THE POLICY PAGE
An Update on State and Federal Action

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AND NOW . . . WHAT YOU'VE ALL BEEN WAITING FOR

How Low-Income Legislation Fared in the 76th Session

The last few *Policy Pages* have focused on specific policy areas that CPPP has been tracking and worked on during the previous legislative session. But sometimes you can miss the forest for the trees. So here is our attempt to step back from the trees and take a look at the whole legislative forest. This summary takes a quick analytic glance at the major issues affecting low-income families considered by the 76th Session: school finance, tax cuts, welfare, health care, and nutrition. Upcoming *Policy Pages* will elaborate on each of these issues individually in much more detail. For any questions regarding these issues, please contact the policy analyst listed under each sub-area.

SENATE BILL 4: SCHOOL FINANCE AND MORE

The General Appropriations Act, HB 1, authorizes $31.1 billion in state spending for K-12 public schools in the two-year period starting September 1999. Senate Bill 4 outlines how $3.8 billion of that will be spent, primarily on a statewide teacher pay increase and on changes to the state school finance system.

Teacher pay: Legislators debated various ways to improve teacher compensation before settling on a $1.7 billion measure that provides a $3,000 across-the-board raise to teachers and librarians in the 1999-2000 school year. This raise will be in addition to pay raises that would have gone to employees due for step increases. SB 4 also expands the state salary schedule to cover nurses and counselors who are full-time employees of school districts. State funds to pay for the raise will go to school districts mainly through an increase in the per-student basic allotment from $2,396 to $2,537.

School finance/tax measures: Helping school districts pay for facilities was another major element of SB 4. Legislators used $930 million to create a new Existing Debt Allotment, which will yield $35 per student per penny of local tax effort, up to 12 cents. This element of SB 4 requires districts to cut taxes being used to pay for old debt—an amount that differs from district to district—which is why not all homeowners will get property tax relief through this provision. Another $150 million will fund expansion of the Instructional Facilities Allotment, which will also have a yield of $35 per student per penny of tax effort, up from the current $28. Rapidly growing school districts will benefit from a separate per-student facilities allotment that will cost the state $50 million in the next two years.

For districts with relatively higher wealth, SB 4 extends a 1993 "hold harmless" provision at a cost of $200 million. SB4 also raises the equalized wealth level from $280,000 to $295,000 of property wealth per student. This is the level that determines when school districts will be subject to "recapture" provisions requiring them to share tax revenue with less wealthy districts.

Other important school finance provisions in SB 4 include an extension of the 1998 "hold harmless" provisions for higher homestead exemptions; a compression of Tier 2 tax rates; a mandated reduction in the rollback rate to 3 cents in 1999 and 6 cents thereafter; an increase in the Tier 2 (i.e., for tax rates between 87 cents and $1.50) guaranteed yield from $21 to $25.99 per student per penny of tax effort; and aid for districts with annual property value declines exceeding 4 percent. Property tax relief in SB 4 totaling $1.35 billion will go to homeowners and businesses.

Grants for Kindergarten/Pre-K and for 9th Graders: In 1997-98, about 290,000 Texas children were enrolled in public kindergarten. Of those, an estimated 60,000 were in half-day programs; 30,000 children were not in kindergarten at all. During the session, lawmakers estimated that $165 million would cover the costs of operating full-day kindergarten for 90,000 children, with an additional $170 million needed to build more classrooms.

SB 4 did not provide all of the funding needed for full-day kindergarten for all Texas children, but it does provide $200 million in competitive grants for districts wanting to expand half-day kindergarten or offer pre-K programs (which now serve about 122,000 children). Another item in SB 4 is $15 million for Head Start. Currently, Head Start-type programs supported by the state enroll 20,300 three-year-olds.

Finally, SB 4 will distribute $85 million in grants to school districts that want to provide extra classes and other services to 9th graders who will not have enough credits to move on to 10th grade. Consent from the student's parent or guardian's will be required before the 9th grader can participate in the program.

Social promotion: Besides teacher pay increases and school finance/tax issues, another major educational issue of the 76th Session was finding a way to curtail or end the practice known as "social promotion"—passing children on to the next grade even though they are not performing satisfactorily at their grade level. About $19 million in funding to provide teacher training during the summer of 1999 to improve student learning was included in the emergency spending bill (SB 372) enacted in March. SB 4 continues the effort by creating the Student Success Initiative, which will cost $173 million in its first two years. Students enrolling as kindergartners in Fall 1999 will be required to pass a TAAS reading test in the 3rd grade (the 2002-03 school year), and 5th and 8th graders will have to take reading and math tests starting in 2004-05 and 2007-08. Students who cannot pass the test after three attempts will be given accelerated instruction, and will not advance to the next grade unless their parent makes a successful appeal to a local grade-placement committee.

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BUSINESS AND CONSUMER TAX CUTS

Tax cuts competed with funding for state programs as soon as the 76th Session got underway, even though Texas already had the 3rd lowest per-capita state tax burden in the country and the lowest spending per person of any state.

Oil and gas taxes: Early in the session, legislators enacted a severance tax break for the oil/gas industry, which was suffering from low oil prices. The tax break (SB 290) could have cost the state as much as $45 million before expiring in September 1999. However, because the tax relief was only in effect as long as oil prices remained below a specified "trigger" level, it expired early, in April, producing a revenue loss to the state of $16 million.

Another measure approved by legislators, HB 2615, will extend the severance tax reduction for high-cost gas wells and inactive oil/gas leases. The cost of this extension could not be estimated.

SB 441: The other bills authorizing state tax breaks for businesses and consumers were finalized in the very last days of the session. Most were contained in SB 441, which will cost the state $506.4 million through 2000. The cost through 2004 is $2 billion for the state, and could be as high as $245 million for local governments.

The single most expensive new tax break for the coming biennium is a franchise tax exemption for small businesses—those grossing less than $150,000 annually. This provision will cost $41 million in the first year (2001), increasing to $53 million per year by 2004.

Over the long term, a measure that exempts over-the-counter drugs from the state sales tax will be the costliest item in SB 441. This exemption produces a $35 million revenue loss in fiscal 2000 (when it takes effect in April), climbing to $151 million in fiscal 2004. Because it reduces the amount of sales taxes paid, this measure will help reduce the regressive nature of the state's tax system.

A franchise tax credit for research and development activities is slightly less expensive than the consumer tax cut for non-prescription drugs. The credit will be available statewide and will be doubled in counties defined as "strategic investment areas" (generally, those with high unemployment and low per-capita income). The R&D tax break will cost $68 million in 2001, when it takes effect (in January 2001), rising to $147 million by 2004.

Other business tax credits in SB 441, and their cost in 2000-01, are

- A targeted capital investment franchise tax credit ($45.2 million),
- A targeted job creation tax credit ($22.7 million),
- A 20 percent sales tax exemption for data processing and information services ($26.6 million),
- A sales tax exemption for the first $25 paid monthly for Internet access ($19.7 million),
- A franchise tax credit for employer-operated or subsidized child care ($3.9 million), and
- A franchise tax credit for corporate contributions to before- and after-school programs ($4.3 million).

For consumers, SB 441 has the over-the-counter-drugs sales tax exemption mentioned above, as well as the Internet access sales tax break and an annual three-day "holiday" from paying sales taxes on clothing and footwear. In 1999, the sales tax holiday will be in effect from August 6 to August 8. Most items priced at less than $100 each will be exempt from state and local sales taxes; accessories and rented clothing will still be subject to sales taxes. Through 2001, the sales tax holiday is expected to produce a state revenue loss of $68 million.

Combined, the sales tax exemptions that could directly benefit consumers will provide a total of $251 million in tax relief for the biennium. Per Texan, this works out to about $6 annually.

Timber industry: The other major tax break enacted for businesses in 1999 (SB 977) will benefit the timber industry. The legislation will provide property tax breaks, as well as general sales and motor vehicle sales tax cuts, for timber producers and owners of timberlands. SB 977 will not have a cost to the state in the next biennium, but will produce a $54 million revenue loss through 2004.

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TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF)

The Temporary Assistance for Needy Families (TANF) block grant will largely be spent in traditional budget categories: cash assistance, employment services and child care, and services to at-risk children and youth including foster care. Due to the continuing steep decline in TANF caseloads, the session began with a projected surplus of $580 million in TANF federal funds by the end of the 2000-01 biennium. In addition to maintaining cash assistance levels and employment services a number of specific allocations are worth noting (see below). As with last session, lawmakers also found ways to use the federal TANF funds to replace state funds. Out of the $580 million surplus, $173 million was used to "free up" (supplant) $162 million in general revenue (GR).

Selected uses of the TANF surplus

Grant Increase:

The budget for the coming biennium includes the first real increase in the basic TANF grant in 14 years:

- The maximum grant will now be pegged at 17% of the federal poverty level (FPL). It is currently worth 16.25%. The maximum grant for a family of three will now be about $200/month but will be adjusted upwards annually as the FPL is adjusted (pending appropriations).
- Additionally, TANF families will receive a once-a-year $60/per child grant in August to help with back-to-school expenses.

Child Care:

- The legislature approved an $80 million increase over the current biennium in subsidized child care funds. While this may not be enough to eliminate waiting lists in all regions of the state, it is a significant increase and a positive use of TANF funds.

Employment services:

- The Self-Sufficiency Fund–which trains TANF recipients for jobs with good wages–will be doubled from $12 million to $24 million in the coming biennium.
- An increased earnings disregard is funded--90% for 4 months--to help the transition from welfare to work.

Other TANF-Funded Initiatives:

- $12 million will be used to increase case management with TANF clients to identify and remove "barriers" that might impede a successful transition from welfare to work.
- Low-income grandparents caring for TANF-eligible children will be eligible for additional funds and support services (SB 1423 by West).
- TANF was used to support significant increases at DPRS, basically making all its exceptional items possible. In particular, foster care services will be expanded by $78 million (largely through using a TANF funding swap – adding $196 million in TANF and removing $117 million in general revenue)

CPPP had proposed other uses of TANF that were not funded, such as: temporary housing assistance, child support improvements, and bonuses for Local Workforce Development Boards (LWDBs) that train TANF clients for living wage jobs. Recent final regulations offer dramatic flexibility in how TANF funds can be used. The budget for the coming biennium did not take full advantage of this flexibility to support new and creative services for low-income families and it will leave more than $100 million in TANF unspent.

Welfare and Welfare-to-Work Legislation

This session the Center tracked over 50 pieces of legislation dealing with welfare and welfare-to-work policies. Somewhat surprisingly, very few of the bills actually passed. Overall there seemed to be a willingness to address necessary changes for compliance with federal changes, and even broad support for several supportive improvements, but little stomach for more punitive and restrictive proposals.

No Sticks and Stones

Provisions to add criminal background checks (HB 73 – Solomons) and to permanently deny assistance to anyone convicted of a drug-related felony (HB 1936 – Christian & SB 51 – Nelson) never even reached a floor vote in either chamber. Likewise, an effort to impose a "one-strike-and-you're-out forever" provision for any amount of welfare fraud (HB 3102 - Truitt & SB 1158 – Carona) failed in both chambers. Full-family sanctions for violations of work and child support requirements (SB 1159 – Carona) died in the Senate Committee on Human Services. A last-minute effort to attach a full-family sanction to a major child support bill in the Senate nearly killed the whole bill due to vocal opposition from key senators.

Omnibus-ted

Most of the more punitive proposals hit their first stumbling block in the House Human Services Committee. With the Governor pushing hard for several of these measures (full-family sanctions and "one-strike and you're out" for drug felonies or welfare fraud), the Chair of the Committee (Rep. Naishtat) attempted to incorporate them into an omnibus bill that both modified the punitive proposals to be more acceptable and added a number of positive, supportive provisions. House Bill 3639 become the primary focus of considerable debate and negotiations, particularly between Chairman Naishtat and the governor's office. When a compromise could not be reached the bill stalled in the Calendars committee only to become part of a last-minute gambit to amend the punitive proposals onto the Texas Department of Human Services sunset bill on the House floor, ultimately resulting in the death of the sunset bill itself. It is somewhat surprising that the Governor's office and other members did not sign onto HB 3639. With the Senate democrats unwilling to let ANY of the punitive provisions out of the Senate, Chairman Naishtat's bill was the only vehicle for getting the proposals passed in any form.

Those That Did Survive

- Senate Bill 666 by Zaffirini will phase down the current exemption from work activities for TANF mothers with children under four. By 2002 Texas must come into compliance with a federal law which only exempts families with a child under age one. SB 666 adjusts the current age-of-child related exemption down each year starting in January 2000 from age four to age one. As many as 20,000 families will be affected by this change. It is important to note that Texas' tight time limits begin when a client is called into mandatory work activities, therefore SB 666 will have the side effect of starting time limits on that many more families as well.

- HB 2563 by G. Lewis authorizes the creation of a pilot program to establish individual development accounts for low-income workers. HB 3470 by Olivo creates a pilot program to offer post-secondary education to TANF recipients to help them find higher paying jobs. While HB 503 by Tillary, which would have implemented an increased earnings disregard, died in the Calendars committee, funding for this important change was included in the appropriations bill. This provision was a priority of the governor's and achieved bipartisan support and will be implemented by TDHS.

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HEALTH POLICY

SB 445: Children's Health Insurance Program (CHIP)

The provisions of the finally-passed CHIP bill could not have been predicted when the session began in January. At that point, consensus had not developed regarding the upper income limit for the program, the benefits to be covered, or the administrative structure to be used. The bill's text when it left the Senate in early March reflects the ambivalence of the legislature during the early stages of the process, with limited eligibility for teens and no specific benefits defined. As House consideration of the bill created opportunity for more dialogue, a strong bipartisan consensus developed supporting eligibility at 200% of federal poverty income level, comprehensive benefits as recommended by CHIP Interim Studies, and careful evaluation of the readiness of any subcontracting entities (including the Texas Healthy Kids Corporation). The new law includes legal immigrant children in coverage, and a separate bill (SB 1351) creates a similar state subsidy for coverage of children in low-income state employees' families. A major goal of advocates will be to make children's Medicaid applications as simple as those proposed for CHIP; provisions to achieve this were not included in the new CHIP law. The Texas Health and Human Services Commission (THHSC), which has authority over all CHIP policy decisions, hopes to have CHIP coverage available as soon as May 2000.

For details, see Policy Page #90.

HB 820

The number of Texas children enrolled in Medicaid declined by more than 239,000 from January 1996 to February 1999, despite the fact that a majority of children whose families have left the TANF program remain eligible for Medicaid. Advocates believe that in most cases this has occurred because families leaving TANF have no idea that their children can continue on Medicaid at much higher incomes than those allowed for TANF. The notice sent to families whose TANF benefits have terminated does not tell the family about either the temporary "Transitional Medicaid" which the whole family can get for at least 12 months, or about the income-based Medicaid categories for which children can be eligible indefinitely. As a result, many families simply never return to the TDHS office for their next scheduled eligibility check. This bill directs TDHS to automatically review Medicaid eligibility of children whose TANF benefits end. The Department is authorized to continue eligibility for up to one month while it tries to get a family into its offices for a recertification review. TDHS must revise client education materials and change the notices sent to families to ensure that parents are aware of their options for continued children's Medicaid. These new notices must be provided whenever a family is due for a regular eligibility recertification, and when they are leaving TANF. CPPP staff will be following TDHS implementation activity on this bill closely.

HB 1398

This bill makes changes to the landmark 1985 County Indigent Health Care (CIHC) Act, which created the first statutory obligation for Texas counties to provide a minimal level of health care for the medically indigent. The new legislation will make modest adjustments to the minimum income floor for CIHC eligibility. The old CIHC law tied that floor to TANF (formerly AFDC) income guidelines, but because Texas has only increased the TANF benefit 3 times from 1970 to 1999 (last increased in 1985), that floor has been eroding as a percentage of the federal poverty level (FPL). In 1998, Texas' maximum TANF grant equaled 17% of FPL (at $188/month for family of 3). Counties subject to the law will have to phase up the CIHC eligibility floor to reach at least 25% FPL in 2002. Other important provisions of the bill:

- Allow counties to raise eligibility above the 25% minimum,
- Add of preventive care as required benefits, and allowable optional benefits,
- Reduce from 10% to 8% of county tax levy the spending required to qualify for state assistance,
- Increase state assistance from 80% to 90% of county spending after the 8% threshold is reached,
- Allow for waivers of this cap in certain circumstances,
- Require monthly reporting for any county seeking state assistance, and annual reports from all counties subject to the act,
- Provide for counties to adjust their tax rates to reflect the increase in the eligibility standard, and
- Create a new state treasury account for reimbursing tertiary care medical centers and trauma centers for uncompensated care they provide to out-of-county residents.

HB 2896

This bill amends existing state Medicaid Managed Care law in several ways. It directs THHSC to revise Medicaid Managed Care enrollment procedures to ensure prompt access to prenatal care and newborn care. A broad review by THHSC of the impact of Medicaid Managed Care is to be completed and reported by November 2000. New requirements for setting Medicaid Managed Care premium rates, and a statewide advisory committee on Medicaid Managed Care are established. Independent audits of Medicaid Managed Care subcontractors are required.

SB 374

This new law creates the basis for the eventual creation of a Department on Aging and Disability Services, which would allow uniform access to long-term care supports based on an individual's need for functional supports, rather than the person's age or diagnosis. The bill transfers home health regulation at Texas Dept. of Health (TDH), and the Deaf-Blind multiple disabilities and personal Attendant Services Programs at Texas Rehabilitation Commission, to TDHS. Local Area Agencies on Aging will continue to exist. The Texas Dept. of Mental Health and Mental Retardation (MHMR) would work with TDHS to develop coordinated and consistent policies, but the bill stops short of transferring MHMR's long-term or community care programs to TDHS. A workgroup is created to study children's long-term care needs and how youths with long-term care needs can transition from TDH-provided services to those provided by TDHS or the new Disability agency. The Chronically Ill and Disabled Children's (CIDC) program is slated for a name change (to "Children with Special Health Care Needs"), and a change in eligibility policy to base eligibility on functional need, rather than diagnosis. It is not clear how soon those changes will take place.

HB 2641

The Sunset bill for the Texas Health and Human Services Commission (THHSC) is 83 pages long and is not easily summarized. Among key provisions are several which increase the authority of the THHSC and its Commissioner over the other HHS agencies. THHSC authority over Medicaid and Medicaid Managed Care is articulated, and the Commissioner is given authority to "manage and direct the operations of each Health and Human Services agency." Each HHS agency director must enter a memorandum of understanding with the Commissioner defining their respective duties, and HHS agency directors will be hired by the Commissioner, with the concurrence of the agency's own board and the Governor. The authority of THHSC over the TIERS project is detailed (though TDHS is the lead agency now in terms of staffing and daily management). The Guardianship Advisory Board is expanded in size and given additional duties. An Office of Community Transportation Services is created as a major expansion of the existing HHS Transportation and Planning Office. All of the text of HB 2896 (see above) in also included in the bill. Finally, Article 10 of the bill extends HHSC authority - within specific limitations - over programs at the Texas Workforce Commission that serve TANF and Food Stamp recipients. This includes the CHOICES employment program for TANF recipients, the Food Stamp Employment and Training program and child care services. The apparent goal of this section is to improve coordination, planning and program delivery for clients that are referred from TDHS and TWC and to address concerns that the agencies have not been working well together. The Article includes clarification that no programs can be moved between the agencies without specific legislative authorization, and it requires a public hearing if rules are promulgated in response to the outlined requirements.

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NUTRITION POLICY

$2 Million Appropriated for Nutrition Education and Outreach

In its final budget for the 2000-01 biennium, the 76th Legislature appropriated $2 million for the Texas Department of Human Services (TDHS) to operate a nutrition education and outreach program, or for “activities that otherwise improve low-income consumers access to basic nutrition and healthy foods.” DHS plans to use the $2 million to develop a Food Stamp education and outreach program and to implement HB 937, legislation to expand access to the Summer Food Service Program.

Food Stamp Outreach In legislation passed by the 73rd Legislature in 1993, SB 714 authorized TDHS to conduct outreach and education for the Food Stamp program, but funding was never appropriated until now. The law directs the department to provide low-income consumers with informational materials on how to apply for Food Stamps and also on how to access healthy foods and prepare low-cost, nutritional meals. The law also requires TDHS to identify specific geographical areas for the outreach and to target a population to benefit from the materials including WIC participants, families with kids receiving free or reduced-price school meals, food pantry clients, senior citizens, migrants or farm-workers, persons with disabilities, and the working poor. Finally, SB 714 authorizes the department to enlist the assistance of public relations firms to develop outreach materials and to work in conjunction with nutrition education and outreach programs already in operation. Funding for an outreach program is an important step toward reversing some of the dramatic and unwarranted decline in Food Stamp enrollment since the passage of welfare reform.

Preliminary conversations with TDHS staff indicate that they will follow these guidelines for developing the outreach program, but will also explore other avenues for informing eligible populations about their right to Food Stamp benefits, for example emphasizing to clients that lose their TANF (cash assistance) benefits of their continued eligibility for Food Stamps. The department plans to spend $500,000 over the biennium for the program, which will be matched by $500,000 in federal funds.

HB 937 and Summer Food Outreach: The rest of the funding will be used to implement HB 937. The Center worked with Rep. Glen Maxey and Sen. Rodney Ellis to pass this legislation, and thanks to their hard work increased funding for the Summer Food Service Program will ensure that more low-income kids in Texas continue to grow and learn during the summer months.

HB 937 directs DHS to conduct outreach to increase participation in the summer food program by increasing the number of program sponsors and feeding sites across the state, with an emphasis on needy communities with high percentages of eligible children. Outreach activities may include presentations to organizations eligible to participate in the program; dissemination of information regarding eligibility requirements and application procedures; continual support and technical assistance to existing programs to help them increase participation and ensure that they continue to operate; and public service announcements that publicize the summer program on local television and radio stations.

The legislation also authorizes the department to provide a financial supplement to program sponsors as an incentive to participate in the program. Although the amount of the supplement has yet to be determined, DHS will issue the money as a per-meal supplement to providers based on how many meals they serve. The department is currently considering which meals to supplement (breakfast, lunch, snack, or supper) and how much to supplement each meal. (For more information on HB 937 and its implementation, please refer to Policy Page #89.)

A Word On the Funding: The source for the outreach funds will come from $19.7 million in enhanced federal funding DHS will receive in September as a reward for improving payment error rates in the Food Stamp program (i.e., overpayment or underpayment of benefits). While DHS should be recognized for its success in controlling error rates, efforts by the department to improve the accuracy of Food Stamp eligibility and benefit determinations included requiring shorter certification periods for households with income, which has imposed additional barriers for working families seeking nutrition assistance. Although reinvesting a portion of the enhanced federal funding in Food Stamp outreach will help improve access to these important benefits, a simultaneous effort should be initiated to ensure that quality control measures do not prevent working families from getting the transitional support they need to become self-sufficient.

Food Assistance for Legal Immigrants Fails Passage

HB 2702 by Rep. Norma Chavez would have expanded the state immigrant food assistance program (SIFAP) to add 5,300 legal immigrant children, seniors, and persons with disabilities who are currently ineligible for Food Stamps under the federal welfare act. SB 1095, by Sen. Judith Zaffirini would have expanded the program to add 1,000 children. Gov. Bush established SIFAP in March 1998 in response to the legal immigrant Food Stamp cuts made in 1996. A subsequent federal restoration in 1998 reinstated most of the legal immigrants receiving SIFAP benefits to the Food Stamp program, leaving only 330 seniors on the state program. Despite the governor's original commitment to "help those least able to help themselves," he declined to support legislation this session to expand the program. It also proved difficult to generate widespread legislative support or funding for what is seen as a controversial issue. SB 1095 passed the Senate but never made it to the House floor. HB 2702 was killed in the final weeks of session in the Calendars committee.

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