LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 8, 2005

TO: Honorable Steve Ogden, Chair, Senate Committee on Finance

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: **HB3** by Keffer, Jim (Relating to financing public schools in this state and reducing school property taxes.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3, Committee Report 2nd House, Substituted: a positive impact of $22,108,002,000 through the biennium ending August 31, 2007, should Senate Joint Resolution 38 be approved; or a positive impact of $6,867,484,000 through the biennium ending August 31, 2007, should Senate Joint Resolution 38 not be approved.

The following assumes immediate effect and Senate Joint Resolution 38 is approved.

All Funds, Six-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain/(Loss) from *FOUNDATION SCHOOL FUND* 193	Probable Revenue Gain/(Loss) from *HOTEL OCCUP TAX DEPOS ACC* 5003	Probable Revenue Gain/(Loss) from *STATE HIGHWAY FUND* 6
2005	$476,670,000	$0	$49,000	($364,276,000)
2006	($465,497,000)	$3,173,060,000	$610,000	$366,495,000
2007	$965,781,000	$17,956,693,000	$636,000	($579,547,000)
2008	($458,247,000)	$18,865,094,000	$665,000	$584,325,000
2009	$751,615,000	$19,712,258,000	$694,000	($616,511,000)
2010	($585,006,000)	$20,625,692,000	$725,000	$621,777,000

Fiscal Year	Probable Revenue Gain/(Loss) from *TEXAS MOBILITY FUND* 365	Probable Revenue Gain/(Loss) from *GR-D Tobacco Endowment Accounts*	Probable Revenue Gain/(Loss) from *School Districts*	Probable Revenue Gain/(Loss) from *Cities*
2005	$0	$0	$0	$648,000
2006	($153,055,000)	$0	($2,009,609,000)	$7,086,000
2007	($101,634,000)	$1,079,100,000	($17,819,900,000)	$7,298,000
2008	$0	$0	($18,573,624,000)	$7,516,000
2009	$0	$0	($19,398,273,000)	$7,743,000
2010	$0	$0	($20,259,448,000)	$7,960,000

Fiscal Year	Probable Revenue Gain/(Loss) from *Counties/Special Districts*	Probable Revenue Gain/(Loss) from *Transit Authorities*
2005	$694,000	$0
2006	$8,442,000	($312,000)
2007	$8,714,000	($328,000)
2008	$9,004,000	($348,000)
2009	$9,305,000	($370,000)
2010	$9,602,000	($394,000)

The following assumes immediate effect and Senate Joint Resolution 38 is not approved.

Fiscal Year	Probable Revenue Gain/(Loss) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain/(Loss) from *FOUNDATION SCHOOL FUND* 193	Probable Revenue Gain/(Loss) from *HOTEL OCCUP TAX DEPOS ACC* 5003	Probable Revenue Gain/(Loss) from *STATE HIGHWAY FUND* 6
2005	$476,670,000	$0	$49,000	($364,276,000)
2006	($510,200,000)	$3,173,060,000	$610,000	$365,479,000
2007	$304,354,000	$3,422,305,000	$636,000	($580,710,000)
2008	($1,143,296,000)	$3,671,933,000	$665,000	$583,104,000
2009	$36,474,000	$3,839,390,000	$694,000	($617,792,000)
2010	($1,335,262,000)	$4,036,572,000	$725,000	$620,432,000

Fiscal Year	Probable Revenue Gain/(Loss) from *TEXAS MOBILITY FUND* 365	Probable Revenue Gain/(Loss) from *GR-D Tobacco Endowment Accounts*	Probable Revenue Gain/(Loss) from *School Districts*	Probable Revenue Gain/(Loss) from *Cities*
2005	$0	$0	$0	$648,000
2006	($153,055,000)	$0	($2,009,609,000)	$7,086,000
2007	($101,634,000)	$1,079,100,000	($1,932,761,000)	$7,298,000
2008	$0	$0	($1,639,000,000)	$7,516,000
2009	$0	$0	($1,726,402,000)	$7,743,000
2010	$0	$0	($1,661,988,000)	$7,960,000

Fiscal Year	Probable Revenue Gain/(Loss) from *Counties*	Probable Revenue Gain/(Loss) from *Transit Authorities*
2005	$694,000	$0
2006	$8,442,000	($312,000)
2007	$8,714,000	($328,000)
2008	$9,004,000	($348,000)
2009	$9,305,000	($370,000)
2010	$9,602,000	($394,000)

Fiscal Analysis

The bill would amend state law relating to the financing of public schools and the reduction of school property taxes.

Article 1. Part A would lower the school district maintenance and operations (M&O) property tax rate limits in Chapter 45 of the Education Code and reduce by $0.20 the tax rates recognized in the school finance entitlement formulas of Chapter 42 of the Education Code. The bill would reduce the school district M&O rate limit in Section 45.003(d) from the current $1.50 to $1.30 in tax years 2005 and 2006 (school years 2005-06 and 2006-07). In subsequent years, the limit would be $1.45. In the 2005-06 school year, the $0.86 school district Local Fund Assignment (LFA) in Section 42.252(a) would be reduced to $0.76. For the 2005-06 school year, the district tax rate (DTR) equalized in Tier Two of the school finance formulas would be reduced to $0.54 from $0.64. (The sum of the lowered LFA and DTR would then be $1.30 for the 2005-06 school year—the first year of the next biennium.) In subsequent years, the amount above the LFA rate equalized with state aid would increase by $0.15 to $0.69, for a total combined Tier One and Tier Two rate of $1.45. Part A would take effect September 1, 2005 and apply to the 2005-06 school year.

Part C would, on September 1, 2005, repeal the 78th Legislature's repeal of the school finance provisions of the Education Code, the $1,000 school district employee pass-thru for health insurance, and the requirement that the pass-thru be restored on or after September 1, 2005.

Article 2 would amend Section 11.431 of the Tax Code to reduce the time for a homeowner to file a late homestead exemption. Homeowners can qualify for a homestead exemption by filing an application as late as one year after the delinquency date for taxes on the homestead. The proposed change would limit the filing to "not later than the delinquency date for the taxes on the homestead." The bill would amend Sections 42.253, 42.257 and 42.259 of the Education Code to require a modification of the Foundation School Program (FSP) state aid payment schedule to school districts when the district's property values were reduced after the last day of the state fiscal year. The Commissioner of Education would have to increase a district's September FSP payment by one-fifth of the difference in each of the five years following the determination of reduced value. The bill would amend Section 403.302 of the Government Code to limit the amount of time a school district had to file a request to the Comptroller for an audit of and changes to the district's appraisal roll relative to the Comptroller's annual School Property Value Study. A school district would have one year from the Comptroller's final certification to the Commissioner of Education to correct values through an audit with the Comptroller's Property Tax Division. Current law allows a district three years from the final certification date to file an audit request. This article would take effect July 1, 2005, if the bill received a two-thirds vote of each chamber. If the bill did not receive the necessary vote, this article would take effect September 1, 2005.

Article 3 would add Subchapter I to Chapter 45 of the Education Code to create a state ad valorem tax at a rate of $1.10 per $100 of taxable value of property. Property would be appraised by existing appraisal districts, and the tax would be collected at the local level. For purposes of appraisal district funding, the state would be considered a taxing unit and would contribute to the appraisal district budget, based on the proportionate share of the state ad valorem tax to other property taxes within the appraisal district. The Comptroller would reimburse the school district tax collector for actual collection costs and would maintain oversight over state collections and appraisals. The Comptroller would deposit in designated state accounts an amount of state ad valorem tax revenue to pay for the expenses of administering the state ad valorem tax and for payment of state ad valorem tax refunds. The state would not participate in tax increment financing (TIF), tax abatement agreements, or State Economic Development Act agreements. However, school district tax abatement agreement provisions would apply to the state ad valorem tax. The bill would require the state, for TIF agreements entered into by school districts before September 1999, to pay through the Comptroller the proportionate amount of a school district's share of a TIF contribution attributable to the state ad valorem tax. State appraised values would be limited pursuant to State Economic Development Act applications submitted to a school district before April 1, 2005. The bill would further authorize a school district to direct the collector for the district to pay on behalf of a property owner a specified portion, not to exceed 20 percent, of the state ad valorem tax imposed for the tax year on a residence homestead that is also taxed by the school district.

The bill would add Section 6.038 to the Tax Code to provide that the Comptroller and the state would not participate in administering local appraisal districts but could withhold or redirect the state's budget allocation if districts failed to meet certain standards. The bill would amend Section 6.06 of the Tax Code to allocate the state's share of the appraisal district budget based on the relationship of the state ad valorem to other property taxes in the appraisal district.

The bill would amend Section 11.13 of the Tax Code to apply the $15,000 general homestead exemption and the $10,000 homestead exemption for persons 65 years of age or older to the state ad valorem tax and the school district tax. The bill would amend Section 11.251 of the Tax Code to provide that the freeport exemption would not apply to the proposed state ad valorem tax. The bill would amend Section 11.26 of the Tax Code to extend the 65-or-over and disabled school tax limitations to the state ad valorem tax. The bill would amend Section 26.01 of the Tax Code to require the chief appraiser by July 25 to prepare and certify to the Comptroller an appraisal roll for the proposed state ad valorem tax.

The bill would amend Section 26.07 of the Tax Code to allow taxing unit voters to petition for a rollback election with a petition signed by at least 7 percent of the number of registered voters in the unit. Voters in a taxing unit with an M&O levy of less than $5 million would continue to be required to obtain signatures from 10 percent of the registered voters in the unit.

The changes made by this article would apply only to a tax year beginning on or after January 1, 2006.

This article would take effect only if the applicable constitutional amendment were approved by the voters. Except as otherwise provided, this article would take effect January 1, 2006, but only if HB 2 became law.

Article 4 would amend Chapter 171 of the Tax Code, relating to the franchise tax. The bill would expand the type of business entities subject to the franchise tax to include all business types except sole proprietorships and passive entities. A passive entity would be defined as a limited partnership or a trust, other than a business trust, that makes no wage payments and that receives at least 90 percent of its income from interest, dividends, gains from sales of securities and properties, or mineral royalties and other nonoperating mineral interests on assets acquired and held for investment.

The reference to the Internal Revenue Code would be changed from the one in effect after January 1, 1996 and before January 1, 1997, to January 1, 2005. The tax rate on earned surplus would be changed from 4.5 percent to 4 percent. General partnerships with total receipts under $300,000 in an accounting year would owe no tax for that period. A noncorporate entity made subject to the tax could qualify for an exemption if its activities would qualify for an exemption if the entity were a corporation.

The earned surplus tax base would be changed to include 15 percent of all compensation as reported on a specified line on the federal Internal Revenue Service Form 940, Employers' Annual Federal Unemployment (FUTA) Tax Return. Compensation would also include guaranteed payments to partners. Contingent upon voter approval of SJR 38, 79th Legislature, Regular Session, the percentage of compensation added to the earned surplus base would increase to 25 percent for reports due on or after January 1, 2007. If the SJR failed to pass, the percent of compensation added to the earned surplus base would remain at 15 percent. A taxpayer who is a client of a staff leasing company would add to earned surplus the appropriate percentage of payments made by the staff leasing company to employees assigned to the client's business. The staff leasing company would subtract the appropriate percentage of such payments from its earned surplus.

The reportable federal taxable income for a partnership and other noncorporate taxable entities would be determined under rules adopted by the Comptroller, using principles similar to the standard applied to corporations. Taxable entities would have to add-back to reportable federal taxable income certain payments made to related entities. The bill would specify safe harbors for the add-back of royalty and interest payments; and it would grant the Comptroller authority to adjust items of income and deductions among related parties if such adjustments were necessary to reflect an arm's length standard.

The bill would add a franchise tax credit for a physician participating in the Medicaid or Children's Health Insurance Program (CHIP) as a provider of health care services. The credit would be equal to 20 percent of the payments the physician received from the programs; and it would be limited to the amount of tax due. The credit could not be transferred. The Comptroller, with the assistance of the Health and Human Services Commission, would adopt rules to implement the credit.

The bill would add provisions on the forfeiture of the right of a partnership to transact business in the state; permit noncorporate taxable entities to qualify for refunds and credits on the same basis as currently exist for corporations; specify that the revenue from the franchise tax be deposited in GR Account 193—Foundation School; amend the Texas Revised Partnership Act and the Business Organizations Code to allow a general partnership to file a certificate of formation with the Secretary of State; and repeal various provisions in Chapter 171 concerning officer and director compensation.

This article would take effect September 1, 2005 and apply to reports originally due on or after that date. For entities that would become subject to the tax because of this article, income or losses occurring before January 1, 2005 could not be considered for the earned surplus component. An entity that would become subject to the tax because of this article and that would be subject to the tax on January 1, 2006, and for which January 1, 2006 is not the beginning date, would file an annual report due May 15, 2006. If a franchise tax credit were found to be unconstitutional in a final judgment no longer subject to appeal, the credit would be disallowed for any entity that received the credit from the date the final judgment was entered by the court. The article would specify the initial and appellate jurisdiction for a constitutional challenge to the provisions applying the franchise tax to the income of partnerships. The article would specify changes to the calculation of earned surplus for a noncorporate entity if such a constitutional challenge were ultimately successful.

Article 5 would amend the Tax Code relating to sales and use taxes, motor fuels taxes, and hotel occupancy taxes. Part A would amend Chapter 151 to raise the state sales and use tax rate to 6.5 percent from 6.25 percent. The rate would be raised to 6.75 percent from 6.5 percent on the first anniversary of the date of the increase to 6.5 percent if the constitutional amendment proposed by SJR 38 were approved by voters. School supplies, including backpacks, with a sales price of less than $100 per item, purchased for use by a student in an elementary or secondary school during the current three day sales tax holiday for clothing and footwear would be exempted from the sales tax.

Part A also would add Section 151.433 to the Tax Code to provide sales tax relief to persons receiving financial assistance under Chapter 31 of the Human Resources Code or nutritional relief under Chapter 33 of the Human Resources Code through an electronic benefits transfer system. In addition, an individual otherwise eligible for financial assistance under Chapter 31, but for whom such assistance is not paid because of sanctions applied against the individual under Section 31.0032 would be eligible for reimbursement. The article would require the Comptroller and the executive commissioner of the Health and Human Services Commission (HHSC) by joint rule to devise a program to reimburse eligible persons for 20 percent of their estimated state sales taxes paid during each state fiscal year. The Health and Human Services Commission could not consider these reimbursements in determining a household's eligibility for state financial assistance and food stamps. No later than August 15 of each year, the Comptroller, by rule, would estimate the amount of state sales taxes an eligible person was expected to pay during the next state fiscal year, considering the persons' federal adjusted gross income (FAGI), the number of dependents for federal tax purposes, and any other information the Comptroller considered appropriate. Using this information, the Comptroller would devise a table specifying, by income bracket and number of dependents, the estimated amount of state sales taxes an eligible person would be expected to pay and the amount of reimbursement the individuals would be entitled to receive under this bill. The Comptroller would provide the table to the HHSC executive commissioner, who would use the table to provide either additional monthly financial assistance under Chapter 31, or additional monthly nutritional assistance to those receiving such under Chapter 33, if they were not receiving financial assistance under Chapter 31. HHSC would make these reimbursements available to eligible persons using the state's electronic benefits system. Notwithstanding any other law, however, the total amount of reimbursements under this bill could not exceed $100 million each state fiscal year. The bill would authorize the Comptroller and the HHSC executive commissioner to take any action necessary to ensure that the $100 million limit would not be exceeded, to include: decreasing the percentage of tax reimbursements paid, decreasing the amounts of monthly payments or assistance on a pro rata basis, or suspending the reimbursements.

Part A would take effect July 1, 2005, assuming the bill received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect October 1, 2005.

Part B would amend Chapter 152 to raise the rates for the state motor vehicle sales and use tax and the motor vehicle rental tax on rentals of more than 30 days to 6.5 percent from 6.25 percent. Contingent on the passage by voters of the constitutional amendment proposed by SJR 38, the rate would increase to 6.75 percent on the first anniversary of the effective date of this part's provisions. The rate increase would apply to motor vehicles purchased outside Texas and brought into the state by a Texas resident; to motor vehicles purchased in Texas without payment of the tax, transferred out of the state immediately, and then later returned to Texas; but it would not apply to even-exchanges or gifts of motor vehicles. The bill would establish a standard presumptive value for determining the proper amount of motor vehicle sales tax due on certain motor vehicle sales transactions. The Texas Department of Transportation (TxDOT) would determine the presumptive value based on a nationally recognized motor vehicle industry reporting service. TxDOT would maintain information on presumptive values as part of its registration and title system, update the values quarterly, and make the values available to county tax assessor-collectors no later than October 1, 2005. The standard presumptive value provisions would not apply to even-exchange or gift transactions. If the amount paid in a sales transaction were greater than or equal to the presumptive value, the tax assessor-collector would compute and collect the tax due on the amount paid. If the amount paid in a sales transaction were less than the presumptive value, the tax assessor-collector would compute and collect the motor vehicle sales tax due on the presumptive value, unless the purchaser could establish a retail value by obtaining an appraisal. Appraisals would have to be on a form prescribed by the Comptroller, and they would have to be obtained no later than the 20th day after purchase. Automobile dealers could charge a fee, set by the Comptroller, for providing a certified appraisal.

Part B would take effect July 1, 2005, assuming the bill received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2005. The standard presumptive value provisions would take effect October 1, 2005.

Part C would amend Chapter 160 to raise the boat and boat motor sales and use tax rate to 6.5 percent from 6.25 percent. The rate would be raised to 6.75 percent from 6.5 percent on the first anniversary of the date of the increase to 6.5 percent if the constitutional amendment proposed by SJR 38 were approved by voters. Part C would take effect July 1, 2005, assuming the bill received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2005.

Part D would amend Chapter 162, relating to the allocation of motor fuels taxes. For the gasoline, diesel, and liquified gas taxes, during the months of June, July, and August of each odd-numbered year, the Comptroller would not make allocations to the State Highway Fund 6, nor to the County and Road District Highway Fund. Rather, the Comptroller would allocate the revenue that would otherwise have been allocated during the previous three months between September 5 and September 11 of each odd numbered year. This provision would take effect July 1, 2005, assuming that the bill received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2005.

Part E would amend Chapters 156, 351, and 352 to exempt from the hotel occupancy tax that part of an apartment or condominium building consisting of unfurnished dwelling units leased to tenants; and it would repeal the exception to the state hotel occupancy tax for permanent residents. Part E would take effect July 1, 2005, assuming that the bill received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect October 1, 2005.

Article 6 would amend the Tax and Alcoholic Beverage Codes by raising the tax rates for cigarettes, cigars and other tobacco products, and alcoholic beverages. Part A would amend Chapter 154 of the Tax Code to raise the cigarette tax rate by $37.50 per 1,000 cigarettes weighing three pounds or less per thousand ($0.75 per pack of 20 cigarettes), to a new rate of $58.00 per 1,000 cigarettes ($1.16 per pack). Cigarette tax revenue generated by the rate increase would be deposited to the General Revenue Fund 1. In addition, Part A would amend Chapter 155 of the Tax Code to raise the tax rates for all of the tobacco products in the chapter by 25 percent. The tax on small cigars (weighing three pounds or less per thousand) would increase to $0.0125 from $0.01 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 to $9.375, $13.75, and $18.75 per thousand, respectively; and the tax on tobacco products other than cigarettes and cigars (i.e., snuff and chewing and pipe tobacco) would increase to 44.02 percent from 35.213 percent of the manufacturer's list price. Cigar and tobacco products revenue generated by the rate increases would be deposited to Fund 1.

Part B would amend the Alcoholic Beverage Code to raise all alcoholic beverage excise taxes by 25 percent. The liquor tax would increase to $3.00 from $2.40 per gallon; the tax per gallon for each of the three categories of wine ($0.204 for table wine, $0.408 for fortified wine, and $0.516 for carbonated wine) would increase to $0.255, $0.510, and $0.645, respectively; the tax on malt liquor (or ale) would increase to $0.2475 from $0.198 per gallon; and the tax on beer would increase to $7.50 from $6.00 per barrel. Alcohol excise tax revenue generated by the rate increases would be deposited to Fund 1. In addition, Part B would amend Chapter 183 of the Tax Code to raise the mixed beverage tax by 25 percent, to 17.5 percent from 14 percent of gross receipts. The state share of the mixed beverage tax revenue generated by the rate increase would be deposited to Fund 1.

This article would take effect July 1, 2005, assuming the bill received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2005.

Article 7 would affect miscellaneous fees and funds. Part A would require the transfer of certain tobacco settlement proceeds held by institutions of higher education into dedicated general revenue accounts. It would create two dedicated general revenue accounts—an earnings account and a secondary account—for each of 16 Permanent Tobacco Settlement Investment Funds held and administered by institutions of higher education. Part A would require the transfer, at the direction of the Legislature, of amounts approximating the corpus of each permanent fund to the permanent fund's related secondary account. The Comptroller would manage and invest the assets of each secondary account and would periodically transfer the earnings to the related earnings accounts. The bill would require the Comptroller to estimate the permanent funds' future earnings and distributions and provide general revenue transfers to the earnings and secondary accounts as if the accounts were still permanent endowments. The supplemental general revenue transfers could not exceed $65 million in any fiscal year. The bill would require the corpus transfers to be made November 1, 2006. Part A would take effect September 1, 2005.

Part B would amend Chapter 201 of the Transportation Code to transfer revenues collected in state fiscal year 2006 from the issuance and renewal of driver's licenses and personal identification cards (including reinstatement fees), and driver record fees, from the Texas Mobility Fund 365 to Fund 1. The bill would also transfer revenues collected in state fiscal year 2007 from the issuance and renewal of driver's licenses and personal identification cards (including reinstatement fees) from Fund 365 to Fund 1. Part B would take effect July 1, 2005, assuming the bill received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2005. Part C would amend Chapter 57 of the Utilities Code to include taxable telecommunication receipts of cable companies and to continue GR Account 345—Telecommunications Infrastructure until September 1, 2011. The bill would repeal portions of the statute imposing a ceiling on the assessment. Certificated telecommunications utilities would be allowed to recover the assessment from the utilities' customers once the balance in the account exceeded $1.5 billion from assessment deposits. The Comptroller would have to publish, in the Texas Register, the date that assessment deposits totaled $1.5 billion. Utilities would file, with the Public Utility Commission by February 15 of each year, confidential affidavits attesting to the amount of assessment paid and the amount of assessment recovered from customers. This bill would require the assessment to be deposited to Fund1. Part C would take effect July 1, 2005, assuming the bill received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2005.

Article 8 would require the Comptroller to prepare a report providing a comprehensive analysis of the effects of the tax policies adopted by the 79th Legislature on the personal income of state residents and on state businesses. The report would be filed no later than October 15, 2006, with an update to be filed no later than October 15, 2008.

Unless otherwise provided for in this bill, this bill would take effect July 1, 2005, assuming that it received the requisite two-thirds majority votes in both houses of the Legislature. Otherwise, it would take effect September 1, 2005. The bill would take effect only if HB 2, 79th Legislature, Regular Session, became law.

Methodology

The analysis above presumes immediate effect and that House Bill 2 passes. Scenario 1 estimates are based on voter approval of Senate Joint Resolution 38; Scenario 2 estimates are based on voter disapproval of Senate Joint Resolution 38.

Article 1, standing alone, would compress school district M&O tax rates to $1.30 in fiscal 2006 and 2007, and then to a maximum of $1.45 in the following years. This estimate assumes that M&O rates would increase by $0.025 in fiscal 2007, $0.05 in each of fiscal 2008 and fiscal 2009, and $0.075 in fiscal 2010. To estimate the fiscal impact, school district M&O rates were set to the specified rates and applied to school district taxable values and trended through the projection period. The reduced school district M&O levy was compared to the projected current-law levy to estimate the school district tax levy loss shown in the table below. The state is assumed to reimburse the full cost with no lag, zeroing the school district cost and creating a loss to state general revenue. Cities, counties, and special districts would be unaffected.

Article 2. The provision that would reduce a homeowner's time for filing a late homestead exemption would provide some undetermined savings to taxing units, since losses to late homestead exemptions would be reduced. There would also be an undetermined savings to taxing units, since refunds to late filing homestead owners would be reduced. The bill's provision concerning the correction of clerical errors would provide an undetermined amount of savings to taxing units by limiting non-homestead owner access to appraisal review board remedies for correcting clerical errors for any of the five years preceding the current tax year. The fiscal impact of the bill's provisions modifying the state payment schedule to school districts when a district's values are reduced would depend on the future behavior of school districts and the Commissioner of Education. The Comptroller's Property Tax Division does not receive information from appraisal districts and taxpayers that would be helpful in estimating the impact of Sections 2.01-2.07 on units of local government.

Relative to the bill's provision reducing a school district's deadline for requesting an audit under Section 403.302 of the Government Code, recent School District Property Value Study data indicates that approximately 60 percent of school district audits are requested in the first year following certification. A reduction in the filing period from three to one year could result in approximately half of the remaining audits being filed within the proposed one-year period. An annual growth rate of four percent was applied to the amount of state savings and school district losses, as rising property values would result in larger audited values over the projected time period.

Article 3. For fiscal 2007 through 2010, the proposed state property tax rate of $1.10 was applied to an adjusted taxable value for all school districts to generate an estimated state property tax levy. The school district taxable values were adjusted to disallow certain optional exemptions for state property tax purposes and to account for a difference in the treatment of 65-and-over and disabled taxpayers. The estimated state property tax levy was trended through the projection period and reduced by the state share of the CAD budget, the cost of reimbursing districts for tax increment finance payments a year earlier than under current law, and incremental collections costs paid by the state out of the proceeds from the state tax levy.

Article 4. The estimated fiscal impact of was based on data from state franchise tax files and data from the Texas Workforce Commission.

Article 5. The fiscal implications of raising the sales tax rate to 6.5 percent and subsequently 6.75 percent the following year were estimated using current state sales and use tax revenue projections. The revenue gains for the State Highway Fund 6 reflect the increased sales tax revenue attributable to motor lubricants.

The fiscal implications of including school supplies in the sales tax holiday were estimated using data gathered from the U.S. Census Bureau. Texas sales of school supplies were adjusted for the appropriate time period and price range, multiplied by the sales tax rate, and extrapolated through fiscal 2010. The fiscal impact on units of local government were estimated proportionally.

The estimated fiscal impact of the sales tax reimbursements was based on Health and Human Services Commission data on the number of persons projected to receive assistance under Chapters 31 and 33 and their income and dependent characteristics. Using projections of the current IRS table showing allowable state sales tax deductions by Federal Adjusted Gross Income and number of dependents, the total amount of state sales taxes paid each year from fiscal 2006 to fiscal 2010 by persons eligible for reimbursements under this bill was estimated to be on the order of $508 million to $568 million per year. Assuming the 20 percent reimbursement rate stated in the bill, this would yield gross reimbursements from fiscal 2006 through fiscal 2010 in the range of $203 million to $227 million. As such, the fiscal impact would be $100 million per year, as limited by the provisions of this bill.

Note: ARTICLE 5 would require the Comptroller to estimate the amounts of reimbursable taxes no later than August 15 of each year and to provide those results as soon as possible to HHSC. In the event that this bill did not take effect until September 1, 2005, it was assumed, for the purposes of this fiscal note, that the Comptroller would nevertheless provide the required information to HHSC in time to allow the full amount of reimbursements, subject to the statutory cap, to be made in fiscal 2006 and each year thereafter. In addition, the $100 million cost to Fund 1 for the sales tax reimbursement assumes an appropriation of that amount would be made each year to HHSC.

The proposed motor vehicle sales tax rates were applied to estimates of annual gross sales subject to the motor vehicle sales tax and adjusted for behavioral effects. For the motor vehicle rental tax on rentals lasting more than 30 days, these long-term rentals represent approximately 5 percent of all rental tax revenue collected. The new rates were applied to estimates of adjusted gross rental tax and adjusted for behavioral effects and whether the constitutional amendment passes or fails. The presumptive value provisions would apply primarily to sales of motor vehicles between individuals, often referred to as "casual" or "private" sales. Even-exchanges or gifts of motor vehicles would be excluded. Estimated revenues for fiscal 2006 were adjusted for implementation lags.

The fiscal implications of raising the boat and boat motor sales tax rate to 6.5 percent and subsequently 6.75 percent the following year were estimated using current boat tax revenue projections.

The motor fuel tax revenues in the *2006-07 Biennial Revenue Estimate* were subjected to the new allocation patterns, as specified in the bill, to arrive at the fiscal impact.

Regarding the repeal of the exemption for permanent residents for the state hotel occupancy tax, it was estimated that 15 percent of exemptions were due to the permanent resident exemption. Because of the timing of remittance, the fiscal impact for fiscal 2006 reflects 10 months of collections. The potential local gains could not be estimated.

Article 6. The proposed cigarette, cigar and other tobacco products tax rate increases were estimated using current revenue projections for these taxes, adjusted for declines in taxable consumption in Texas, as well as for tax avoidance effects and collection lags.

The proposed alcoholic beverage tax rate increases were estimated using current revenue projections for these taxes, adjusted for declines in taxable consumption in Texas, as well as tax avoidance effects and collection lags. **Note:** As written, under this bill, counties and cities in which the taxpayers were located would receive increased allocations from the tax in accordance with current law—approximately 10.7 percent of increased collections to cities and a like amount to counties.

Article 7. The fiscal impact of this article was based on the transfer amounts specified in the bill. Part A would result in an estimated minimum annual loss of investment income of $54 million to the state due to the differing investment authority of the new secondary dedicated accounts compared to the existing investment authority of the permanent funds. Additionally, the permanent funds must be invested in such a manner as to preserve the purchasing power of the fund. In this bill, there is no requirement that the purchasing power of the secondary accounts be preserved. Estimates of account earnings were based on a 3 percent money market rate whereas the investment gains for the permanent funds were based on an 8 percent growth rate. The general revenue supplement was estimated to be in excess of $55 million, based on the estimated earnings differential but less than the $65 million fiscal cap. The tables above reflect the summary amount of the gain from transfer of the permanent funds to general-revenue dedicated accounts. The supplemental earnings amounts are subtracted from the Fund 1 amounts shown above, but are not reflected in the summary GR-dedicated listing of secondary and earnings accounts created by the bill.

Note: The values used in this analysis (indicated in the bill) differ from the transfers that would be required in this article. In addition, these funds would only be available for certification to the extent that they were maintained in the Treasury Pool and on the condition that language were included in the 2006-07 General Appropriations Act (GAA) directing the transfer of balances in these dedicated accounts to Fund 1 pursuant to the provisions in Section 403.095(d) of the Government Code. Any movement of these funds would require a liquidation of investments that could possibly result in a loss in asset value, as well as a loss in investment earnings, related to the dedicated accounts. To the extent it should be necessary to liquidate the accounts, the general revenue loss would be the full $65 million per fiscal year as allowed by the bill.

Currently, revenues collected from the issuance and renewal of driver's licenses and personal identification cards, including reinstatement fees, and revenues from the sale of driver's records, are deposited to the credit of Fund 1. Beginning September 1, 2005, these revenues will accrue to the Texas Mobility Fund 365. Part B would retain the deposit of driver's license revenues and personal identification cards, including reinstatement fees, and driver's records revenues, in Fund 1 for fiscal 2006; and driver's license revenues and personal identification cards, including reinstatement fees, in fiscal 2007. This change would take effect September 1, 2005.

The estimates for the Telecommunication Infrastructure Fund were based on data from assessment returns paid by telecommunication utilities and the *2006-07 Biennial Revenue Estimate*.

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. Legislative policy, implemented as Government Code 403.094, consolidated special funds (except those affected by constitutional, federal, or other restrictions) into the General Revenue Fund as of August 31, 1993 and eliminated all applicable statutory revenue dedications as of August 31, 1995. Each subsequent Legislature has reviewed bills that affect funds consolidation. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

In addition, dynamic fiscal impacts would result from this tax revision. The dynamic effects are included in the column displaying the gains and losses to General Revenue-related funds assuming voter approval of SJR 38.

Not reflected in the above tables are administrative costs associated with implementing the provisions of the bill. Agencies estimate initial administrative costs of $6.8 million in fiscal 2006, and approximately $5.5 million per year thereafter. The state's share of appraisal district costs are reflected in the above tables as reduced state property tax revenue.

Local Government Impact

The fiscal impacts to local governments, including school districts, are reflected in the above tables.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 473 Public Utility Commission of Texas, 529 Health and Human Services Commission, 601 Department of Transportation

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