes for children, families, and communities. The Texas Department of Assistive and Rehabilitative Services (DARS) administers the Early Childhood Intervention (ECI) program that serves families with children from birth to 36 months who have developmental delays or diagnosed physical or mental conditions with high probabilities of resulting in developmental delays. The agency contracts with 51 local agencies throughout Texas to provide early childhood intervention services. Texas receives federal grant funding for the program; therefore, the agency must comply with requirements prescribed in the federal Individuals with Disabilities Education Act.

The agency implemented family cost-share provisions in the ECI program in 2004. The cost-share amount is determined by a sliding fee scale based on family size and adjusted gross income after allowable deductions. The family cost-share provision generates revenue that funds less than 1 percent of the overall program budget. The state cannot determine the cost effectiveness of existing family cost-share provisions or any proposed changes that might generate additional revenue because DARS does not collect certain data, including the cost to administer family cost-share provisions and adjusted gross income. To increase the amount of family cost-share revenue collected in the ECI program, the state should take steps to improve the cost-effectiveness of family cost-share provisions, including improving data collection, evaluating the cost-effectiveness of existing provisions, and implementing changes to improve cost-effectiveness.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 261.

ESTABLISH A PERMANENT MECHANISM TO REVIEW SENTENCING POLICIES AND CONTROL CRIMINAL JUSTICE COSTS

LBB RECOMMENDATIONS

1 Amend statute to establish a sentencing commission to review Texas sentencing laws comprehensively and align penalties with offenses, modernize laws, and study statewide sentencing dynamics every 10 years.

2 Include a contingency rider to appropriate $1.15 million in General Revenue Funds to operate a sentencing commission and implement a statewide sentencing dynamics study.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of these recommendations. Recommendation 1 requires a statutory change and Recommendation 2 requires a rider.

This recommendation would cost the state $1.15 million in General Revenue Funds for the 2014–15 biennium. Establishing a sentencing commission would help improve criminal justice system efficiency and reduce state costs.

During the past two biennia, Texas has seen annual declines in the prison population. This decrease is due in part to the treatment programs that were implemented to reduce the rate of growth in the prison population.

While these strategies have helped mitigate the growth in the state prison population, Texas lacks a process to monitor and assess comprehensively the impact of practices, policies, and existing laws on offender populations and the correctional resources of the state. The last comprehensive review of sentencing laws and practices occurred 20 years ago through the Punishment Standards Commission. It resulted in removal of some obsolete offenses and adjustments in punishment for other offenses. However, some of the Punishment Standards Commission's recommendations resulted in longer sentences and longer probation terms for some offenses. Longer sentences contribute to growing system costs, and there has been no thorough review of sentencing laws since then to adjust for these increased costs.

In addition, the last statewide study to gather detailed data on felony convictions occurred in 1993. The lack of current arrest and sentencing data at the state level hinders the state's ability to assess the cost and effect of proposed changes in sentencing policy.

Establishing a process to monitor and assess the effect of sentencing practices, policies, and existing laws on the correctional resources of the state would have a sustainable and reliable effect on the number of incarcerated persons and in how offenders are managed in community programs. Updated sentencing data would provide the sentencing commission with the necessary information to craft recommendations that could lead to proportional, consistent, and fair criminal sanctions.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 271.

FIGURE 1
FIVE-YEAR FISCAL IMPACT, FISCAL YEARS 2014 TO 2018

FISCAL YEAR	PROBABLE SAVINGS/(COST) IN GENERAL REVENUE FUNDS	PROBABLE ADDITION/ (REDUCTION) OF FULL-TIME- EQUIVALENT POSITIONS
2014	($882,424)	3.0
2015	($263,089)	3.0
2016	--	--
2017	--	--
2018	--	--

Source: Legislative Budget Board.

REVISE MEDICALLY RECOMMENDED INTENSIVE SUPERVISION ELIGIBILITY CRITERIA TO IMPROVE IDENTIFICATION OF QUALIFYING OFFENDERS

LBB RECOMMENDATIONS

1 Amend statute to eliminate the elderly category as one of the eligibility criteria for MRIS.

2 Amend statute to remove offense exclusions related to aggravated and sex offenses currently used as disqualifying criteria for MRIS.

3 Include a rider directing the Texas Department of Criminal Justice to work with the Texas Department of Aging and Disability Services and the Health and Human Services Commission to conduct a study examining the option of contracting with a private entity to house offenders in need of skilled nursing or 24-hour care.

The introduced 2014–15 General Appropriations Bill includes a rider implementing Recommendation 3. Recommendations 1 and 2 require statutory changes.

These recommendations would not have a fiscal impact for the 2014–15 biennium. They would increase the efficiency of the screening process and would result in the release of offenders in need of high cost medical services to more cost effective settings, which would save General Revenue Funds.

In Texas, offenders who no longer pose a threat to public safety due to a medical condition can be eligible for early parole under the Medically Recommended Intensive Supervision Program (MRIS). Offenders who are terminally ill, elderly, physically handicapped, mentally ill, or in need of long-term care are eligible for parole consideration by the Texas Board of Pardons and Paroles (Parole Board). Approved offenders are released to medically suitable settings where they can receive clinically appropriate and cost effective treatment. Correctional managed healthcare providers, the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI), and the Parole Board work together to identify and approve eligible offenders for medical release. In fiscal year 2011, TCOOMMI received 1,807 referrals from medical providers, families of offenders, offenders themselves, and others. Of these, 91 were approved by the Parole Board for medical release. Existing eligibility criteria for MRIS produce a high volume of referrals, but many offenders are not approved by the Parole Board for release under the program because their medical condition is not severe enough to prevent them from being a risk to public safety. For example, a large number of offenders can qualify on the basis of age, but they rarely have a medical condition that makes them a good candidate for MRIS release. At the same time, eligibility restrictions related to convictions limit the number of referrals who could meet medical criteria. In fiscal year 2011, offenders with aggravated and sex offenses constituted 90 percent of all ineligible referrals for MRIS. These referrals were automatically ineligible based solely on their conviction.

Revising eligibility criteria would increase the efficiency of the screening process by limiting the number of offenders who are referred but do not meet Parole Board's requirements for medical release. Changes to the eligibility criteria may result in the release of more offenders to cost effective settings such as nursing home facilities.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 281.

IMPROVE THE IMPLEMENTATION AND ASSESSMENT OF LOCAL JUVENILE PROBATION PROGRAMMING TO ENSURE QUALITY

LBB RECOMMENDATION

1 Include a rider that requires the Texas Juvenile Justice Department to reassign two full-time-equivalent positions and associated funds to provide in-depth technical assistance on program design and evaluation to local juvenile probation departments.

The introduced 2014–15 General Appropriations Bill includes a rider implementing this recommendation.

This recommendation would not have a fiscal impact for the 2014–15 biennium. It would improve the effectiveness and efficiency of local juvenile probation department operations and potentially reduce commitments to state juvenile corrections facilities.

For most youth referred to the Texas juvenile justice system, the local courts and probation department are the only parts of the juvenile justice system they will experience. Juvenile probation departments receive some support from state funds, but have local control over design, implementation, and evaluation for their programming and services. Departments vary significantly in their resources and expertise in designing and evaluating local programs. If departments cannot effectively implement or evaluate their programs, they may continue practices that do not improve outcomes for youth and result in more social and financial costs for Texans. Providing additional technical assistance to probation departments to help them continually improve services at the county level could minimize the need for more expensive and intensive services at the state level, increase public safety, and improve the lives of youth.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 288.

CONSOLIDATE STATE CRIMINAL COURT COSTS TO REDUCE COMPLEXITY AND CLARIFY OFFENDER OBLIGATIONS

LBB RECOMMENDATIONS

1 Amend statute to consolidate all state criminal court costs and fees into one assessment per offense class.

2 Amend statute to consolidate all state and local criminal court costs and fees into one statutory code.

3 Amend statute to add a cost of living indexing feature to the state consolidated court cost and include a requirement that court costs be set in even dollar amounts.

4 Include a rider to provide 4 full-time–equivalent positions to the OCA to provide training to judges, clerks, and other court personnel on court costs and fees.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of these recommendations. Recommendations 1, 2, and 3 require statutory changes and Recommendation 4 would require a rider.

These recommendations would generate a net gain of $2.0 million in General Revenue Funds and General Revenue–Dedicated Funds for the 2014–15 biennium and would reduce the complexity associated with monitoring and assessing state court costs.

Court costs and fees are assessments against a person convicted of a criminal offense. These costs are intended to help fund the state and local criminal justice system. Texas has 16 state criminal court costs that are deposited to 18 funds. When combined with local court costs, there are at least 54 state and local court costs and fees.

Having multiple court costs that vary by offense type and class creates administrative complexity in assessment. Court costs can also be subject to unpredictable increases. In addition, state and local court costs and fees are listed in at least five statutory codes, increasing the difficulty for courts, state agencies and the public to monitor changes. Finally, the state lacks a formal process to educate city and county officials about changes to these assessments.

Consolidating state criminal court costs and fees would reduce the administrative burden on local governments and possibly lead to improved collection rates.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 294.

FIGURE 1
FIVE-YEAR FISCAL IMPACT, FISCAL YEARS 2014 TO 2018

FISCAL YEAR	PROBABLE SAVINGS/(COST) IN GENERAL REVENUE FUNDS	PROBABLE REVENUE GAIN/(LOSS) IN GENERAL REVENUE FUNDS	PROBABLE REVENUE GAIN/(LOSS) IN GENERAL REVENUE–DEDICATED FUNDS	PROBABLE REVENUE GAIN/(LOSS) IN OTHER FUNDS	PROBABLE ADDITION/(REDUCTION) OF FULL-TIME-EQUIVALENT POSITIONS
2014	($208,306)	$391,991	$866,414	$105,199	4.0
2015	($296,004)	$391,991	$866,414	$105,199	4.0
2016	($287,552)	$391,991	$866,414	$105,199	4.0
2017	($287,552)	$391,991	$866,414	$105,199	4.0
2018	($287,552)	$3,739,767	$8,265,969	$1,003,647	4.0

Source: Legislative Budget Board.

ADULT AND JUVENILE CORRECTIONAL POPULATION PROJECTIONS, FISCAL YEARS 2013–2018

REPORT HIGHLIGHT

- This report provides long-term adult and juvenile population projections for incarceration and supervision populations, crime and arrest rates in Texas, and related findings from focus groups with adult and juvenile criminal justice practitioners and officials.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. It serves as a basis for biennial funding determinations.

This report provides adult and juvenile correctional population projections for fiscal years 2013 through 2018, which serve as a basis for biennial funding determinations for the Texas Department of Criminal Justice and Texas Juvenile Justice Department. Most projections utilize a discrete-event simulation modeling approach that simulates an individual's movement into, through, and out of a system based on such factors as offense type, sentence length, and time credited to current sentence. Most projections are based on historical data through fiscal year 2012. The report also includes findings from focus groups with practitioners and officials in various parts of the adult and juvenile criminal justice systems to obtain a more in-depth understanding of factors affecting adult and juvenile criminal justice populations.

The full text of this report is available in *Adult and Juvenile Correctional Population Projections, Fiscal Years 2013–2018* (Legislative Budget Board, January 2013).

TEXAS AT-RISK YOUTH SERVICES PROJECT: A SECOND LOOK

LBB RECOMMENDATIONS

1 Consolidate juvenile delinquency prevention and intervention funding at the Texas Juvenile Justice Department.

2 Add a rider to increase General Revenue Funds appropriated to CIS from the Texas Education Agency.

The introduced 2014–15 General Appropriations Bill includes an appropriation transfer implementing Recommendation 1 and a rider implementing Recommendation 2.

These recommendations would cost approximately $12.1 million in General Revenue Funds for the 2014–15 biennium. They would consolidate delinquency prevention and intervention services at TJJD and provide additional services to at-risk youth in the public education system.

The Texas At-Risk Youth Services Project (ARYSP) is a multi-interim research project directed by the Criminal Justice Data Analysis Team of the Legislative Budget Board. The current report is a targeted qualitative follow-up of significant issues explored in the *January 2011 Texas At-Risk Youth Services Project* report. The primary participating entities were Services to At-Risk Youth (STAR), Community Youth Development (CYD), and Communities in Schools (CIS) providers, juvenile probation departments and independent school districts in urban, suburban, and rural areas of Texas. The report's recommendations are based on the current and past research conducted for the January 2011 ARYSP report and the January 2009, 2011, and 2013 *Adult and Juvenile Correctional Population Projections* reports.

Recommendation 1 would transfer certain funding from the Department of Family and Protective Services (DFPS) to the Texas Juvenile Justice Department (TJJD) to consolidate delinquency prevention and intervention services with TJJD. Recommendation 2 would increase appropriations to Communities in Schools to serve additional at-risk youth in the public education system.

The full text of this report can be found in the *Texas At-Risk Youth Services Project: A Second Look* report (Legislative Budget Board, January 2013).

FIVE-YEAR FISCAL IMPACT, FISCAL YEARS 2014 TO 2018

FISCAL YEAR	PROBABLE SAVINGS/(COST) IN GENERAL REVENUE FUNDS
2014	($6,054,520)
2015	($6,054,520)
2016	$0
2017	$0
2018	$0

Source: Legislative Budget Board.

STATEWIDE CRIMINAL JUSTICE RECIDIVISM AND REVOCATION RATES, JANUARY 2013

REPORT HIGHLIGHTS

- This report provides an analysis of reincarceration and rearrest rates of offenders who were released from Texas prisons, state jails, Substance Abuse Felony Punishment Facilities (SAFPFs), the In-Prison Therapeutic Community (IPTC) Program, and Intermediate Sanction Facilities (ISFs).
- The report provides recidivism information for other areas of the adult and juvenile criminal justice system including: adult community supervision and parole, juvenile correctional institutions, and juvenile probation and parole.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. It provides data on the success and failure of offenders in the Texas criminal justice system.

This report summarizes recidivism data currently known about Texas criminal justice populations. Recidivism is defined as a return to criminal activity after previous criminal involvement. Indicators of subsequent criminal activity that are used to calculate recidivism rates include rearrest, probation or parole revocation, and recommitment to incarceration.

For this report, various adult and juvenile criminal justice populations were monitored for a three-year period. Any offender within these populations who was reincarcerated or rearrested at least once during the three-year follow-up period was considered a recidivist. In addition, community supervision and active parole supervision populations were monitored to determine the number of probationers and parolees who had their supervision revoked, and were subsequently sentenced to imprisonment or confinement.

The full text of this report is available in *Statewide Criminal Justice Recidivism and Revocation Rates* (Legislative Budget Board, January 2013).

CRIMINAL JUSTICE UNIFORM COST REPORT, FISCAL YEARS 2010–2012

REPORT HIGHLIGHT

- This report includes adult prison, adult parole supervision, adult probation supervision, juvenile state residential, and juvenile probation costs per day.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. It provides information regarding the cost of criminal justice in Texas.

This report summarizes uniform cost information for programs, services, and facilities operated or contracted by the Texas Department of Criminal Justice (TDCJ), the former Texas Youth Commission (TYC), the former Texas Juvenile Probation Commission (TJPC), and the Texas Juvenile Justice Department (TJJD). The report appendices detail the methodology used for data collection and cost per day calculations, provide an overview of each agency's operations and programs, and provide comparisons to other cost per day figures nationally.

The full text of this report is available in the *Criminal Justice Uniform Cost Report, Fiscal Years 2010–2012* (Legislative Budget Board, January 2013).

WINDHAM SCHOOL DISTRICT EVALUATION

REPORT HIGHLIGHT

- This evaluation of WSD describes the type of training services provided, the type of employment obtained upon release, whether employment was related to training received, the difference between earnings on the date employment is obtained and on the first anniversary of that date, and employment retention factors.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. It provides information regarding training services provided by WSD.

The Seventy-ninth Legislature, Regular Session, 2005, enacted House Bill 2837, which added Education Code, Section 19.0041, to mandate the evaluation of training services provided by the Windham School District (WSD) to offenders housed in Texas Department of Criminal Justice facilities. WSD is to consult with the Legislative Budget Board (LBB) regarding the evaluation and analysis of the training services, and the LBB is to report the findings to the legislature. This is the seventh report being released in compliance with this requirement. This document contains a summary of the report prepared by WSD as well as the full WSD report.

The full text of this report is available in *Windham School District Evaluation* (Legislative Budget Board, January 2013).

CORRECTIONAL MANAGED HEALTH CARE FOR STATE INCARCERATED ADULT OFFENDERS IN TEXAS

LBB RECOMMENDATIONS

1 For purposes of the introduced 2014–15 General Appropriations Bill, fund TDCJ's CMHC biennial appropriations at the fiscal years 2012 and 2013 base expenditure level of $902,325,413 in All Funds. Any funding adjustments would be decided through the legislative appropriations process.

2 Modify TDCJ Rider 55, Correctional Managed Health Care, to clarify that TDCJ may enter into a contract with any entity to provide CMHC services.

3 Modify TDCJ Rider 55, Correctional Managed Health Care, to clarify into which TDCJ funding strategy and in what estimated amounts the statutorily authorized inmate health care fees are appropriated.

4 Modify TDCJ Rider 55, Correctional Managed Health Care, to eliminate a specific bed utilization requirement at Hospital Galveston.

5 For transparency purposes, modify TDCJ Rider 55, Correctional Managed Health Care, to indicate that CMHC-related appropriations are made in other Articles of the General Appropriations Act and not exclusively in TDCJ's budget.

Recommendations 1, 2, 3, 4, and 5 are included in the introduced 2014–15 General Appropriations Bill. Recommendations 2, 3, 4, and 5 are to be implemented through rider revisions.

Recommendations 2, 3, 4, and 5 would modify the current Texas Department of Criminal Justice (TDCJ) Correctional Managed Health Care (CMHC) rider for various purposes as specified in each recommendation.

TDCJ is responsible for the security and safety of approximately 152,000 adult offenders incarcerated in 111 different correctional facilities statewide. A vital segment of those daily responsibilities includes the provision and management of health care to state incarcerated offenders. TDCJ ensures the delivery of health care services through a model typically referred to as "correctional managed health care (CMHC)". The Eighty-second Legislature, 2011, reduced TDCJ's 2012–13 biennial appropriations for CMHC by 12 percent compared to the 2010–11 biennial spending level. Various statutory changes affecting CMHC were also made, one of which was transferring the authority to contract for offender health services from the Correctional Managed Health Care Committee to TDCJ. The Legislature also established new CMHC requirements and limitations within the General Appropriations Act (GAA) related to correctional unit staffing models and to inpatient and outpatient reimbursement rates. Additional GAA rider revisions are recommended to maximize the efficiency and effectiveness of the CMHC system.

The full text of this report may be found in the *Correctional Managed Health Care for State Incarcerated Adult Offenders in Texas* report (Legislative Budget Board, January 2013).

FINANCING THE JUDICIARY IN TEXAS, LEGISLATIVE PRIMER – THIRD EDITION

REPORT HIGHLIGHTS

- The Eighty-second Legislature provided a total of $643.1 million to support the Judiciary for the 2012–13 biennium.
- This amount represents 0.4 percent of all state appropriations.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. It provides reference information on state funding for the judiciary in the current biennium and the state's court structure.

This report describes the state's court system and reviews the different state funding and revenue sources for each area of the Judiciary, including district and appellate courts, prosecutors, juror pay, basic civil legal services, indigent defense and the judicial agencies. References to appropriated funds are based on the 2012–13 General Appropriation Act for the biennium. This report also:

- reviews court costs and fees the judiciary is authorized to impose and how much revenue is generated from collection of these costs and fees;
- provides interstate comparisons of judicial salaries in the 10 most populous states; and
- reports district and appellate court clearance rates and performance data for the Supreme Court of Texas and Court of Criminal Appeals.

The full text of this report can be found in *Financing the Judiciary in Texas, Legislative Primer – Fourth Edition* (Legislative Budget Board, 2013).

FUND THE STATE WATER PLAN TO ENSURE ADEQUATE FUTURE WATER SUPPLIES

LBB RECOMMENDATIONS

1 Amend statute to establish a dedicated fund for the deposit of money to be used in financing SWP projects.

2 Fund the SWP. Revenue would come from one or a combination of these options:

- **Option 1:** Amend statute to allocate one-half of revenue generated from the miscellaneous gross receipts tax that would have otherwise been deposited to the General Revenue Fund.
- **Option 2:** Amend statute to implement a statewide water usage fee on water sold by community water suppliers.
- **Option 3:** Amend statute to codify and increase the Public Health Service Fee.
- **Option 4:** Amend statute to repeal the sales tax exemption for bottled water.

3 Include a contingency rider to appropriate revenue estimated to be collected from the option selected in Recommendation 2 to TWDB to fund SWP projects.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of these recommendations. Recommendations 1 and 2 require statutory changes and Recommendation 5 would require a rider.

These recommendations would result in a gain of between $147 million to $304 million in Other Funds for the 2014–15 biennium, depending on the option selected, and would be used to provide assistance for SWP projects.

The State Water Plan (SWP) was developed by 16 designated regional planning groups in conjunction with the Texas Water Development Board (TWDB). The plan contains 562 water management strategies whose purpose is to ensure adequate water supplies for Texas during a drought. Proposed water management strategies include the construction of new reservoirs, water reuse facilities, and increased water conservation.

A significant increase in water supply is needed to sustain Texas' economy and population during a severe drought. According to SWP estimates, the projected cost to address future water supply shortages from 2012 to 2060 is $53.1 billion. The state share requested by planning groups is $26.9 billion. Given a projected 82 percent state population increase by 2060, an aging water supply infrastructure, and recent experiences with drought conditions, additional state funding for SWP initiatives is warranted. **Figures 1** through **4** show the fiscal impact of options the Legislature could use to fund the SWP.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 305.

FIGURE 1
FIVE-YEAR FISCAL IMPACT OF RECOMMENDATION 2, OPTION 1, FISCAL YEARS 2014 TO 2018

FISCAL YEAR	PROBABLE SAVINGS/(COST) IN GENERAL REVENUE FUNDS	PROBABLE REVENUE GAIN/(LOSS) IN OTHER FUNDS
2014	($149,958,305)	$149,958,305
2015	($151,457,889)	$151,457,889
2016	($152,972,467)	$152,972,467
2017	($154,502,192)	$154,502,192
2018	($156,047,214)	$156,047,214

Source: Legislative Budget Board.

FIGURE 2
FIVE-YEAR FISCAL IMPACT OF RECOMMENDATION 2, OPTION 2, FISCAL YEARS 2014 TO 2018

FISCAL YEAR	PROBABLE REVENUE GAIN/(LOSS) IN OTHER FUNDS
2014	$151,952,381
2015	$152,104,333
2016	$152,256,438
2017	$152,408,694
2018	$152,561,103

Sources: Legislative Budget Board; Texas Water Development Board.

FIGURE 3
FIVE-YEAR FISCAL IMPACT OF RECOMMENDATION 2, OPTION 3, FISCAL YEARS 2014 TO 2018

FISCAL YEAR	PROBABLE REVENUE GAIN/(LOSS) IN GENERAL REVENUE–DEDICATED ACCOUNT 0153	PROBABLE REVENUE GAIN/(LOSS) IN OTHER FUNDS
2014	$0	$115,893,983
2015	$0	$117,052,923
2016	$0	$118,223,452
2017	$0	$119,405,687
2018	$0	$120,599,743

SOURCES: Legislative Budget Board; Texas Commission on Environmental Quality.

FIGURE 4
FIVE-YEAR FISCAL IMPACT OF RECOMMENDATION 2, OPTION 4, FISCAL YEARS 2014 TO 2018

FISCAL YEAR	PROBABLE REVENUE GAIN/(LOSS) IN OTHER FUNDS	PROBABLE REVENUE GAIN/(LOSS) TO LOCAL GOVERNMENT
2014	$73,000,000	$21,000,000
2015	$73,730,000	$21,210,000
2016	$74,467,300	$21,422,100
2017	$75,211,973	$21,636,321
2018	$75,964,093	$22,852,684

SOURCES: Legislative Budget Board; Texas Water Development Board.

ENHANCE STATE PARTICIPATION IN MUNICIPAL WATER CONSERVATION

LBB RECOMMENDATIONS

1 Increase appropriations to TWDB by $6 million in GR for the Water IQ program.

2 Amend statute to require the Texas Water Conservation Advisory Council to include recommendations for water conservation improvements in their biennial report.

3 Increase appropriations to TWDB by $0.7 million in GR. Include a rider to direct the use of these funds for improvements in data management for utility conservation implementation.

4 Amend statute to require utilities to audit the water lost in their systems on an annual basis.

5 Amend statute to authorize TWDB to require state financing recipients to address their system water loss.

6 Amend statute to require the implementation of drought contingency plans upon the issuance of an Emergency Disaster Proclamation by the Governor.

7 Amend statute to require TWDB to consider the timely implementation of drought contingency plans by financial applicants.

8 Increase appropriations to TWDB by $3.7 million in GR. Include a rider to use these funds for the Innovative Water Technologies grants program.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of these recommendations. Recommendation 1 would require an appropriation. Recommendations 3 and 8 require a rider and Recommendations 2, 4, 5, 6, and 7 require statutory changes.

The recommendations would cost $10.4 million in General Revenue (GR) Funds for the 2014–15 biennium and increase the level of municipal water conservation in the state, enhancing the management of water as a finite resource and contributing to a reduction in the $231 billion cost of the State Water Plan.

From 2010 to 2060, the Texas Water Development Board (TWDB) projects statewide water demand to increase by 22 percent, while supplies are projected to decrease 10 percent. This leaves an estimated need of 8.3 million acre-feet of water to meet future demands. Municipal water systems are projected to account for one of the greatest percent increases in demand during this time. Water conservation is the most cost efficient method to enhance water supplies. Increasing the level of water conservation achieved would reduce the cost of meeting State Water Plan goals.

The state's involvement with the regulation and funding of water conservation initiatives varies; most of the responsibility resides with local governments. Local governments have significant latitude in their water management decision-making, which gives them flexibility in how they manage this resource. This flexibility can, however, lead to regional disparities in the use and value of water. The state can have greater influence than it currently does in encouraging more effective water conservation and management policy.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 320.

FIVE-YEAR FISCAL IMPACT OF RECOMMENDATIONS 1, 3 AND 8, FISCAL YEARS 2014 TO 2018

FISCAL YEAR	PROBABLE SAVINGS/(COST) IN GENERAL REVENUE FUNDS	PROBABLE ADDITION/ (REDUCTION) OF FULL-TIME-EQUIVALENTS
2014	($5,239,914)	8.75
2015	($5,158,974)	8.75
2016	($5,158,974)	8.75
2017	($4,956,974)	5.50
2018	($4,956,974)	5.50

SOURCES: Legislative Budget Board; Texas Water Development Board.

IMPROVE UTILITY REPORTING TO ENSURE STATE ENTITIES ARE EFFECTIVELY MANAGING WATER USE

LBB RECOMMENDATION

1 Amend statute to codify certain provisions of the 2005 Executive Order relating to state agency energy savings program reporting requirements. SECO would be required to submit a biennial report to the Legislature on the status and effectiveness of utility management and conservation efforts.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this recommendation. Recommendation 1 requires a statutory change.

This recommendation would not have a fiscal impact for the 2014–15 biennium. This recommendation would improve the quality of utility reporting by state entities and the ability to gauge the effectiveness of current conservation measures, and would identify opportunities for future enhancements.

All state entities are required to prepare reports related to utility conservation and management. Not all utility reporting requirements for state entities include water use and conservation as required elements, as shown in Figure 1. According to the State Energy Conservation Office (SECO), a division of the Comptroller of Public Accounts, the number of resource efficiency planning reports, required by the Texas Government Code, significantly declined after Executive Order RP49 was issued. An examination of RP49 submissions from 24 separate agencies indicates that approximately half do not report on their water usage or water conservation efforts. Additionally, the quality of reporting by agencies as required by the order varies greatly. This lack of reporting inhibits the ability of the state to gauge the effectiveness of current conservation measures. Also, entities may be unaware of opportunities available to enhance their utility conservation.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 333.

FIGURE 1
ENERGY SAVINGS PROGRAM AND RESOURCE EFFICIENCY PLANNING AND REPORTING REQUIREMENTS, FISCAL YEAR 2012

REPORT NAME	AUTHORIZATION	RECIPIENT	FREQUENCY	WATER	ELECTRICITY	GASOLINE, NATURAL GAS	CONSERVATION GOAL
Energy Savings Program	Executive Order RP49	Office of the Governor, Legislative Budget Board and posted on the Internet.	Quarterly	No	Yes	Yes	Yes
Resource Efficiency Plan	Texas Government Code, 447.009	State Energy Conservation Office**	Semi-annual* (Status Report)	Yes	Yes	No	No

*Statute lists reporting frequency as biennial, whereas Texas Administrative Code states semi-annual.
**Shall also be included in the five-year construction and major repair and rehabilitation plans for institutions of higher education..
Source: Legislative Budget Board

CLOSE LOOPHOLES RELATED TO THE RENEWAL OF MOTOR VEHICLE REGISTRATION AND INSPECTION

LBB RECOMMENDATIONS

1 Amend statute to require persons with a valid reason for renewing vehicle registration late to sign an affidavit as legal verification.

2 Amend statute to consistently apply the current delinquency penalty to all late motor vehicle registration renewals without a valid reason.

3 Amend statute to restructure the current delinquency penalty for late motor vehicle registrations so it increases each month a registration is renewed late.

4 Amend statute to require that a motor vehicle has passed a safety inspection as a prerequisite for motor vehicle registration renewal.

5 Amend statute to restructure the motor vehicle inspection fee so it increases each month renewal is late and prorate the expiration data of late inspection renewals so it remains the same as the original date of expiration.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of these recommendations. These recommendations require statutory changes.

These recommendations would result in a revenue gain associated with increased compliance with registration and inspection renewals requirements and penalties; however the fiscal impact cannot be determined at this time. These recommendations would discourage late vehicle registration and inspection renewals and close loopholes by strengthening the state's enforcement of current law.

Most passenger vehicles are required to renew their registration and inspection annually. Revenue from registration and inspections is used to fund roadways and pollution reduction efforts and information collected from these renewals is used by law enforcement. Inconsistencies and gaps in statute regarding the enforcement of registration and inspection renewals have resulted in loopholes that disincentivize vehicle owners from complying with current law.

Statute allows late vehicle registration for certain, valid reasons. However, there is no statewide policy requiring documentation to demonstrate the existence of a valid reason and county tax assessor collectors are dependent upon the word of the vehicle owner that a valid reason exists.

Penalties for late registrations are applied inconsistently. If a person has been cited or arrested for driving with an expired registration they pay a delinquency penalty when renewing their registration. If a person has not been cited or arrested, no penalty is applied. When determining whether a delinquency penalty should be applied, county tax assessor collectors must rely on the person renewing registration to inform them of a citation. The amount of the penalty applied is the same regardless of how many months late a registration renewal is, reducing the incentive to renew registration once it has expired.

There is no penalty for expired inspections, other than a fine if an officer issues a related citation. Vehicles in some counties are required to undergo an emissions inspection and all Texas vehicles are required to undergo a safety inspection. However, if a vehicle fails a safety inspection, DMV is notified only if the vehicle is registered in a county that requires an emissions inspection. This is because an inspection sticker is not provided in these counties unless a vehicle has passed both a safety and emissions inspection, and proof of passing emissions inspection is required before a vehicle's registration can be renewed. As a result, the requirement for vehicles to annually pass a safety inspection is irregularly enforced.

These factors reduce law enforcement's ability to use vehicle data when making traffic stops, increase the risk that unsafe or high-polluting vehicles operate on Texas roadways, reduce the state's ability to enforce current registration and inspection renewal requirements, and result in lost revenue when delinquent drivers use Texas roads without paying fees associated with the cost of driving.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 341.

EVALUATE THE BENEFITS OF AND LIMIT STATE HIGHWAY FUNDS FOR TRAVEL INFORMATION CENTER OPERATIONS

LBB RECOMMENDATIONS

1 Include a rider directing TxDOT to work with the Office of the Governor, Economic Development & Tourism Division, to develop a methodology to determine the economic and safety impact of TIC activities.

2 Adopt an alternative method of funding for TIC operations from one of the following options: use a portion of revenue derived from the hotel occupancy tax; set rates for commercial advertising and charges for other services available at centers; authorize local governments, rather than TxDOT, to operate the centers; or authorize a private entity, rather than TxDOT, to operate the centers.

3 Include a contingency rider replacing appropriations and full-time-equivalent positions for TIC operations in TxDOTs bill pattern, as appropriate, based on the alternative option chosen to fund TIC operations.

The introduced 2014–15 General Appropriations Bill includes a rider implementing Recommendation 1. Recommendation 2 requires statutory change, and Recommendation 3 requires a contingency rider.

These recommendations would save between $3.5 million and $7.0 million in State Highway Funds for the 2014–15 biennium; the savings and any costs to other methods of finance would depend on the option chosen to fund travel information center operations. The recommendations would result in increased transparency regarding the cost effectiveness of travel information centers and shift costs for travel information center operations to an alternative revenue source more closely aligned with tourism promotion.

The Texas Department of Transportation (TxDOT) operates 12 travel information centers (TICs). Each TIC has professional travel counselors who provide assistance to travelers. Most have additional services that provide travelers a convenient place to stop and rest.

Travel to and within Texas generates state and local taxes and supports travel-related jobs. According to TxDOT, TICs help promote travel and tourism in the state. Despite the statewide benefits attributed to TICs, no comprehensive study quantifying the tax or safety benefits resulting from the centers has been done and data is not available to determine the cost effectiveness of operating TICs. The number of travelers using travel services at TICs fluctuates and has declined since 2007. The centers served approximately 1.0 percent of the state's 208.3 million domestic tourists in 2011. The estimated amount of State Highway Fund revenues generated by TICs is less than what is needed to maintain and operate the centers. While the centers are considered part of the state's overall tourism efforts, no sources of state funding dedicated to tourism contribute to their maintenance or operations.

TICs are funded entirely from the State Highway Fund. Increases in the state's population, economy, vehicle miles traveled, and cost of road construction materials have reduced the ability of the State Highway Fund to pay for the state's transportation needs. Shifting costs for TIC operations to an alternative revenue source would increase the amount of revenue available to TxDOT for transportation projects.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 348.

OVERVIEW OF TEXAS SEAPORTS

LBB FACTS AND FINDINGS

- Texas is ranked second in U.S. waterborne commerce; the state's seaports handle approximately 500 million tons of foreign and domestic cargo annually. Cargo going through Texas seaports accounts for 19 percent of all U.S. port tonnage.
- Economic activities at Texas seaports account for 17 percent of the gross state product. Their activities generate approximately $5 billion in local and state tax revenues, 1 million jobs, and $48 billion in personal income.
- Public seaports are governed by port authorities, which have been individually established in statute. As a result, there are a variety of seaport operating structures and relationships between local and state governments and port authorities.
- Texas' public seaports are primarily funded from operating and usage fees, local tax revenues, and bond revenues. Some sources of federal and state funding may be used for channel maintenance, security, environmental, and transportation projects.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. It provides an overview of port operations and the role of Texas' ports in our state and country's economies.

Texas has almost 1,000 miles of shipping channels that serve 11 deep draft public seaports, more than 9 shallow draft public seaports, and numerous private seaport facilities. These seaports are points of convergence for the state's water and surface transportation systems. Public seaports in Texas are overseen by port authorities, which are quasi-governmental entities with taxing and bonding authority. Typically, there is little state involvement in port operations.

Texas is rarely thought of as a maritime state; however, ports are a significant part of the state's transportation system and economy. Many Texas ports are ranked in the top 10 of all U.S. ports for vessel calls as well as tonnage. In 2010, $206.6 billion of product was exported via Texas ports. This contributed to Texas' ranking as the number one state in the country for exports.

This report focuses on the operations and economic importance of the state's public seaports. It provides information such as the governance structure of public seaport authorities; the sources of revenue and operating expenses for seaports; and the areas served by, major trading partners of, and primary cargos handled by the state's public seaports.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 358.

BETTER INTEGRATE SEAPORT CONNECTIVITY WITH THE STATE'S TRANSPORTATION PLANNING PROCESSES

LBB RECOMMENDATIONS

1 Amend statute to require projects relating to seaport access to be considered in the Statewide Transportation Improvement Program.

2 Amend statute to require the CIP to be distributed to GLO, TCEQ, and DPS.

3 Amend statute to remove the requirement for the Port Authority Advisory Committee to approve or disapprove CIP projects. Reformat the CIP so it is linked to the state's established transportation goals and covers a minimum period of five years.

4 Amend statute to require the Port Authority Advisory Committee and TxDOT to establish performance measurements for seaports.

5 Amend statute to expand Port Authority Advisory Committee membership to include TxDOT staff.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of these recommendations. These recommendations require statutory changes.

These recommendations would not have a fiscal impact for the 2014–15 biennium. The recommendations would ensure the state has information necessary to adequately plan for the impacts of changing seaport usage on the state's surface transportation system and help prevent congestion for freight traffic traveling to and from seaports.

The Texas Department of Transportation (TxDOT) estimates more than 766 million tons of trade will move through Texas waterways by 2030, almost double what the state experienced in 2008. As a result, the amount of freight traveling on the state's highway and rail systems will also increase. As usage of Texas' seaports increases, the state needs to be able to plan and prepare for the impacts of this growth on our transportation system. However, differences in seaport planning processes and the state's transportation planning process make this difficult.

TxDOT and metropolitan planning authorities have planning documents that include projects for a period of 20 or more years. For a surface transportation project to receive federal funds it must be included in the Statewide Transportation Improvement Program, which is approved by the U.S. Department of Transportation every four years. No requirements exist for individual ports in Texas to create strategic or capital plans and many of the state's public ports do not have either of these plans.

The Texas Port Authority Advisory Committee is statutorily required to prepare a biennial Port Capital Improvement Program (CIP). This has not been an effective tool for planning and prioritization of transportation projects. The only funding source considered in the CIP is the Port Access Account Fund, which has never been capitalized. The CIP includes projects that may be eligible for funding sources overseen by state agencies other than TxDOT. However, it is not provided to agencies such as the General Land Office (GLO), Texas Commission on Environmental Quality (TCEQ), and Department of Public Safety (DPS) that may be able to provide grant funding for CIP projects. Statute requires the committee to approve or disapprove projects in the CIP; however, all projects submitted are included. In the 2011–12 CIP, 16 ports submitted projects but only 7 port representatives serve on the committee. As a result, there is a conflict of interest for committee members to approve or disapprove projects. Information included in the CIP about individual ports is not consistently reported and does not allow for comparisons to be made across ports.

Addressing differences in TxDOT and seaport planning processes will allow the state to better align its transportation projects to needs resulting from increased freight traffic.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 372.

TEXAS HIGHWAY FUNDING, LEGISLATIVE PRIMER

LBB FACTS AND FINDINGS

- TxDOT maintains almost 80,000 centerline miles of roadway, which comprises approximately 28 percent of the roads in the state. Almost 74 percent of annual vehicle miles traveled in the state occur on TxDOT maintained roads.
- During the 2012–13 biennium, appropriations for highway construction and maintenance accounted for 11.4 percent of the state's All Funds budget.
- Traditional methods of financing for highway construction and maintenance include revenues from state motor fuel taxes, oversize/overweight permits, motor vehicle sales and use tax, and motor vehicle registration fees.
- New financing methods that have been used for highway construction and maintenance in Texas include the use of bond proceeds and comprehensive development agreements.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. There are no recommendations in this report.

This report would have no fiscal impact for the 2014–15 biennium. The report provides an overview of sources of revenue deposited to the State Highway Fund and Texas Mobility Fund and expenditures from these funds for road maintenance and construction in Texas.

Texas has traditionally used a pay-as-you-go financing system in which roads are built as funding becomes available. Funding for the pay-as-you-go system in Texas is generated from user fees (primarily motor fuels tax revenues and registration fees) and Federal Funds. However, as the cost of constructing and maintaining transportation corridors has increased, Texas has added additional financing mechanisms to pay for roads. These include the authority to issue debt and limited use of public-private partnerships.

This report provides an overview of the funding sources used by the Texas Department of Transportation (TxDOT) to construct and maintain highways. Additionally, the constitutional and statutory requirements and historical expenditures and trends of these revenue sources are discussed. The majority of revenue sources for highway construction and maintenance are deposited into either the State Highway Fund or the Texas Mobility Fund.

The full text of this report can be found in *Texas Highway Funding, Legislative Primer* (Legislative Budget Board, January 2013).

AMEND SUPERVISORY REQUIREMENTS OF DELEGATED PRESCRIPTIVE AUTHORITY

LBB RECOMMENDATIONS

1 Amend statute to eliminate the chart audit, on-site requirements, and distance limitations for physicians delegating prescriptive authority at alternate sites and sites serving medically underserved populations and add a requirement that physicians delegating at those sites establish written oversight protocols.

2 Amend statute to remove the limit on delegation in any area designated as a primary care health professional shortage area.

3 Amend statute to authorize APNs and PAs to prescribe Schedule II Controlled Substances with physician supervision.

4 Amend statute to provide a grace period during which a PA or APN would be authorized to continue prescribing if their delegating physician were to become incapacitated.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of these recommendations. These recommendations require statutory changes.

These recommendations would have no fiscal impact but could result in administrative cost savings for healthcare provider offices and help maintain a primary care workforce in areas of the state with provider shortages.

Texas is experiencing a current and projected shortage of primary care physicians. Approximately 5.4 million people live in one of the state's 353 federally designated health professional shortage areas. In the past decade, however, the supply of Physician Assistants (PAs) and Advanced Practice Nurses (APNs) has increased. These mid-level providers are being educated and coming into the workforce at greater rates than primary care physicians.

APNs and PAs are educated and trained according to national standards to provide basic levels of healthcare within defined scopes of practice. In Texas, their ability to diagnose and prescribe is delegated by a physician. A physician's supervisory responsibility varies depending on the type of practice site. Some practice sites limit the number of providers to whom a physician may delegate authority, some require the physician to be on-site according to a certain schedule, and some require physicians to audit a certain number of each delegated provider's charts. Neither the physician's compliance with on-site requirements nor the results of the chart audits are reported to or monitored by the Texas Medical Board or the Texas Board of Nursing. In addition, multiple studies have found that states requiring more physician oversight of PAs and APNs do not have lower rates of malpractice or medication errors than other states.

Texas is one of 15 states that prohibit PAs, and one of nine that prohibit APNs, from prescribing Schedule II Controlled Substances, even when it is within their scope of practice to do so. In addition, under current law, if a delegating physician were to retire or become incapacitated, any mid-level provider to whom they have delegated authority would no longer have valid prescriptive authority in the state.

Amending statute to simplify these regulations would allow physicians to hire and supervise mid-level providers according to the needs of their practice and the experience of the provider. It would not result in independent practice for these practitioners but would help develop the primary care workforce in rural and shortage areas of the state.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 379.

MAXIMIZE THE USE OF DENTAL HYGIENISTS TO INCREASE MEDICAID-ELIGIBLE CHILDREN'S ACCESS TO PREVENTIVE DENTAL CARE

LBB RECOMMENDATION

1 Amend statute to include pre-schools, K–12 schools, and Head Start programs in the list of facilities exempted from the requirement that a supervising dentist must examine a patient within the preceding 12 months.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this recommendation. This recommendation requires a statutory change.

This recommendation would not have a fiscal impact for the 2014–15 biennium. It could result in increased access to preventive dental care.

Texas has made great progress in ensuring access to dental care for many Medicaid-eligible children. However, access to dental care continues to be an issue for many of these children. In fiscal year 2010, 1.4 million children eligible to receive dental services under the Texas Health Steps program did not receive any dental care. Lack of dental access disproportionately affects children living in rural and border areas of Texas as they are less likely to find dentists and dentists willing to accept Medicaid insurance.

As a way to increase access to dental care for children and other underserved populations, several states allow dental hygienists to provide services in community-based settings with varying degrees of supervision. These settings typically include schools, Head Start programs, and healthcare facilities.

In Texas, dental hygienists are allowed to perform delegated services at dental offices and other settings as long as the supervising dentist examines the patient first either at the time the service is provided or in the previous 12 months. Under current statute, dental hygienists can perform delegated services without complying with this requirement as long as these services are performed in nursing homes, school-based or community health centers.

Given that many Texas children still lack access to dental care, allowing dental hygienists to perform authorized procedures in schools and Head Start programs would create an additional point of entry into the healthcare system and allow more children to receive basic dental screenings. Dental hygienists would provide the same services at these locations without making any changes to the level of supervision required.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 384.

STRENGTHEN THE BOARD OF PROFESSIONAL GEOSCIENTISTS' ABILITY TO INVESTIGATE VIOLATIONS

LBB RECOMMENDATIONS

1 Amend statute to require TBPG to maintain information on its website about filing a complaint and provide an option for electronic submission of a formal complaint.

2 Amend statute to clarify TBPG should accept a complaint whether or not it is notarized.

3 Amend statute to require an agency aware of a potential violation by a geoscientist to forward the information to TBPG.

4 Amend statute to require TBPG to work with state agencies to train employees on the complaint process.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of these recommendations. These recommendations require statutory changes.

These recommendations would simplify the process for filing a complaint with TBPG, clarify statutory requirements for filing a complaint, and increase awareness of when and how to file a complaint. As a result, TBPG's ability to enforce the Texas Geoscience Practice Act and investigate complaints would be strengthened.

The Board of Professional Geoscientists (TBPG) was established in 2001 and is charged with enforcing the Texas Geoscience Practice Act. TBPG licenses professional geoscientists performing work for the public and investigates complaints against professional geoscientists. Work completed by licensed geoscientists directly impacts the public when involves the building of roadways, groundwater planning, or the cleanup of abandoned spill sites. A geoscientist's error could, for example, result in the collapse of a bridge if the soil and rock it is built on is deemed unstable.

The procedure for filing a complaint against a professional geoscientist is more difficult than procedures required for other regulatory agencies. The process for submitting a complaint is not clearly described on TBPG's website and the complaint form requires unnecessary steps, such as the signature and seal of a notary public.

Geoscientific activities sometimes overlap with activities conducted by state agencies other than TBPG. As a result, certain state agencies are in a position to observe possible violations of the Texas Geoscience Practice Act. At least one such agency has developed an internal process to resolve potential complaints against a licensed geoscientist without involving TBPG. When this occurs, TBPG's ability to effectively enforce the Texas Geoscience Practice Act is diminished.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 390.

REDUCE THE NUMBER OF UNINSURED DRIVERS BY ESTABLISHING A LOW-INCOME AUTOMOBILE INSURANCE PROGRAM

LBB RECOMMENDATIONS

1 Amend statute to require TDI to establish a low-income automobile insurance program.

2 Include a contingency rider appropriating $1 million per fiscal year to TDI for the program.

3 Include a contingency rider directing TDI to report quarterly on measures regarding the program.

4 Include a contingency rider requiring TDI and other agencies with programs assisting low-income Texans to inform drivers of the program.

5 Amend statute to require automobile insurance companies to inform prospective policyholders of the program.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of these recommendations. Recommendations 1 and 5 require statutory changes and Recommendations 2, 3, and 4 require contingency riders.

These recommendations would not have a net fiscal impact for the 2014–15 biennium. The recommendations would provide an affordable option for low-income Texans to purchase minimum liability insurance and help reduce the number of uninsured drivers in the state.

Texas statute requires drivers to be financially responsible for collisions they cause. This law is typically complied with by maintaining minimum liability insurance that covers $30,000 for each injured person (up to $60,000 per accident) and $25,000 for property damage per accident. The number of uninsured drivers in Texas is unknown; estimates range from 13 percent to 15 percent. In May 2012, the Texas Department of Insurance (TDI) estimated 2.6 million vehicles in Texas were uninsured.

Data show a relationship between vehicles identified as uninsured by TDI, poverty rates, and median income. Nearly 60 percent of registered vehicles without an insurance policy were located in counties with higher than average poverty rates. For every 10 percent decrease in county median income, the number of registered vehicles without insurance increased more than 13 percent. Additional data show that a higher proportion of persons in geographic areas with less access to automobile insurance have been convicted of driving without insurance. Approximately 38 percent of Texans subject to the Driver Responsibility Program for driving without insurance lived in the less than 3 percent of zip codes categorized as underserved areas for personal automobile insurance.

Accidents caused by uninsured drivers contribute to the cost of uncompensated trauma care. The state appropriated $133 million to offset some of this cost in the 2012–13 biennium. Uninsured drivers also increase the cost of purchasing motor vehicle insurance in Texas. TDI estimates Texans paid more than $1 billion in 2010 for uninsured motorist coverage.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 395.

FIGURE 1
FIVE-YEAR FISCAL IMPACT, FISCAL YEARS 2014 TO 2018

FISCAL YEAR	PROBABLE SAVINGS/(COST) IN GENERAL REVENUE FUNDS INSURANCE MAINTENANCE TAX AND INSURANCE DEPARTMENT FEES	PROBABLE REVENUE GAIN/(LOSS) IN GENERAL REVENUE FUNDS INSURANCE MAINTENANCE TAX AND INSURANCE DEPARTMENT FEES	PROBABLE ADDITION/ (REDUCTION) OF FULL-TIME-EQUIVALENT POSITIONS
2014	($1,000,000)	$1,000,000	1
2015	($1,000,000)	$1,000,000	1
2016	($500,000)	$500,000	1
2017	($500,000)	$500,000	1
2018	($500,000)	$500,000	1

Source: Legislative Budget Board.

LIMIT STATE FINANCIAL LIABILITY AND INCREASE DEBT SERVICE TRANSPARENCY FOR TUITION REVENUE BONDS

LBB RECOMMENDATIONS

1 Amend statute to limit TRB authorizations by capping annual debt service reimbursements as a certain percentage of the three-year average of unrestricted General Revenue Funds. The recommended limit is 1.25 percent.

2 Include a rider to require the Bond Review Board to submit its Final Transaction Reports and Semi-Annual Issuer Reports for public institutions of higher education to the Legislative Budget Board, including separate debt outstanding and debt service schedules for TRBs.

3 Amend the Special Provisions Relating Only to Higher Education rider on TRB expenditures to require public institutions of higher education to lapse any funds that exceed the regularly scheduled principal and interest payment on TRB debt service each fiscal year.

The introduced 2014–15 General Appropriations Bill includes riders implementing Recommendations 2 and 3. Recommendation 1 requires a statutory change.

These recommendations would not have a fiscal impact for the 2014–15 biennium. They examine ways to limit the state's liability for and increase the transparency of debt service.

Texas uses tuition revenue bonds (TRB) as a source of state-supported financing for capital projects at institutions of higher education. As of August 2012, there was $2.5 billion in debt outstanding for these bonds. The TRB program began in 1971 as a method to finance capital projects and comply with a constitutional restriction that prevents using General Revenue Funds to finance higher education projects.

Since the program's inception, the state has approved $4.7 billion in debt authority. Historically the Legislature has appropriated General Revenue Funds to reimburse institutions for the annual TRB debt service, including principal and interest. Each legislature that has approved a TRB bond authorization has set its own limit, rather than using an ongoing limit that could identify debt capacity from year to year. Establishing a statutory limit on TRB capacity would provide predictability to the Texas Legislature and the institutions for debt authorization.

Institutions of higher education issue both TRB and non-TRB revenue bonds for capital projects. Since most university systems may issue multiple projects with a mixture of TRB and non-TRB projects in a single issuance, TRB debt service is not readily transparent. In addition, for an unissued debt, universities may end up with excess debt service appropriations due to project delays or assumptions used when debt service is requested. Increasing debt service transparency and clarifying the requirements for lapsing excess debt service appropriations for unissued debt authority would allow the Legislature to maximize the use of limited General Revenue Funds.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 405.

MAXIMIZE THE CAPACITY OF NURSING EDUCATION PROGRAMS TO REDUCE THE SHORTAGE OF NURSES IN TEXAS

LBB RECOMMENDATIONS

1 Amend statute to include representatives from for profit, degree granting career colleges and schools on Higher Education Regional Councils.

2 Amend statute to include admissions and available scholarships to nursing education programs at public two-year and four-year institutions as part of Apply Texas, the statewide electronic common admission application form.

3 Amend statute to allow funds deposited in the Physician's Education Loan Repayment Program Account to be used to fund the THECB Graduate Nurses Education Loan Repayment Program.

4 Include a contingency rider to appropriate $1.1 million to THECB for the Graduate Nurses Education Loan Repayment Program.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of these recommendations. Recommendations 1, 2, and 3 require statutory changes, and Recommendation 4 requires a contingency rider.

These recommendations would have a cost of $1.1 million in General Revenue–Dedicated Funds for the 2014–15 biennium. The recommendations would enable programs to share limited resources, increase the pool of nursing faculty, and increase the capacity of nursing education programs to maximize nursing program enrollment and graduation rates.

Texas faces a shortage of nurses that is projected to worsen as baby boomers age and their demand for healthcare increases. The Texas Board of Nursing (BON) projects that Texas will need an additional 71,000 full-time-equivalent registered nurses by 2020. Since 2001, the Texas Legislature has passed legislation to address the nursing shortage. The legislation provided incentives for increasing enrollment and graduation rates in nursing programs, providing research on the nursing workforce, and funding additional efforts including programs to promote innovations in nursing education. Collectively, the programs related to these efforts were appropriated approximately $144 million in General Revenue Funds since fiscal year 2003.

From fiscal years 2006 to 2012, BON approved 39 new nursing programs at public, private, and career institutions. Despite these new programs, 41 percent of qualified applicants were denied admission due to space or faculty shortages. Faculty shortages in nursing programs are a major factor in determining enrollment capacity and increasing graduates. In a 2011 survey, 71 percent of nursing programs in Texas indicated that a limited qualified applicant pool was a major barrier to faculty recruitment. Increased regional coordination with all higher education sectors, a standardized online application for students, and financial incentives for nursing faculty would enable programs to share limited resources, increase the pool of nursing faculty, and increase the capacity of nursing education programs.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 411.

FIVE-YEAR FISCAL IMPACT, FISCAL YEARS 2014 TO 2018

FISCAL YEAR	PROBABLE SAVINGS/(COST) IN GENERAL REVENUE–DEDICATED FUNDS (5144)
2014	($546,000)
2015	($546,000)
2016	($1,092,000)
2017	($1,092,000)
2018	($2,184,0000)

DEVELOP A COMPREHENSIVE STRATEGIC PLAN FOR ADULT BASIC EDUCATION TO MEET STATE WORKFORCE AND EDUCATION GOALS

LBB RECOMMENDATION

1 Include a rider requiring the Texas Education Agency, in consultation with the Texas Workforce Investment Council, to develop and implement a comprehensive statewide strategic plan for adult basic education.

The introduced 2014–15 General Appropriations Bill includes a rider implementing Recommendation 1.

This recommendation would not have a fiscal impact for the 2014–15 biennium. It would improve the effectiveness and efficiency of the state's adult education and literacy system by addressing current needs and challenges, and by targeting state workforce and education goals that could be advanced through adult basic education.

Over 100,000 Texans receive literacy services and General Education Diploma preparation from federal, state, and locally funded adult education programs. These programs help participants obtain meaningful employment and transition to post secondary education. The 2003 Texas Education Agency's state plan and the 2004 Texas Workforce Investment Council's Strategic Plan for improving adult basic education were both developed to address projected shortages in the state's skilled workforce. These plans emphasized increasing participation in adult basic education programs, and improving workplace literacy and employment outcomes, but neither included strategies to achieve state goals beyond the basic requirements for adult education in federal law.

Texas' population trends indicate that the need for adult education services will increase. Providing effective adult education services for the millions of Texans who need them, both today and in the future, is a challenge for Texas. For the state to remain competitive, it must develop comprehensive strategies for participants in adult education to address increasing educational and workforce demands, changing student needs, and new federal accountability standards. By developing a comprehensive strategic plan for adult education, the state would advance its education, economic, and workforce development goals.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 422.

OVERVIEW OF ONLINE DISTANCE EDUCATION AT TEXAS COMMUNITY COLLEGE DISTRICTS

This report would not have a fiscal impact for the 2014–15 biennium. It examines the implementation, delivery, and expansion of online distance education courses and programs at community college districts.

The use of distance education, particularly online learning, has increased in recent years. The Texas Higher Education Coordinating Board defines a distance education course as a course in which the majority of the instruction occurs when the students and the instructor are not in the same physical setting. In fall 2011, more than 528,000 students were enrolled in distance education programs at Texas public community colleges, and approximately 240,000 students were enrolled at Texas public universities. Although more students are enrolled in distance education at community colleges, universities are experiencing a higher enrollment growth rate. From fall 2006 to fall 2011, enrollment in distance education courses increased 87 percent at Texas public universities and 58 percent at community colleges.

According to national research, growth of online distance education programs is attributable to institutional efforts to expand access to more students, alleviate constraints on campus capacity, capitalize on emerging market opportunities, and compete with other schools. In July 2012, Legislative Budget Board staff surveyed all 50 Texas public community college districts about their experiences implementing, delivering, and expanding online distance education programs. The survey included questions regarding tuition and fees charged for online distance education courses; third-party contracts; and various program experiences. Staff compared the survey results to university survey data from a 2011 State Auditor's Office report on distance education at Texas' general academic institutions. The report findings are based on the 40 community college districts that provided complete survey information, representing a response rate of 80 percent.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 428.

LBB FACTS AND FINDINGS

- The differences between the development costs and available funding for new classroom-based courses and the modifications necessary for online courses can be significant. Of the 40 community college districts responding to the 2012 Legislative Budget Board survey, 18 (46 percent) charge higher tuition and fees for online courses than similar classroom-based courses.
- The range of online distance education fee types, fee amounts, and student fee exemptions vary widely across community college districts and universities. Of the 39 districts responding to the 2012 Legislative Budget Board survey, 72 percent reported a unique fee charged to online distance education students. Ten districts (26 percent) reported fee exemptions specifically for online distance education students compared to 24 universities that offer fee exemptions for those students.
- Districts and universities may have more capacity for students to enroll in online courses than the numbers of enrollees according to 36 percent of Legislative Budget Board survey respondents and 58 percent of State Auditor's Office survey respondents.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

IMPROVE ONLINE DISTANCE EDUCATION AT COMMUNITY COLLEGES BY USING COOPERATIVE CONTRACTS AND OPEN EDUCATION RESOURCES

LBB RECOMMENDATIONS

1 Include a rider directing DIR, in consultation with THECB, to consider if the state would benefit from preferred pricing and collaborative statewide contracts for recommended online distance education related products and services routinely purchased by Texas' universities and community college districts.

2 Include a rider directing the Texas Higher Education Coordinating Board, in consultation with the Virtual College of Texas, to study and recommend policies regarding the availability and use of open educational resources in Texas.

The introduced 2014–15 General Appropriations Bill includes riders implementing these recommendations.

These recommendations would not have a fiscal impact for the 2014–15 biennium. They would reduce online distance education costs at community college districts by increasing participation in statewide cooperative contract purchasing and expanding the use of free or reduced cost open educational resources.

For the past decade, the Texas Higher Education Coordinating Board (THECB) has identified online distance education as a long-term, cost-effective means for potentially reducing facility costs, and increasing educational access to achieve state goals. In July 2012, Legislative Budget Board (LBB) staff surveyed all 50 Texas public community college districts about their experiences implementing, delivering, and expanding online distance education programs. While 47 districts reported offering fully online distance education courses, LBB survey results indicate that ensuring the consistency of quality in online instruction, limited resources, and start up costs including technology products and support are often barriers to expanding these programs.

The state has not developed a statewide contract for public institutions of higher education to purchase on-line education products and services used by many districts. Students may be charged higher tuition and fees to cover those costs. A consolidated state contract would allow Texas to negotiate discounts based on the combined user volume and would help to reduce the cost of offering distance education.

Sixty-two percent of districts surveyed reported they did not use open educational resources and were not sure how to implement them. The state has not facilitated the sharing of open educational resources among public institutions of higher education. This contributes to institutions not using open educational resources and increases the cost to develop and offer on-line education. Given the expansion of online distance learning activities and the use of technology products and services, community college districts could reduce costs by increased participation in statewide cooperative contract purchasing and expanding the use of open education resources.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 438.

FINANCING HIGHER EDUCATION IN TEXAS, LEGISLATIVE PRIMER

REPORT HIGHLIGHTS

- The Eighty-second Legislature provided a total of $22.1 billion to support higher education for the 2012–13 biennium.
- Public institutions of higher education serve about 91 percent of the approximately 1.4 million students enrolled in higher education in Texas.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. It describes the structure of higher education financing in Texas.

Texas' system of public higher education consists of 38 general academic institutions, three Lamar State Colleges, 50 community colleges, one technical college system, and nine health-related institutions. In addition there are seven agencies that are components of the Texas A&M University System.

Funds flow to public institutions and agencies of higher education in a number of ways; direct appropriations through funding formulas, indirect appropriations to cover the costs related to staff benefits, and other sources like the Available University Fund and trusteed funds at the Texas Higher Education Coordinating Board.

The *Financing Higher Education In Texas, Legislative Primer* explains in detail all of these funding mechanisms for the general academic institutions, the health-related institutions, and the community colleges.

The full text of this report can be found in *Financing Higher Education in Texas, Legislative Primer* (Legislative Budget Board, January 2013).

LIMIT STATE FUNDING OF SCHOOL DISTRICT PARTICIPATION IN TAX INCREMENT REINVESTMENT ZONES

LBB RECOMMENDATIONS

1 Amend statute to eliminate the state supplement to ISDs participating in TIRZs for whom more than half of their contribution funds ISD facility development, and suspend the supplement for all other eligible school districts during the 2014–15 biennium. The statute requiring districts to contribute at the 2005 tax rate would also be modified.

2 Amend statute to prohibit ISDs that have not received the supplement as of calendar year 2012 from receiving the funding in the future.

3 Include a contingency rider to withhold funding for the TIRZ-related supplement for the 2014–15 biennium.

4 Amend statute to require CPA to review all relevant TIRZ documents and take any steps necessary to ensure that ISDs are receiving only the amount of TIRZ-related property value deductions specified by state statutes.

5 Amend statute to require CPA to inform all affected ISDs of state law provisions related to the TIRZ-related property value offset and supplemental funding.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result the recommendations. Recommendations 1, 2, 4, and 5 require statutory changes, and Recommendation 3 would require a contingency rider.

Recommendation 1, 2, and 3 would have a positive fiscal impact of $64.0 million in General Revenue Funds for the 2014–15 biennium. Recommendations 4 and 5 would reduce the likelihood of inaccurate property value deductions, and related state funding, associated with school district participation in TIRZs, and make districts better informed about state law provisions governing that participation.

Tax increment financing is an economic development tool that taxing entities use to fund infrastructure improvements in a designated area, a tax increment reinvestment zone (TIRZ). Debt service and/or ongoing project costs associated with the improvements are paid for with increasing property tax revenue, the tax increment, which is deposited into the tax increment fund. Once all debt service and project costs for the improvements are paid for, the TIRZ is dissolved and the full property value within the zone is available for taxation by the participating entities, such as cities and independent school districts (ISDs).

Certain school districts benefit from an offset, authorized by state law, which deducts the captured appraised value within a TIRZ from a district's total property value, and reduces maintenance and operations tax collections, such that districts receive more state funding or pay lower recapture amounts to the state. In fiscal year 2011, this offset benefitted 33 school districts at a cost of approximately $139.4 million in General Revenue Funds. In addition to the property value and tax rate offset, certain school districts also receive a supplement from the state related to the tax rate reduction legislation of 2006. In fiscal year 2011, 19 school districts received the supplement, at a cost of approximately $32.5 million in General Revenue Funds.

Certain school districts receiving the supplement participate in TIRZs in which more than half of the district's contribution is used to construct or renovate school district facilities. As a result, they receive an additional advantage tied to the property value deduction and state supplement that helps them develop school district facilities. In these cases, the supplement is unnecessary because most of the district's tax increment contribution goes toward their own facility construction or renovation.

The financial condition of certain other school districts receiving the supplement indicates they do not need the supplement for a two-year period. In part, this is due to the strong annual growth in their TIRZ's captured appraised value, which has helped them generate significant fund balances. All of the TIRZs in which these districts participate have fund balances that are sufficient to carry them through the 2014–15 biennium without the higher 2005 tax rate contribution. Consequently, the related supplement provided to these school districts is unnecessary during the next biennium. The supplement is an open-ended cost that state law does not adequately control.

The previously mentioned property value deduction is administered by the Comptroller of Public Accounts (CPA). The agency does not adequately monitor changes in the size or duration of TIRZs. As a result, CPA could potentially certify inaccurate TIRZ property value adjustments to the Texas Education Agency—which uses those certifications to determine state funding to school districts, or the amounts that should be recaptured from the districts.

Finally, a 2011 survey found that some school districts are uncertain whether changes to their TIRZs boundaries or duration will affect their Foundation School Program funding. This is partly because the state does not regularly notify school districts about state law governing the property value offset and supplemental funding related to TIRZs. Given the complex nature of state statutes governing school district participation in TIRZs, specific information should be provided to them so they can understand how their TIRZ participation impacts their state funding or recapture status.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report,* (Legislative Budget Board, January 2013) page 445.

FIGURE 1
FIVE–YEAR FISCAL IMPACT, FISCAL YEARS 2014 TO 2018

FISCAL YEAR	PROBABLE SAVINGS/(COST) IN GENERAL REVENUE FUNDS
2014	$32,000,000
2015	$32,000,000
2016	$17,700,000
2017	$17,700,000
2018	$17,700,000

Source: Legislative Budget Board.

OVERVIEW OF STATE FINANCIAL MONITORING SYSTEMS IN TEXAS PUBLIC SCHOOLS

LBB FACTS AND FINDINGS

- The four financial monitoring systems use data reported by public schools through PEIMS and their Annual Financial Report.
- School FIRST was implemented to rate the reliability of public schools' financial management practices and use of resources.
- The Financial Solvency Review was implemented to anticipate future solvency issues that public schools may face.
- FAST rates how efficient and effective a public school is at using its financial resources to achieve academic results.
- The requirements to file for Financial Exigency track school districts that declare exigency and require minimum declaration standards that districts must meet.
- A sample of public schools was selected and compared across the three financial monitoring systems administered by TEA. The results of the analysis concluded that there is some correlation between public schools receiving a Standard Achievement or Substandard Achievement rating on School FIRST and those appearing on TEA's Financial Solvency Review list.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. It provides a summary of the four monitoring systems that use financial information reported by public schools.

Financial oversight of public schools, including school districts and charter schools, occurs through four systems employed by two state agencies, the Texas Education Agency (TEA) and the Comptroller of Public Accounts (CPA). The systems use financial information reported by public schools, through the Public Education Information Management System (PEIMS) and their Annual Financial Report, to monitor specific performance measures and assess ongoing financial viability. Each system has been designed to function independently of one another. The financial monitoring systems are intended to provide stakeholders with a tool to evaluate and measure the effectiveness and financial stewardship of public schools.

The four financial monitoring systems are the School Financial Integrity Rating System of Texas (School FIRST), Financial Solvency Review, Financial Allocation Study for Texas (FAST), and requirements that must be met in order to declare financial exigency (see **Figure 1**).

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 452.

FIGURE 1
FOUR FINANCIAL MONITORING SYSTEMS

SYSTEM	AGENCY	YEAR ADOPTED	PURPOSE	DATA COLLECTED	OUTPUT
School Financial Integrity Rating System of Texas (School FIRST)	TEA	2001	To measure the effectiveness of financial reporting and related management practices that promote successful financial stewardship.	PEIMS Data Annual Financial Report (Audit) Accreditation Status	Rating Assigned*
Financial Solvency Review	TEA	2009	To anticipate whether public schools may face future solvency issues.	PEIMS Data Annual Financial Report (Audit)	Financial Solvency Review list (currently 24 on list)
Financial Allocation Study for Texas (FAST)	CPA	2009	To identify public schools that achieve high academic results and cost-effective operations based on a spending index and academic performance.	PEIMS Data Student Assessment National Center for Education Statistics	1 to 5 star rating
Financial Exigency Requirements	TEA	2011	To track school districts that file for financial exigency and require that they meet certain requirements established by TEA.	N/A	Financial Exigency list** (currently seven on list)

*School FIRST ratings for public schools – 1. Superior Achievement 2. Above Standard Achievement 3. Standard Achievement 4. Substandard Achievement 5. Suspended – Data Quality.
**Financial Exigency applies only to school districts since charter schools are not bound by teacher contractual agreements.
Source: Texas Education Agency.

OVERVIEW OF CAREER PATHWAYS IN TEXAS PUBLIC SCHOOLS

LBB FACTS AND FINDINGS

- Texas employers have expressed concern that public schools are not adequately communicating the value of preparation for occupations experiencing or projected to have shortages of qualified workers.
- Career pathways are considered one solution to improving student career awareness by clearly showing the educational requirements necessary to gain access to certain careers.
- TEA requires each secondary school receiving federal Perkins funds to offer at least three career pathways, with any additional offerings beyond this being voluntary.
- TEA does not collect information regarding the number of career pathways currently offered in public schools beyond the minimum requirement.
- Achieve Texas is a college and career readiness initiative of TEA designed to combine rigorous academics with relevant career education and to promote successful transitions from secondary to postsecondary education through a career pathways framework.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. It examines career pathways as one solution to improving student career awareness and postsecondary education readiness.

Public schools are the beginning of the workforce development pipeline. Within that role, they have a responsibility for making students aware of careers, providing them with knowledge of these career's educational requirements, and how course material have application in those careers. However, a growing number of business and industry representatives have expressed concerns that public schools are not adequately promoting educational paths that can lead to occupations for which there are projected shortages of qualified applicants. This concern coincides with a growing body of research indicating public school students cannot see a correlation between their educational experiences and the workplace.

Career pathways are considered one solution to improving student career awareness. A career pathway is a comprehensive education plan designed to support college and career readiness and is developed for an occupational objective. These plans provide strategic alignment of high school academic, technical, and enrichment courses with postsecondary education options to provide students an educational roadmap to a specific career. Career pathways have been shown to increase the amount of career exploration taking place in school, to increase collaboration between academic and career and technical education teachers, and to increase student participation in career and technical education courses.

The Texas Education Agency (TEA) requires each secondary school receiving federal Perkins funds to offer at least three career pathways. The agency does not collect information on the number of career pathways currently offered in public schools beyond the minimum requirement. Achieve Texas is a college and career readiness initiative developed by TEA that encourages public schools to adopt a package of education reforms, including career pathways, to strengthen the public school's capacity to prepare its students for both postsecondary education and the workplace.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 460.

OVERVIEW OF GIFTED AND TALENTED EDUCATION IN TEXAS PUBLIC SCHOOLS

LBB FACTS AND FINDINGS

- The structure of Texas' G/T education is decentralized with limited state direction. This structure allows public schools to determine what kinds of services are provided for G/T students.
- The Texas State Plan for the Education of Gifted/Talented Students provides a set of compliance measures for public schools to follow. However, gifted and talented education is not monitored or audited at the state level. In addition, public schools do not report how funds are spent or what programs and services they provide.
- African American, Hispanic, and economically disadvantaged students are not proportionally represented in G/T education.
- G/T education in Texas is similar in many ways to those programs operating in other states. There is no national strategy or federal mandate in place for G/T education. All structural and decision-making processes for G/T are made at the state and local level.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. It provides an overview of gifted and talented education in Texas public schools.

Gifted and talented (G/T) education provides students who have been identified as having high intellectual or creative ability with a curriculum that is supplemental to their traditional coursework. For 35 years, Texas has provided G/T education to students. In school year 2010–11, approximately 8 percent of all public school students were identified as G/T. During this same period, state funding for G/T education was approximately $160.4 million, or 0.46 percent of the total Foundation School Program maintenance and operations entitlement.

The State Board of Education has established compliance measures that G/T education must follow. However, public schools determine what services are provided for G/T students and there is no state monitoring or auditing of G/T education. Nationally, there is no strategy or federal mandate in place for G/T education, therefore all structural and decision-making processes exist at the state and local level. Texas is one of 34 states that have laws related to identifying G/T students and/or providing G/T education. In addition, Texas is one of 24 states that specifically allocate state funds for G/T.

Because there is limited state direction with regard to G/T education, there is great variation in the programs and services public schools provide for their G/T students. Public schools vary in their delivery of G/T programs and services including student assessment, service design, curriculum and instruction, professional development, and family/community involvement.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 466.

OVERVIEW OF BILINGUAL AND ENGLISH AS A SECOND LANGUAGE PROGRAMS IN TEXAS PUBLIC SCHOOLS

LBB FACTS AND FINDINGS

- The primary distinction between bilingual and ESL programs is the language in which instruction is delivered.
- The Texas Education Code uses the term LEP to refer to a student whose primary language is other than English and whose English language skills are such that the student has difficulty performing ordinary classwork in English.
- In school year 2011–12, 16.8 percent of all students were identified as LEP.
- During the 2011–12 school year, 5.3 percent, or 17,232, of the state's 324,001 full-time-equivalent teachers taught in a bilingual or ESL program.
- In school year 2010–11, public schools received $428.2 million in state funding from the Foundation School Program for bilingual and ESL programs. Statewide total expenditures that year for bilingual/ESL were $1.2 billion, which included local funds and federal funds.
- TEA annually monitors and evaluates the performance and effectiveness of bilingual and ESL programs and, based on results, identifies public schools for interventions.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. It provides information about the bilingual and English as a Second language programs in Texas public schools.

In Texas, there were more than 838,000 students identified as having limited English proficiency during school year 2011–12. The number of students classified as limited English proficient (LEP) is steadily increasing. To meet both their academic and English language-acquisition needs, LEP students are offered services in a bilingual or English as a second language (ESL) program. Both programs are designed to help students gain competency in English and be able to participate equitably in school. However, each program employs a different approach to achieve this goal. Bilingual education provides students with instruction in both English and their home language. Instruction in ESL programs is conducted in English and is integrated with the use of language acquisition methods, such as hands-on instruction. For each student that is enrolled in a bilingual or ESL program, public schools receive a state funding allotment from the Foundation School Program. Title III of the federal No Child Left Behind Act provides additional funds.

The Texas Education Agency (TEA) monitors and evaluates the performance and effectiveness of the bilingual and ESL programs in public schools on an annual basis. Bilingual and ESL programs are monitored using the Performance-Based Monitoring Analysis System (PBMAS). The effectiveness of these programs is assessed based on performance on established bilingual/ESL indicators. TEA uses the results of the longitudinal performance-based monitoring data and the annual PBMAS review to determine if public schools require interventions. There are four stages of intervention for bilingual/ESL programs. Based on program performance levels, there are 144 public schools receiving TEA interventions during school year 2012–13.

The full text of this report can be found in the *Texas State Government Effectiveness and Efficiency Report* (Legislative Budget Board, January 2013), page 474.

FOUNDATION SCHOOL PROGRAM FISCAL STUDIES

LBB FACTS AND FINDINGS

- Among the 1,021 public independent school districts with taxing authority, 7 percent adopted higher rates for maintenance and operations for tax year 2012, 7 percent adopted lower rates, and rates for 86 percent remained unchanged from tax year 2011 adopted rates.
- For tax year 2012, a total of 248 school districts (24.3 percent) adopted maintenance and operations tax rates at the statutory maximum.
- School district expenditures attributable to the regular program rose 0.5 percent from fiscal year 2009 to fiscal year 2011, with increased expenditures for compensation offset in part by reductions in expenditures for supplies and materials.
- School districts located primarily within shale plays experiencing active oil and gas development and production differ from other school districts in terms of property value growth and other characteristics affecting state aid determinations under the Foundation School Program.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. It provides information and analyses concerning statutory funding elements within the Foundation School Program (FSP) and circumstances affecting state aid determinations.

Among the school finance-related topics addressed in the report, actual school district expenditure data for the most recent year available are analyzed in conjunction with historical data to document change in local expenditures attributable to the regular program. The results of the analysis, adjusted for inflation, are compared to current law FSP entitlement per regular program student. In addition, the report summarizes current school district tax effort for maintenance and operations (M&O) and examines changes in M&O tax effort from tax year 2008 through tax year 2012.

In light of increasing attention focused on oil and gas development in Texas' various shale formations, the report identifies school districts located primarily within major shale plays and describes trends in property value growth, tax effort, and wealth per student. Trends for this group of school districts are compared to school districts not located within a shale play and to the state as a whole.

The full text of this report can be found in *Foundation School Program Fiscal Studies* (Legislative Budget Board, January 2013).

FOUNDATION SCHOOL PROGRAM AND CHARTER SCHOOLS PRIMER

REPORT HIGHLIGHTS

- The Foundation School Program is the primary means of distributing state aid to more than 1,000 school districts and 200 charter holders, supporting the education of approximately 5 million Texas students each year.
- Texas ranks first among the 50 states in the number of operating school districts and second in the number of students enrolled in public schools.
- All Funds appropriations to the Foundation School Program for the 2012–13 biennium are $35.5 billion consisting of $34.1 billion for ongoing operations and $1.4 billion for debt service obligations for school facilities.
- In the 2011–12 school year, Texas charter schools served about 155,000 or 3.1 percent, of total public school students on 506 campuses operated by 198 charter holders.
- The rate of enrollment growth in charter schools has outpaced that of independent school districts by nearly 10 to 1 from school years 2007–08 to 2011–12.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. It describes the structure of public education financing in Texas and provides an overview of charter schools, including the mechanisms through which charter schools are created, funded, and held accountable.

Foundation School Program (FSP) entitlement for Texas public schools is funded through a combination of state aid and local property tax revenue. FSP entitlement is calculated for each school district and charter school using formulas established by the Legislature in the Texas Education Code and the General Appropriations Act. For school districts with taxing authority, the portion of entitlement that is not covered by local property tax revenue is provided as state aid. For school districts without taxing authority and charter schools, entitlement is provided solely as state aid.

This primer describes FSP formula funding components, including regular and special program allotments and guaranteed yields for tax effort per weighted student, as well as additional state aid provided for the purpose of holding districts harmless for the effects of prior structural revision. In addition, information is presented concerning the system's wealth equalization component and mechanisms providing state aid for school facilities.

The primer provides a brief history of charter schools in Texas and explores the characteristics of charter school structures, funding, and performance. Three case studies are presented illustrating each of the major charter types currently in operation in the state.

The full text of this report can be found in the *Foundation School Program and Charter Schools Primer* report (Legislative Budget Board, January 2013).

PILOT REVIEWS OF CHARTER SCHOOLS: ANALYSIS AND OBSERVATIONS

LBB FACTS AND FINDINGS

- The educational plan, a key element of the charter school, differed among the three charter schools reviewed.
- Certain teacher issues, an area of charter discretion, aligned with practices required of independent school districts.
- The three charter schools' organizational structures included both nonprofit and for-profit corporations providing educational services.
- The three charter schools engaged in business arrangements to offer and support educational services.
- Resources, such as buildings and personnel, were shared between the nonprofit and for-profit corporations operating the three charter schools.
- Familial relationships existed within the organizational structure of the three charter schools.
- Various types of lease arrangements were established for building space.
- Safety and security issues were handled in different ways among the three charter schools.

The introduced 2014–15 General Appropriations Bill does not include any adjustments as a result of this report. This report does not include any recommendations.

This report would not have a fiscal impact for the 2014–15 biennium. It provides a description of three charter schools reviewed on a pilot basis by the School Performance Review team of the Legislative Budget Board. The report includes observations regarding characteristics the three charter schools hold in common.

Charter schools are a public school choice system that has grown rapidly since its inception in the mid-1990s, expanding in enrollment much more quickly than independent school districts. In 2012, the School Performance Review team expanded its selection process for school district management and performance reviews to include charter schools. In May 2012, the School Performance Review team conducted pilot management and performance reviews of three charter schools in the Houston area. The pilot reviews examined educational, financial and operational areas for effectiveness and efficiency.

The charter schools reviewed represent two of the three categories of charter organizations in operation: open enrollment charter schools and campus-based charter schools. Descriptions of the three charter schools reviewed follow:

- Kandy Stripe Academy is an external campus charter school of the Houston Independent School District (HISD). During school year 2011–12, the charter school served 427 students in pre-Kindergarten through grade 8.
- MeyerPark Elementary School is an open enrollment charter school located in Houston, Texas. During school year 2011–12, the charter school served 236 students in pre-Kindergarten through grade 6.
- Southwest Schools is an open enrollment charter school located in Houston, Texas. During school year 2011–12, the charter school served 1,611 students in pre-Kindergarten through grade 12.

The full text of each of the three individual pilot reviews of the charter schools, as well as an analysis of the three reviews, can be found in the following reports:

***Pilot Review of Charter Schools, Southwest Schools* (Legislative Budget Board, December 2012)**

***Pilot Review of Charter Schools, MeyerPark Elementary* (Legislative Budget Board, December 2012)**

***Pilot Review of Charter Schools, Kandy Stripe Academy* (Legislative Budget Board, December 2012)**

***Pilot Reviews of Charter Schools: Analysis and Observations* (Legislative Budget Board, December 2012)**

APPENDIX A
SELECTED ISSUE BRIEFS TO BE PUBLISHED ON THE LEGISLATIVE BUDGET BOARD WEBSITE

CRIMINAL JUSTICE AND THE COURTS

Offenses and Demographics of Juveniles in State-Operated Correctional Facilities

Profile of Juveniles Admitted to State-Operated Correctional Facilities

Who Entered Prison?
Select Data for Fiscal Year 2011 Admissions

Who Entered State Jail?
Select Data for Fiscal Year 2011 Admissions

Who Entered Substance Abuse Felony Punishment Facilities?
Select Data for Fiscal Year 2011 Admissions

Who Exited Prison?
Select Data for Fiscal Year 2011 Releases

Who Exited State Jail?
Select Data for Fiscal Year 2011 Releases

Who Exited Substance Abuse Felony Punishment Facilities?
Select Data for Fiscal Year 2011 Releases

Who is in Prison?
Select Data for Those On Hand as of August 31, 2011

Who is in State Jail?
Select Data for Those On Hand as of August 31, 2011

Who is in Substance Abuse Felony Punishment Facilities?
Select Data for Those On Hand as of August 31, 2011

HEALTH AND HUMAN SERVICES

Alternative Medicaid Proposals

Downsizing of the State-Supported Living Center System

HIGHER EDUCATION

Financial Aid Programs

Appropriation of Higher Education Formula Funding

PUBLIC EDUCATION

Forensic Analysis of Standardized School Assessments

Foundation School Program Overview

Foundation School Program Transportation Allotment

Methods of Financing the Foundation School Program

Prekindergarten Education Programs at the Texas Education Agency

PUBLIC EDUCATION (CONTINUED)

State of Texas Assessments of Academic Readiness (STAAR)

The Instructional Materials Allotment and the Review and Adoption of Instructional Materials

OTHER

Department of Public Safety Driver License Improvement Plan

Red Light Cameras

Review of Replacement Schedules for Information Technology Equipment

Additional Issue Briefs will be added to the Legislative Budget Board website throughout the Eighty-third Legislative Session.

APPENDIX B
OTHER LEGISLATIVE BUDGET BOARD REPORTS AND RESOURCES TO BE PUBLISHED

Agency Budget and Performance Measures (web resource)

Annual Report on Major State Investment Funds: Fiscal Year 2012

School District and Charter School Responses to Changes in State Funding

Texas Budget Source (web resource)