LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 78TH LEGISLATURE 4TH CALLED SESSION - 2004
Revision 1

May 4, 2004

TO: Honorable Tom Craddick, Speaker of the House, House of Representatives

FROM: John Keel, Director, Legislative Budget Board

IN RE: **HB1** by Grusendorf (Relating to public education, public school finance, and related matters, including certain new or modified taxes and fees, the authorization of a state video lottery system, and other state and local tax and revenue measures to provide sufficient funding for public education and to provide tax relief and protection for taxpayers; providing penalties.), **Committee Report 1st House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1, Committee Report 1st House, Substituted: a positive impact of $1,196,830,538 through the biennium ending August 31, 2007.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

The original fiscal note contained tax revenue estimates developed by Legislative Budget Board staff. The revised fiscal note contains tax revenue estimates provided by the Comptroller of Public Accounts.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2005	$1,597,508,000
2006	$19,231,769
2007	($419,909,231)
2008	($898,949,231)
2009	($892,129,231)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from *GENERAL REVENUE FUND* 1	Probable Savings/(Cost) from *TEXAS EDUCATION FUND*	Probable Revenue Gain/(Loss) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain/(Loss) from *Telecommunications Infrastructure Fund 345* 1
2005	($178,000,000)	$0	$1,493,901,000	$0
2006	($332,559,231)	($5,599,200,000)	$4,568,422,000	$216,485,000
2007	($334,859,231)	($6,162,000,000)	$4,867,601,000	$33,515,000
2008	($339,259,231)	($6,813,900,000)	$4,917,113,000	$0
2009	($340,659,231)	($7,279,900,000)	$5,203,336,000	$0

Fiscal Year	Probable Revenue Gain/(Loss) from *Texas Education Fund* 1	Probable Revenue Gain/(Loss) from *Video Lottery Account*	Probable Revenue Gain/(Loss) from *STATE HIGHWAY FUND* 6	Probable Revenue Gain/(Loss) from *School Districts*
2005	$73,809,000	$207,798,000	$1,222,000	$0
2006	$146,686,000	$1,019,398,000	$2,171,000	$13,408,000
2007	$153,379,000	$1,022,455,000	$2,273,000	$152,741,000
2008	$160,131,000	$1,176,966,000	$2,355,000	$272,076,000
2009	$166,326,000	$1,358,768,000	$2,415,000	$334,925,000

Fiscal Year	Probable Revenue Gain/(Loss) from *Cities*	Probable Revenue Gain/(Loss) from *Counties*	Probable Savings/ (Cost) from *LOTTERY ACCT* 5025
2005	$0	$0	($27,294,596)
2006	($492,000)	($454,000)	($52,457,872)
2007	$2,261,000	$2,074,000	($54,735,050)
2008	($6,271,000)	($5,712,000)	($57,143,392)
2009	($35,582,000)	($32,218,000)	($59,657,701)

Fiscal Year	Change in Number of State Employees from FY 2003
2004	12.0
2005	23.0
2006	23.0
2007	23.0
2008	23.0

Fiscal Analysis

The bill substantively modifies both the Texas Education Code and the Tax Code. Both the formulas that calculate public education funding and the state's system of taxation are substantively modified. Unless otherwise noted, the provisions of the bill take effect September 1, 2005.

Article I of the bill relates to the Foundation School Program. Substantive portions of current law Chapters 41 and 42 are repealed or modified.

The bill defines the Foundation School Program as a two-tiered system designed to provide an accredited program of education and also substantially equal access to enrichment funds and also a facilities component.

Section 42.005 (b) of the bill funds school districts with Average Daily Attendance (ADA) declines in excess of 2% on the basis of prior year ADA. Current law limits this provision to 98% of the prior year and also limits expenditures to $11 million.

The bill directs the Legislative Budget Board to report to the legislature on the equalized funding elements of the Program. It also directs the LBB to contract for a comprehensive study of the funding elements, to be delivered on December 1, 2008.

Subchapter B of the bill defines the basic program as an Accreditation Allotment (AA) and special student allotments. The AA is $4,459 for each student below the ninth grade and $5,459 for each student at or above the ninth grade.

Subchapter C defines the special student allotments. The Special Education Allotment is $300 per student in average daily attendance (ADA), the Accelerated Programs Allotment provides $665 for students at risk of dropping out of school, the Transitional Program Allotment provides $450 per student in bilingual programs, and Career and Technology Education Allotment of $178 per annual credit hour in the program.

Subchapter D removes the current law limitation by appropriation on the New Instructional Facilities Allotment. The current law limitation is $25 million per year.

Subchapter E defines the enrichment program and authorizes school districts to levy an additional $0.02 of tax effort starting in 2007. The pennies are subject to state equalization.

Subchapter F provides for a cost of education adjustment, a district scale adjustment and an inflation adjustment. The inflation adjustment takes effect in 2007.

Section 42.306 requires a local property tax rate of $1.05 to share in the financing the program.

Section 42.309 stipulates that school districts earn at least 102 percent of what they would have been entitled to in state and local revenue under the law in effect for fiscal year 2005. Section 42.309 provides a limitation on the total amount of state and local revenue gain that school districts may experience. Section 42.311 entitles school districts to the amount necessary to meet public school adequacy standards.

Chapter 41 redefines equalization actions, requiring school districts who earn more than their entitlement in local revenue to purchase attendance credits from the state or be consolidated.

Part B modifies current law relating to school district facilities programs.

Part D requires the state to pay 50 percent of school district social security contributions. The bill also contains language relating to increasing the school district employee pass-though for health insurance.

Article II establishes education reform and incentive programs.

Section 2A.02 establishes a teacher mentor program. Each classroom teacher with less than two years of teaching experience is assigned a mentor who has at least five years of experience, preferably in the same subject or grade level. The mentor receives an annual stipend of $1,500 for each teacher mentored, to be paid with appropriations made for that purpose.

Section 2A.03 directs the commissioner of education to establish an educator excellence incentive program, and establishes the educational excellence fund which consists of appropriations in the amount of $175 million annually, as well as donations and grants, to pay for the program. Each school district receives an amount proportional to their number of teachers, to be distributed as employee incentives. The awards shall no less than $2,500, or no more than 15 percent of employees shall be eligible to receive them. This section also directs the commissioner to establish a premium teacher program. The commissioner shall identify “premium teachers” based on a set of factors listed in the provision. Only teachers with at least three years of classroom experience are eligible. Premium teachers receive an annual award of $4,000, may work one extra hour per day and may be assigned additional tutoring or supervisory duties. The section limits appropriations for the program to $10 million.

Section 2A.04 establishes a student excellence and improvement incentive. This section creates three programs designed to award funds to school campuses for high academic achievement. A campus is entitled to receive: (1) $1,000 for each student graduating under the advanced high school achievement program (also known as the “Distinguished Achievement Program”), (2) $100 for each student achieves “commended performance” recognition, and (3) $100 for each student passing the Algebra I end-of-course exam. These amounts are doubled for each at-risk student completing these achievements.

2B.02 directs all school districts to participate in a statewide student enrollment, attendance, and achievement tracking system. This system should be designed to facilitate electronic transfer of student records between districts and produce reports helpful in tracking student achievement and dropouts. The commissioner may solicit grant funds to maintain and make available this system.

This section also permits the commissioners of education and higher education to establish no more than three "centers for education research" and allows them to accept gifts and grants and assess fees to support these centers.

Sections 2D.05 and 2D.07: Replaces the current exit-level student assessment, as well as all Texas Assessment of Knowledge and Skills (TAKS) tests currently administered in the 9^{th} and 10^{th} grade, with a set of 13 end-of-course exams. As soon as practicable but not later than the 2008-09 school year, students will have to satisfactorily pass two tests in each of the four subject areas (English, Mathematics, Science, and Social Studies) in order to complete graduation requirements. The commissioner is directed to establish a transition between the current exit-level test and the new end-of-course tests.

2D.06: Requires the Texas Education Agency to provide computer-based versions of state assessment instruments and, to the extent practicable and appropriate, require school districts to administer the computer-based tests. These tests shall be available by March, 2006. The section also requires the agency to develop computer-adaptive diagnostic instruments for state assessment instruments, and conduct a pilot project on one or more assessments during the 2005-06 school year.

2D.08: Directs school districts to administer an agency-approved college preparation assessment (for example, the SAT or ACT exam) to students enrolled in grades 8, 10, and 12, who are enrolled in courses necessary to complete the curriculum requirements for the recommended or advanced high school program. The commissioner shall make grants available to districts to pay for the tests from amounts appropriated for that purpose. The agency would be required to compile and report results from this program.

2E.02 amends the standards by which a school district may transfer a student out of a bilingual education or special language program, by requiring bilingual students above grade 2 to achieve satisfactory performance on reading or English language arts TAKS tests.

2E.04 requires the commissioner to develop a longitudinal measure of progress toward English language proficiency, and to identify bilingual education best practices and distribute information on those best practices to all school districts.

Article 3 relates to property taxation and local revenue. The bill would amend Section 23.23 of the Tax Code to reduce the current 10 percent maximum annual percentage cap on the appraised value of a residence homestead to a maximum of 5 percent. The bill would extend the cap to second homes and owner-occupied rental property.

The bill would amend Section 26.08 concerning rollbacks for school districts. Section 26.08 would be amended to add to the calculation of the rollback tax rate an adjustment for inflation under Section 42.303 of the Education Code. That section provides for the use of the employment cost index (Bureau of Labor Statistics) as the inflation factor. The six-cent allowable rate increase would be decreased to two cents for the 2005 tax year only. The rollback rate for a school district would be a $1.05 M&O rate plus the I&S rate.

The bill would add a new subchapter to the Tax Code to require the disclosure of the sales price of real property to appraisal districts.

The bill would provide a school district enrichment tax of $0.10 per $100 of taxable value. School districts would be restricted in levying this tax to two-cent increments starting in fiscal 2007. The enrichment tax would be equalized by the state.

Article 4 relates to various consumption taxes. 4A.01 would amend Chapter 151 of the Tax Code to raise the state sales tax rate from 6.25 percent to 6.75 percent. 4A.02 through 4A.07 would add billboard advertising services to the list of taxable services under the sales tax and eliminate the sales tax exemption for mixed beverages taxed under Chapter 183 of the Tax Code. In addition, the sales tax exemption for water would be amended to eliminate the exemption for water sold in a sealed container with a volume of three gallons or less; and Sections 151.319, 151.320, and 151.325, relating to sales tax exemptions for newspapers, magazines, and the basic fee for internet access service, would be repealed. These provisions would take effect January 1, 2005.

Part B would amend Chapter 152 of the Tax Code to increase the motor vehicle sales tax rate and motor vehicle long-term rental tax rates. The bill would increase the motor vehicle sales and use tax rate to 7.75 percent from the current rate of 6.25 percent on the sale of motor vehicles in Texas. In addition, the bill would increase the rate assessed on motor vehicle rentals over 30 days to 7.75 percent from the current rate of 6.25 percent. These provisions would take effect January 1, 2005.

Part C would amend Chapter 160 of the Tax Code to raise the boat and motor boat sales and use tax from 6.25 percent to 7.75 percent. This provision would take effect January 1, 2005.

Part D would create a new Chapter 163 of the Tax Code to enact a tax on admission tickets to events. The tax would be imposed on tickets purchased to a professional athletic or amusement event, to a permanently sited theme or amusement park, and to live performances, including concerts, shows, readings, or plays. The tax rate would be $1 on the sale of each ticket. The tax would not apply to a ticket to an event sponsored by a primary or secondary school, an institution of higher education, or if the proceeds of the event would be used only for charitable purposes. The tax would be administered in the same manner as the sales tax. Net revenue from the tax would be allocated to the Texas Education Fund.

Article 5 relates to cigarette and tobacco taxes. The bill would amend Chapter 154 of the Tax Code to raise the cigarette tax rate by $50.00 per 1,000 cigarettes weighing three pounds or less per thousand ($1.00 per pack of 20 cigarettes), to a new rate of $70.50 per 1,000 cigarettes ($1.41 per pack). The new cigarette tax revenue would be deposited to the General Revenue Fund 0001.

The bill would amend Chapter 155 of the Tax Code to raise the tax rates for all of the tobacco products in this chapter. The tax on small cigars (weighing three pounds or less per thousand) would increase from $0.01 per 10 cigars to $0.0344 per 10 cigars; the tax on each of the three categories of large cigars ($7.50, $11.00, and $15.00 per thousand) would increase by 244 percent (to $25.80, $37.84, and $51.60 per thousand, respectively); and the tax on tobacco products other than cigarettes and cigars (i.e., snuff, chewing tobacco, and pipe tobacco) would increase from 35.213 percent to 40 percent of the manufacturer's list price. The new cigar and tobacco products tax revenue generated by the bill would be deposited to the General Revenue Fund 0001. These provisions would take effect January 1, 2005.

Article 6 relates to business taxes. The bill would repeal Chapter 171 of the Tax Code, relating to the franchise tax. The provisions relating to audits, deficiencies, redeterminations, and refunds would continue to apply until barred by limitations. The repeal would not affect the status of a corporation that has had its corporate privileges revoked, a suit filed against it, or a receiver appointed. The repeal would not affect the ability of the Comptroller, the Secretary of State or the Attorney General to take action against a corporation for actions that took place before the repeal. The repeal would not affect the right of a corporation to contest a forfeiture, revocation, lawsuit, or appointment of a receiver under the provisions repealed. The effective date of the repeal would be January 1, 2005.

The bill would create a new Tax Code subtitle and chapter to establish a payroll tax. The new tax would apply to each for-profit employer, as defined in the Labor Code. The tax would be imposed for each employee to whom the employer paid wages during a calendar quarter. The tax owed by the employer for each employee would be the lesser of 1.25 percent of the wages paid to the employee during the calendar quarter, or $125. Governmental entities and 501c3 organizations would be exempt. Each employer would file a report with the Comptroller and remit the tax on or before the last day of the month immediately following each calendar quarter. The effective date of these provisions would be January 1, 2005.

The bill would add provisions to Chapter 111 of the Tax Code, relating to forfeiture and reinstatement of a right to transact business in this state for a person or entity that qualifies for liability limitations for its owners or shareholders. Forfeiture would occur if the entity failed to file reports and remit payments due after a specified period following notification of forfeiture.

Article 7 relates to utility taxation. The bill would amend Chapter 57 of the Utilities Code to continue the Telecommunications Infrastructure Fund (TIF) until September 1, 2007. The bill would raise the revenue limit for the TIF assessment to $2 billion. Certificated telecommunications utilities would be allowed to recover the assessment from the utilities' customers once the assessment deposits to the fund exceed $1.5 billion. The Comptroller would be required to publish, in the Texas Register, the date that assessment deposits totaled $1.5 billion. Utilities would be required to file, with the Public Utility Commission by February 15 of each year, affidavits attesting the amount of assessment paid and the amount of assessment recovered from customers. The affidavits would be confidential information.

Article 9 relates to video lottery. The bill, in concert with the associated joint resolution, would allow the state to operate video lottery games at racetracks and on Indian lands.

Net revenue generated from video lottery terminals in racetracks would be distributed in the proportion of 60 percent to the state and 40 percent to racetracks. Net revenue generated by video lottery in Indian tribes, according to the proposed constitutional amendment in CSHJR 1, would be distributed with "not less than 25 percent of net revenue" to the state. The bill would require that Indian tribes with net revenue from video lottery exceeding $20 million per year to pay the state an additional 25 percent of the revenue exceeding $20 million.

The bill would require the collection of a $100,000 startup license fee from each track and Indian tribe applying for a license to conduct video lottery games. Also, a one-time $25,000 license fee per video lottery terminal would be assessed. Replacement terminals would not be subject to an additional fee, but additional video lottery terminals would be.

With one exception relating to a mandated Texas Education Agency study, this bill would require the passage of a constitutional amendment to become effective. This amendment would be submitted to the voters on November 2, 2004, and if the constitutional amendment were approved, the bill would take effect on January 1, 2005.

Methodology

Article I, Public School Finance:

The requirement for the Legislative Budget Board to contract for a comprehensive study of the funding elements is estimated to have a cost to the state of $500,000 in 2008.

The provision providing relief for school districts experiencing a decline of 2 percent or more in ADA is estimated to result in a state cost of $49 million per year. Removal of the funding cap on the New Instructional Facilities Allotment is anticipated to increase state costs by $5 million per year.

The school finance provisions of the legislation creating an Accreditation Allotment and special student adjustments is estimated to have a net state cost of $5.2 billion in 2006 growing to $5.6 billion in 2007 and increasing in the out years. Since the language delegates to the Legislature a determination of adequacy for future years, this estimate leaves the adequacy standards static. If the standards increase at the same rate as the employment cost index (the standard used for inflation in the bill) state costs would increase significantly, by $280 million in 2007, $585 million in 2008 and $1.3 billion in 2009.

Although districts are authorized to levy $0.02 in an enrichment tax, for purposes of this estimate it is assumed that $0.01 as a statewide average would in fact be levied. The state cost associated with equalizing that penny is $153 million in per year.

Part B modifies Chapter 46 facilities programs. It expressly prohibits use of the Instructional Facilities Allotment for noninstructional facilities. The Existing Debt Allotment is modified to prohibit its use for noninstructional buildings. Language relating to the Existing Debt Allotment is ambiguous, appearing to roll forward eligible debt funding in perpetuity. If the language is intended to make eligible for the program debt on which a payment is made in the final fiscal year of the preceding state fiscal biennium the state cost would be an estimated $60 million per year.

Part D requiring the state to pay 50 percent of school district social security contributions is estimated to cost the state $30 million per year, based on an analysis of the number of employees in school districts participating in social security.

Section 1E.06 provides the scale adjustment to open enrollment charter schools. This provision is estimated to cost approximately $9 million per year.

A new grant program for transportation funding is created intended to provide state aid to districts with high transportation costs. No formula for distribution is provided in the legislation. For purposes of this estimate the cost of the grant program is estimated to be 25 percent of the current state allocation, or $75 million per year.

A grant program for high-incidence or high severity special education students is created. This program is in addition to the special education allotment referenced above. For purposes of this estimate, it is assumed that the grant program would be funded in an amount sufficient to allow the state to meet its Federal maintenance of effort requirements. The estimated amount to meet MOE (in addition to the formula allocation above) is approximately $250 million per year.

The bill contains language relating to increasing the school district employee pass-though for health insurance. It is assumed for the purposes of this estimate that the provision is intended to take effect in fiscal year 2005, since the pass-though is reinstated to its 2003 level in 2006. The cost of the provision is therefore estimated to be $176 million in 2005.

Article II, Education Reform:

Section 2A.02: Teacher Mentor Program. In 2006, there will be an estimated 40,200 teachers with less than two years experience. At $1,500 per teacher, mentors would receive $60.3 million in 2006. Assuming a growth rate in new teachers of 2 percent, program costs would increase by approximately 2 percent thereafter.

Section 2A.03: Educator Excellence Incentive Program. This fiscal note assumes that donations and grants received for this program would be negligible, and state appropriations are the primary funding source. The bill limits state appropriations for this program to $175 million annually, starting in 2006.

Premium Teacher Program. The bill limits the amount that may be appropriated for this program to $10 million. The bill is unclear whether this is intended to be an absolute limit or an annual limit; this fiscal note assumes it to be an annual limit, starting in 2006.

Section 2A.04: Student Excellence and Improvement Incentive. (1) Distinguished Achievement Program. In the 2002-03 school year, 13,008 students graduated under this program, 1,235 of whom were at-risk students. Assuming a 2 percent increase in student growth each year from 2004 to 2006, a $1,000 per student award would cost approximately $13.8 million, and an additional $1,000 per at-risk student would cost $1.3 million, for a total cost of $15.1 million in 2006. This amount is assumed to increase by a projected student growth rate of 2 percent each year thereafter;

(2) Commended Performance. In the 2002-03 school year, 115,609 students achieved commended performance, 5,671 of whom were at-risk students. Assuming a 2 percent increase in student growth each year from 2004 to 2006, a $100 per student award would cost approximately $12.3 million, and an additional $100 per at-risk student would cost $600,000, for a total cost of $12.9 million in 2005. This amount is assumed to increase by a projected student growth rate of 2 percent each year thereafter;

(3) Algebra I Incentive. A total of 174,949 students passed the last state-mandated administration of the Algebra I test; 37,052 of these students were at-risk. Assuming a 2 percent increase in student growth each year from 2004 to 2006, a $100 per student award would cost approximately $18.6 million, and an additional $100 per at-risk student would cost $3.9 million, for a total cost of $22.5 million in 2005. This amount is assumed to increase by a projected student growth rate of 2 percent each year thereafter.

2B.02: Student Tracking System. Although the bill authorizes the commissioner to accept grant funds to support this system, it is assumed that these funds will be negligible. It is assumed that in order to facilitate statewide adoption of an integrated tracking system, the state would be required to provide funds for its development and maintenance. It is estimated that this would incur a one-time development cost in 2005 of approximately $2 million, with ongoing costs of $300,000 annually.

Sections 2D.05 and 2D.07: End-of-Course (EOC) Assessments: TEA estimates that the development of EOC tests can be ramped up over a three year period starting in 2005 in a way that ensures the class of students scheduled to graduate in 2008-09 has had the opportunity to take EOC exams the same year they complete the course. It is estimated that this entails a $10 million cost in 2005, $20 million in 2006, and reaching the full implementation cost of $30 million in 2007. Beginning with 2008, net assessment costs of this provision will drop to $14.0 million, when the $30.0 million EOC cost is offset by savings of $16.0 million due to the elimination of corresponding TAKS exams. Assessment costs would be deducted from each district's Foundation School Program allocation.

2D.06: Computer-based Assessment. Based on the provisions of the bill, TEA would be required to provide both the current paper-based assessment system and a new computer-based assessment system to districts by 2006. Based on the cost of a current computer-based test pilot program, it is estimated that this system would cost $10 million per year. Because assessment costs are paid for through an FSP set-aside, the above cost represents a statewide reduction in FSP payments to school districts.

Computer-adaptive Assessment. Given that this provision identifies in excess of 30 tests for which computer-adaptive instruments are to be developed, it is assumed that the agency would develop an average of five instruments per year, at an estimated cost of $500,000 per test, plus an estimated $250,000 in ongoing maintenance costs. Because the pilot program must be administered in 2006, the developmental costs of the first five tests -- $2.5 million -- would be incurred in 2005. The same costs would be incurred each year thereafter, along with the $250,000 in ongoing costs, until approximately 2012. Because assessment costs are paid for through an FSP set-aside, the above cost represents a statewide reduction in FSP payments to school districts.

2D.08. College Preparation Assessment. It is assumed that commissioner-approved assessments would be, or be similar in cost to, the SAT and ACT exams, and their precursory exams given in earlier grades, the PSAT and EXPLORE/PLAN tests. The precursory exams cost on average $6 per test, and the SAT/ACT exams average $27 per test. It is assumed that the precursory exams are given to 8th and 10th graders. Assuming the first year of implementation is the 2005-06 school year, costs are estimated to be $9.5 million in 2006 and $9.5 million in 2007. This cost is expected to increase to $11 million in 2008, the year that the first class subject to a required recommended high school program hits 12th grade. Based on the provisions of the bill, this cost is borne directly by local districts.

The bill directs the commissioner to make grants to districts, from appropriated amounts, to prepare students for these assessments. It is assumed that for the purposes of this fiscal note that the state grants would pay for commercially-available online tutorials for these tests, and it is further assumed that districts would receive these grant for only 12th graders taking the SAT/ACT would receive these grants. With an estimated cost of $30 per tutorial, the annual state costs would be approximately $6.4 million in 2006 and 2007, increasing to $7.5 million in 2008 and beyond.

2E.02: Bilingual Education Program Exit Requirements. It is estimated that the bill’s stricter standards would lead to the retention of 25,000 students in bilingual education for an additional year. At $450 per student, the additional cost to the Foundation School Program is an estimated $11.2 million annually, starting in 2006.

2E.04: Bilingual Education Best Practices. It is assumed that, because the study of district best practices in bilingual education is dependent upon the development of a longitudinal progress measure and would take significant field work, the earliest that the study could be completed would be 2008. The study and the dissemination of results to all districts is estimated to have a one-time cost of $500,000.

Article 3. With respect to the five percent appraisal cap, the analysis was based on 2002 and 2003 appraisal roll information reported electronically by appraisal districts. The percent change in value from tax year 2002 to 2003 for each of 4.7 million residences that were listed on the appraisal roll in both years was calculated and the results were sorted by percent change. The value loss resulting from the proposed limitation was calculated for properties that increased in value more than five percent. Value losses to the existing 10 percent value limitation were excluded. The value loss was adjusted to account for lower projected future growth rates for residential property. The adjusted value loss was further adjusted in the second and succeeding years of the analysis to reflect multi-year appraisal cycles and the holdover of capped property from one year to the next based on historical data from the existing 10 percent cap.

The projected city, county, and school district tax rates were applied to the value losses in each year to estimate their respective levy losses.

With respect to the rollback rate reduction for school districts, the fiscal impact would depend on future actions by school districts relative to the adoption of property tax rates and cannot be determined.

With respect to the provisions relating to residential sales price disclosure, because the state is constitutionally prohibited from imposing a state property tax, there would be no direct fiscal impact on the state. The amount of property value gain was based on a survey of large appraisal districts. The median percent increase in property value was applied to the state total property value to estimate the statewide property value gain. The beneficial effects of the new law would accrue over a three-year period. One third of potential gains would be realized in fiscal 2006, two-thirds in fiscal 2007, and the full amount in fiscal 2008. Values and tax rates were trended through the projection period. A factor of 70 percent was applied to the statewide value gain to estimate the amount of gain inside cities. No information was available to estimate special district gains. The appropriate county, city, and school district tax rates were applied to the value gains to project their respective revenue gains.

With respect to local enrichment, statewide taxable values were trended through the projection period and multiplied by the enrichment tax rate in each year, beginning with one cent per $100 valuation in fiscal 2007 and increasing in one-cent increments through the projection period, creating a school district gain. Because the enrichment tax would be equalized, there would be a state cost after a one-year lag.

Article 4. The fiscal implications of raising the sales tax rate to 6.75 percent were estimated using current state sales and use tax revenue projections. The fiscal impact was adjusted for an effective date of January 1, 2005. The revenue gains for the State Highway Fund 0006 reflect the increased sales tax revenue attributable to motor lubricants.

To estimate the implications of taxing billboard advertising services, data on the Texas sale of billboard advertising services were gathered from the U. S. Census Bureau. Sales were multiplied by the increased state sales tax rate, adjusted for an effective date of January 1, 2005, and extrapolated through fiscal 2009.

The impact of eliminating the sales tax exemption for mixed beverages taxed under Chapter 183 of the Tax Code was estimated using Comptroller tax files. Sales of mixed beverages were multiplied by the increased state sales tax rate, adjusted for an effective date of January 1, 2005, and extrapolated through fiscal 2009.

To estimate the implications of eliminating the sales tax exemption for water sold in sealed containers of three gallons or less, data on the sale of bottled water were gathered from industry sources. Revenues were adjusted to reflect Texas sales of containers three gallons or less, multiplied by the increased sales tax rate, adjusted for the effective date of January 1, 2005, and extrapolated through fiscal 2009.

To estimate the impact of eliminating the sales tax exemptions for newspapers, magazines, and the fee for internet access service were gathered from various sources including the U. S. Census Bureau. Sales were adjusted to reflect Texas, multiplied by the increased sales tax rate, adjusted for the effective date of January 1, 2005, and extrapolated through fiscal 2009.

The fiscal implications of raising the motor vehicle sales tax and motor vehicle rental tax rates were estimated using current motor vehicle sales tax revenue projections, adjusted for behavioral effects stemming from the rate increase and for the effective date.

The fiscal implications of raising the boat tax rate were estimated using current boat tax revenue projections. The fiscal impact was adjusted for an effective date of January 1, 2005.

Data on the sale of tickets to professional athletic events, amusement events, theme parks, and live performances were gathered from a variety of public and private sources. Movies are not specifically mentioned in the bill language and thus were not included in the estimate. Ticket sales were multiplied by the $1 tax per ticket, adjusted for the effective date of January 1, 2005 and extrapolated through 2009.

Article 5. The proposed tobacco tax rate increases would have a negative effect on the taxable consumption of those products in Texas. Potential revenue collections were adjusted for consumption and tax avoidance effects and for collection lags.

Article 6. The estimate for the repeal of Chapter 171 assumed that no franchise tax reports or payments would be required for reports that would have been due on or after January 1, 2005. This would include the 2005 regular report and final reports that would have been due after the effective date of the bill. Franchise payments and refunds made after the effective date would be based on tax liability incurred on a report originally due before the effective date of the bill. The estimate for the new payroll tax was based on employment and wage data published by the Texas Workforce Commission and on the Comptroller's economic forecast. For the purposes of this estimate, it was assumed that "wages" was not limited to $9,000, as defined for unemployment insurance purposes. The provisions relating to tax enforcement would have no fiscal impact on the state or units of local government.

Article 7. The estimates for the Telecommunication Infrastructure Fund were based on data from assessment returns paid by telecommunication utilities.

Article 8. For video lottery terminals (VLTs), this analysis assumes 3000 VLTs in partial fiscal year 2005 and 15,000 VLTs in fiscal 2006 growing to 25,000 in fiscal 2009. Therefore, the above tables reflect revenue of $208 million in partial fiscal year 2005 and $1 billion in fiscal 2006 growing to $1.4 billion in fiscal 2009. The Comptroller's office (CPA) estimates 3,077 VLTs in partial fiscal year 2005 and 7,752 VLTs in fiscal year 2006 growing to 15,468 by fiscal 2009. As a result, the CPA estimates collections from VLTs to total $249 million in partial fiscal year 2005 and $548 million in fiscal 2006 growing to $972 million in fiscal 2009. The Lottery Commission (TLC) estimates 28,650 VLTs for every fiscal year. As a result, the TLC estimates collections from VLTs to total $681 million in partial fiscal year 2005 and $1.6 billion in fiscal 2006 growing to $1.9 billion in fiscal 2009.

The 15,000 VLTs estimated to be in place during fiscal 2006 amounts to one VLT for every 1,449 persons in Texas. For comparative purposes, West Virginia had in fiscal 2002 one VLT for every 149 persons in that state.

Note: This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. Therefore, the fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Note: Gain to certification includes dynamic feedback effects from the economic stimulus provided by this bill.

Administrative costs to the Comptroller's office of approximately $6 million per year are not reflected in the above tables.

Local Government Impact

Local school districts will experience a reduction in local revenue and an increase in state aid under the school finance provisions. The net new revenue under the formulas is estimated to be $212 per pupil.

School districts will also be eligible to receive additional state revenues under the incentive programs contingent on student performance. The incentive program funding would average $70 per pupil if distrbuted uniformly.

Revenue impacts to local governments (except special districts) from appraisal limitations, price disclosure and the imposition by school districts of the enrichment tax are reflected in the above tables. The impact on special district collections cannot be estimated.

Source Agencies: 304 Comptroller of Public Accounts, 362 Texas Lottery Commission, 701 Central Education Agency

LBB Staff: JK, WP, SD, UP