1-1 By: Ogden

1-2 (In the Senate - Filed May 31, 2011; May 31, 2011, read 1-3 first time and referred to Committee on Finance; June 2, 2011, reported adversely, with favorable Committee Substitute by the 1-5 following vote: Yeas 12, Nays 2; June 2, 2011, sent to printer.)

1-6 COMMITTEE SUBSTITUTE FOR S.B. No. 2 By: Ogden

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A BILL TO BE ENTITLED
AN ACT

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1**-**62 1**-**63 appropriating money for the support of state government for the period beginning September 1, 2011 and ending August 31, 2013; and authorizing and prescribing conditions, limitations, rules, and procedures for allocating and expending the appropriated funds; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The several sums of money herein specified, or so much thereby as may be necessary, are appropriated out of any funds in the State Treasury not otherwise appropriated, or out of special funds as indicated, for the support, maintenance, or improvement of the designated agencies.

SECTION 2. Contingency for Senate Bill 1: LECOS Retirement Fund. Contingent on enactment of Senate Bill 1, 82nd Legislature, 1st Called Session, 2011, or similar legislation relating to state contributions to the Law Enforcement and Custodial Officer Supplemental Retirement Program, in addition to amounts appropriated in House Bill 1, Acts of the 82nd Legislature, Regular Session, 2011, in Strategy A.1.2, Law Enforcement and Custodial Officer Supplemental Retirement Fund, the Employees Retirement System is hereby appropriated the following estimated amounts in fiscal year 2013 for a state contribution of 0.5 percent to the Law Enforcement and Custodial Officer Supplemental Retirement Program in fiscal year 2013:

 General Revenue
 \$6,698,395

 General Revenue-Dedicated
 96,261

 Federal Funds
 29,330

 Fund 006
 696,386

 All Funds
 \$7,520,372

SECTION 3. Tobacco User Monthly Premium Fee. Contingent upon enactment of Senate Bill 1, 82nd Legislature, 1st Called Session, 2011, or similar legislation relating to the creation of a tobacco user monthly premium differential, by the 82nd Legislature, 2011, the Employees Retirement System shall apply a \$30 monthly tobacco premium differential to any tobacco user covered under the state health plan. Also contingent upon the enactment of this legislation, the Comptroller of Public Accounts shall deposit revenue from the premium differential (estimated to be \$16,720,343 in fiscal year 2012 and \$25,080,514 in fiscal year 2013) into the Employees Life, Accident, Health Insurance and Benefits Trust Account.

SECTION 4. Contingency for Senate Bill 1: Debt Service on Cancer Prevention and Research Bonds. The appropriations made in House Bill 1, Acts of the 82nd Legislature, Regular Session, 2011, to the Texas Public Finance Authority for General Obligation Bond Debt Service are subject to the following provision. Appropriations out of the Permanent Fund for Health & Tobacco Education & Enforcement Account No. 5044; Permanent Fund for Children & Public Health Account No. 5045; and Permanent Fund for EMS & Trauma Care Account No. 5046, are contingent on the enactment of Senate Bill 1, 82nd Legislature, 1st Called Session, 2011, or similar legislation related to the use of certain Tobacco Settlement Funds for debt service on Cancer Prevention and Research Institute debt, by the 82nd Legislature, 1st Called Session, 2011. The Legislative Budget Board shall adjust the informational listing

2-1 of bond debt service pursuant to this provision. 2-2

SECTION 5. Appropriations to the Foundation School Program. Texas Education Agency, Article III, House Bill 1, Acts of the Session, 82nd 2011 (the Legislature, Regular Appropriations Act), adding is amended by the following appropriations and riders and, to the extent necessary, by giving all riders under the bill pattern of the agency full force and

2012 A.1.1., FSP Equalized 2013 Operations 1,726,989,252 Available School Fund 1,099,948,815 Foundation School Fund 13,412,514,119 12,656,939,681 2,198,994,000 Property Tax Relief Fund 2,338,574,000 906,500,000 Appropriated Receipts 835,600,000 1,002,457,000 \$18,620,413,934 \$18,564,213,933 Lottery Proceeds Total, A.1.1 A.1.2, FSP Equalized

Facilities

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\$650,000,000 Foundation School Fund \$716,100,000

(b) Foundation School Program Funding. Out of the funds appropriated above in Subsection (a) and elsewhere in HB 1, 82nd Legislature, 1st Called Session, 2011, a total of \$19,287,500,000 in fiscal year 2012 and \$19,297,400,000 in fiscal year 2013 shall represent the sum-certain appropriation to the Foundation School Program. The total appropriation may not exceed the sum-certain amount. This appropriation includes allocations under Chapters 41, 42, and 46 of the Texas Education Code.

Formula Funding: The Commissioner shall make allocations to local school districts under Chapters 41, 42, and 46 of the Texas  $\left( \frac{1}{2}\right) = \frac{1}{2}\left( \frac{1}{2}\right) = \frac{1}{$ Education Code based on the March 2011 estimates of average daily attendance and local district tax rates as determined by the Legislative Budget Board and the final tax year 2010 property values.

For purposes of distributing the Foundation School Program basic tier state aid appropriated above and in accordance with Section 42.101 of the Texas Education Code, the Basic Allotment is projected to be \$4,765 in fiscal year 2012 and \$4,765 in fiscal year

For purposes of distributing the Foundation School Program enrichment tier state aid appropriated above and in accordance with Section 41.002(a)(2) and Section 42.302(a-1)(1) of the Texas Education Code, the Guaranteed Yield is \$59.97 in fiscal year 2012 and \$59.97 in fiscal year 2013.

Out of amounts appropriated above and allocated by this rider to the Foundation School Program, no funds are appropriated for the New Instructional Facilities Allotment under Section 42.158 of the Texas Education Code.

Notwithstanding any other provision of this Act, the Texas Education Agency may make transfers as appropriate between Strategy A.1.1, FSP-Equalized Operations, and Strategy A.1.2, FSP-Equalized Facilities. The Texas Education Agency shall notify the Legislative Budget Board and the Governor of any such transfers at least 45 days prior to the transfer.

The Texas Education Agency shall submit reports on the prior month's expenditures on programs described by this rider no later than the 20th day of each month to the Legislative Budget Board and the Governor's Office in a format determined by the Legislative Budget Board in cooperation with the agency.

(c) Foundation School Program Adjustments. Appropriations from the Foundation School Fund No. 193 identified in Subsection (a) above are hereby reduced by \$438,900,000 in fiscal year 2012 and \$361,100,000 in fiscal year 2013. These adjustments reflect a lower estimate of the state cost of the Foundation School Program in the 2012-13 biennium due to updated pupil projections projections of district property values.

Property values, and the estimates of local tax collections on which they are based, shall be decreased by 0.97 percent for tax year 2011, then increased by 0.52 percent for tax year 2012.

The sum-certain appropriation for the Foundation School

C.S.S.B. No. 2 Program as identified in Subsection (b) above shall be decreased 3**-**1 3-2 commensurately to reflect these adjustments.

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- (d) Contingency for Senate Bill 1: Foundation School Program Deferral. Contingent on enactment of SB 1, Legislature, 1st Called Session, 2011, or similar legislation providing the legal basis for deferring the August 2013 Foundation School Program payment to school districts, appropriations made in Subsection (a) above from the Foundation School Fund 193 to the Texas Education Agency for the Foundation School Program are hereby reduced by \$2,300,000,000 in fiscal year 2013. It is the intent of the legislature that this payment be made in September 2013 pursuant to the provisions of the bill. The sum-certain appropriation for the Foundation School Program as identified Subsection (b) above shall be decreased commensurately.
- (e) Contingency for H.J.R. No. 109. Appropriations from the Foundation School Fund (Fund 193) made in Subsection (a) above, Texas Education Agency Strategy A.1.1, FSP Operations, for the Foundation School Program, are hereby reduced by \$150,000,000 in each fiscal year of the 2012-13 biennium. The Texas Education Agency is hereby appropriated from the Available School Fund (General Revenue) to the Foundation School Program in Strategy A.1.1, FSP - Operations an amount estimated to be \$150,000,000 in each fiscal year of the 2012-13 biennium, pursuant to all of the following:
  - passage and enactment of H.J.R. No. 109, S.J.R. No. 5, a. 82nd Legislature, Regular Session, 2011, or similar legislation relating to proposing a constitutional amendment to clarify references to the Permanent School Fund and to allow the General Land Office or other entity to distribute revenue derived from Permanent School Fund land or other properties to the Available School Fund;
  - of the approval b. voter associated constitutional amendment; and
  - the distribution of funds from the General Land Office to C. the Available School Fund pursuant to the provisions of the legislation.
- Contingency for Senate Bill 1: Foundation School Program Funding Contingency. The All Funds appropriations made for the Foundation School Program (FSP), Texas Education Agency Strategies A.1.1 and A.1.2, in Subsection (a) above, and as adjusted by other subsections in this section, are contingent on enactment of SB 1, 82nd Legislature, 1st Called Session, 2011, or similar legislation by the 82nd Legislature, 2011, relating to certain state fiscal matters and that amends Chapter 42 of the Texas Education Code to adjust state aid payments to the level of FSP appropriations made in Subsection (a) above as adjusted for other subsections in this section. Should this legislation fail to pass and be enacted, the All Funds appropriations for the FSP made herein are hereby reduced to zero for each year of the 2012-13 biennium, including the sum-certain appropriation identified in Subsection (b) above.
- (g) The Legislative Budget Board is directed to make all necessary adjustments to the Texas Education Agency's bill pattern pursuant to the provisions above, including adjustments to strategies, methods of finance, measures and riders contained in House Bill 1, 82nd Legislature, Regular Session, 2011.

SECTION 6. Contingency for Senate Bill 1: Legislation Relating to Certain Office of Court Administration License Fees. Contingent upon the enactment of Senate Bill 1, 82nd Legislature, 1st Called Session, 2011, relating to license fees and the allowable use of such fees for process servers, guardians, and court reporters by the 82nd Legislature, the Office of Court Administration is appropriated \$119,603 in fiscal year 2012 and \$119,714 in fiscal year 2013 to implement the provisions of the legislation. The number of "Full-Time-Equivalent Positions" indicated in the agency's bill pattern is increased by 2.0 each Fees, fines, and other miscellaneous revenues as fiscal year. authorized by the Process Servers Review Board, the Guardianship Certification Board, and the Court Reporters Certification Board

C.S.S.B. No. 2

shall cover, at a minimum, the cost of appropriations made in this provision, as well as an amount sufficient to cover "Other Direct and Indirect Costs Appropriated Elsewhere in this Act" (estimated to be \$27,783 in fiscal year 2012 and \$29,175 in fiscal year 2013). In the event that actual and/or projected revenues are insufficient to offset the costs identified by this provision, the Legislative Budget Board may direct that the Comptroller of Public Accounts to reduce the appropriation authority provided above to be within the amount of revenue expected to be available.

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SECTION 7. Contingency for Senate Bill 1: Railroad Commission. Contingent on enactment of Senate Bill 1, or similar legislation relating to the Railroad Commission by the 82nd Legislature, 1st Called Session, 2011:

(a) Oil and Gas Related Fees. In addition to amounts appropriated in House Bill 1, Acts of the 82nd Legislature, Regular Session, 2011, to the Railroad Commission, and contingent on Senate Bill 1, 82nd Legislature, 1st Called Session, 2011, or similar legislation creating an account to cover costs of the agency's oiland gas-related activities, by the 82nd Legislature, appropriations out of the General Revenue Fund are hereby reduced by \$16,766,209 in fiscal year 2012 and by \$16,716,472 in fiscal year 2013, and, to replace these appropriations, there is hereby appropriated \$16,766,209 in fiscal year 2012 and \$16,716,472 in fiscal year 2013 out of the Oil and Gas Regulation and Cleanup (OGRC) Fund created by the bill.

The following amounts of General Revenue funding would be replaced with funding out of the OGRC Fund in the following strategies:

2012 2013 Strategy A.1.1, Energy Resource Development \$4,099,221 \$4,070,349 Strategy C.1.1, Oil and Gas \$10,314,041 \$10,350,753 Monitoring and Inspections Strategy C.2.1, Oil and Gas \$496,396 \$461,550 Remediation Strategy C.2.2, Oil and Gas \$935,444 \$919,808 Well Plugging Strategy D.1.2, Public \$921,107 \$914,012 Information and Services

TOTAL \$16,766,209 \$16,716,472
In addition, appropriations out of the Oil Field Cleanup
Account No. 145 are hereby reduced by \$20,581,780 in fiscal year
2012 and by \$20,581,779 in fiscal year 2013, and, to replace these
appropriations, there is hereby appropriated \$20,581,780 in fiscal
year 2012 and \$20,581,779 in fiscal year 2013 out of the OGRC Fund
created by the bill. The following amounts out of the General
Revenue-Dedicated Oil Field Cleanup Account No. 145 would be
replaced with funding out of the OGRC Fund in the following
strategies:

2012 2013 \$1,114,744 \$1,114,744 Strategy A.1.1, Energy Resource Development Strategy C.1.1, Oil and Gas \$851,800 \$851,800 Monitoring and Inspections Strategy C.2.1, Oil and Gas Remediation \$3,786,565 \$3,786,565 \$14,690,620 \$14,690,620 Strategy C.2.2, Oil and Gas Well Plugging Strategy D.1.2, Public \$138,051 \$138,050 Information and Services TOTAL \$20,581,780 \$20,581,779

(b) Expansion of Pipeline Safety Fee Use to Include Gas Utility Regulation. Contingent upon enactment of Senate Bill 1, 82nd Legislature, 1st Called Session, 2011, or similar legislation allowing for the use of pipeline safety fees for gas utility regulatory functions, by the 82nd Legislature, the Railroad Commission is hereby appropriated in each fiscal year of the 2012-13 biennium an amount not to exceed \$233,000 in Strategy A.2.1, Gas Utility Compliance. This appropriation is contingent

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upon the Railroad Commission increasing Pipeline Safety Fees and shall be limited to revenues deposited to the credit of Revenue Object Code 3553 in excess of the Comptroller's Biennial Revenue Estimate for 2012-13.

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The Railroad Commission, upon completion of necessary actions to assess or increase the Pipeline Safety Fee, shall furnish copies of the minutes and other information supporting the estimated revenues to be generated for the 2012-13 biennium under the revised fee structure to the Comptroller of Public Accounts. If the Comptroller finds the information sufficient to support the projection of increased revenues in excess of those estimated in the Biennial Revenue Estimate for 2012-13, a finding of fact to that effect shall be issued and the contingent appropriation shall be made available for the intended purpose.

SECTION 8. Contingency for Senate Bill 1: Voter Registration. Contingent on enactment of Senate Bill 1, 82nd Legislature, 1st Called Session, 2011, or similar legislation relating to transferring voter registration payments from the Fiscal Programs - Comptroller of Public Accounts to the Secretary of State, amounts appropriated elsewhere in House Bill 1, 82nd Legislature, Regular Session, 2011, to the Fiscal Programs Comptroller of Public Accounts in Strategy A.1.1, Voter Registration, shall be transferred to the Secretary of State.

SECTION 9. Contingency for Senate Bill 1: Back to Work and Homeless Housing. Contingent on enactment of Senate Bill 1, 82nd Legislature, 1st Called Session, 2011, or similar legislation by the 82nd Legislature, relating to the transfer of General Revenue-Dedicated Texas Enterprise Fund Account No. 5107 appropriations to other state agencies, the Trusteed Programs within the Office of the Governor may transfer \$20,000,000 from the General Revenue-Dedicated Texas Enterprise Fund Account No. 5107 to the Texas Workforce Commission for the Texas Back to Work Program, and to the Texas Department of Housing and Community Affairs for the Homeless Housing Program.

If Senate Bill 1, or similar legislation by the 82nd Legislature, 1st Called Session, 2011, relating to the transfer of General Revenue-Dedicated Texas Enterprise Fund Account No. 5107 appropriations to other state agencies is not enacted, it is the intent of the Legislature that the Trusteed Programs within the Office of the Governor award a grant in the amount of \$20,000,000 in the 2012-13 biennium out of the General Revenue-Dedicated Texas Enterprise Fund Account No. 5107 to the Texas Workforce Commission for the Texas Back to Work Program, and to the Texas Department of Housing and Community Affairs for the Homeless Housing Program.

SECTION 10. Contingency for Senate Bill 7: Managed Care Expansion. Contingent on the enactment of Senate Bill 7 or similar legislation by the 82nd Legislature, 1st Called Session, 2011, authorizing the use of managed care in the South Texas counties of Cameron, Hidalgo, and Maverick, the following actions shall take place:

- a. The Health and Human Services Commission (HHSC) is appropriated \$57,370,186 in General Revenue Funds and \$87,670,192 in Federal Funds in fiscal year 2012 and \$121,680,697 in General Revenue and \$185,809,691 in Federal Funds in fiscal year 2013 for Goal B, Medicaid (a biennial total of \$179,050,883 in General Revenue Funds and \$273,479,883 in Federal Funds); and
- b. General Revenue appropriations to HHSC are increased by \$143,139,236 in fiscal year 2012 and \$297,625,734 in fiscal year 2013 and General Revenue appropriations to the Department of Aging and Disability Services (DADS) are reduced by \$143,139,236 in fiscal year 2012 and \$297,625,734 in fiscal year 2013; therefore, appropriations at HHSC and DADS for the expansion of the managed care model for the provision of services is assumed to be identical to the strategy funding levels of both agencies in House Bill 1, 82nd Legislature, Regular Session, 2011.

The Commission shall provide a report detailing the cost

C.S.S.B. No. 2

savings in General Revenue Funds and All Funds realized by the expansion of managed care in the biennium. The report shall be submitted to the Legislative Budget Board and the Governor by December 1, 2012.

SECTION 11. Contingency for Senate Bill 7: Institute of Health Care Quality and Efficiency. Contingent on the enactment of Senate Bill 7, 82nd Legislature, 1st Called Session, 2011, or similar legislation relating to creation of an Institute of Health Care Quality and Efficiency and repeal of the Texas Health Care Policy Council, the Health and Human Services Commission is appropriated \$228,800 in fiscal year 2012 and \$228,800 in fiscal year 2013 in interagency contracts. The number of "Full-Time Equivalents (FTE)" is increased by 2.0 FTEs in fiscal year 2012 and 2.0 FTEs in fiscal year 2013.

SECTION 12. Contingency for Senate Bill 7; Health Care Collaborative. Contingent on enactment of Senate Bill 7, 82nd Legislature, 1st Called Session, 2011, or similar legislation relating to creation of health care collaboratives, out of the fees and assessments collected by the Department of Insurance, the Department is appropriated:

- a. \$169,408 for fiscal year 2012 and \$461,901 for fiscal year 2013 from General Revenue Insurance Companies Maintenance Tax and Insurance Department Fees, and
- b. \$254,112 for fiscal year 2012 and \$692,851 for fiscal year 2013 from General Revenue Dedicated Fund 36, the Texas Department of Insurance operating account, to implement the provisions of the legislation.

The number of "Full-Time Equivalents (FTE)" is increased by 8.0 FTEs in fiscal year 2012 and 16.0 FTEs in fiscal year 2013.

SECTION 13. SAVINGS CLAUSE. If any section, sentence, clause or part of this Act shall for any reason be held to be invalid, such decision shall not affect the remaining portions of this Act; and it is hereby declared to be the intention of the Legislature to have passed each sentence, section, clause, or part thereof irrespective of the fact that any other sentence, section, clause, or part thereof may be declared invalid.

SECTION 14. EMERGENCY CLAUSE. The importance of the legislation to the people of the State of Texas and the crowded condition of the calendars in both Houses of the Legislature create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three separate days in each House be suspended, and said Rule is hereby suspended; and this Act shall take effect and be in force from and after its passage, and it is so enacted.

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