LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 18, 2005

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

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

IN RE: **HB3540** by Pitts (Relating to certain fiscal matters affecting governmental entities; providing penalties.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3540, As Engrossed: a positive impact of $304,617,260 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.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2006	$136,755,260
2007	$167,862,000
2008	$125,951,260
2009	$113,849,739
2010	$111,116,910

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/ (Cost) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain/(Loss) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain/(Loss) from *AVAILABLE SCHOOL FUND* 2	Probable Revenue Gain/(Loss) from *FOUNDATION SCHOOL FUND* 193
2006	$22,613,159	$119,750,200	($2,488,000)	($8,747,000)
2007	$34,973,920	$136,796,800	($2,918,000)	($12,925,000)
2008	$30,064,279	$100,342,600	($3,076,000)	($15,708,000)
2009	$30,304,181	$89,356,500	($3,245,000)	($19,760,000)
2010	$33,043,391	$83,094,950	($3,421,000)	($22,233,000)

Fiscal Year	Probable Savings/ (Cost) from *GR MATCH FOR MEDICAID* 758	Probable Revenue Gain/(Loss) from *Vendor Drug Rebates-Sup Rebates* 8081	Probable Savings/ (Cost) from *Vendor Drug Rebates-Sup Rebates* 8081	Probable Revenue Gain/(Loss) from *PETRO STO TANK REMED ACCT* 655
2006	$5,626,901	$5,626,901	($5,626,901)	$39,839,000
2007	$11,934,280	$11,934,280	($11,934,280)	$65,638,000
2008	$14,328,381	$14,328,381	($14,328,381)	$0
2009	$17,194,058	$17,194,058	($17,194,058)	$0
2010	$20,632,569	$20,632,569	($20,632,569)	$0

Fiscal Year	Probable Savings/ (Cost) from *PETRO STO TANK REMED ACCT* 655	Probable Savings/ (Cost) from *GR DEDICATED ACCOUNTS* 994	Probable Revenue Gain/(Loss) from *QUALITY ASSURANCE* 5080	Probable Revenue Gain/(Loss) from *New General Revenue Dedicated - HCS/CLASS QAF*
2006	$6,200,000	$1,310,531	$54,368,000	$24,462,000
2007	($68,700,000)	$2,325,469	$54,393,000	$24,462,000
2008	($69,100,000)	$1,847,465	$54,393,000	$24,462,000
2009	($24,900,000)	$1,984,972	$54,393,000	$24,462,000
2010	($12,300,000)	$2,114,700	$54,393,000	$24,462,000

Fiscal Year	Probable Revenue Gain/(Loss) from *New General Revenue Dedicated - Nursing Home QAF*	Probable Savings/ (Cost) from *New General Revenue Dedicated - HCS/CLASS QAF*	Probable Savings/ (Cost) from *New General Revenue Dedicated - Nursing Home QAF*	Probable Revenue Gain/(Loss) from *FEDERAL FUNDS* 555
2006	$202,205,000	($9,618,458)	($60,800,115)	$107,672,407
2007	$203,927,000	($9,422,762)	($61,645,216)	$113,428,331
2008	$205,579,000	($9,422,762)	($62,144,600)	$114,225,375
2009	$207,237,000	($9,422,762)	($62,645,798)	$115,025,314
2010	$208,896,000	($9,422,762)	($63,147,298)	$115,825,705

Fiscal Year	Probable Savings/ (Cost) from *FEDERAL FUNDS* 555	Probable Revenue Gain/(Loss) from *STATE HIGHWAY FUND* 6	Probable Savings/ (Cost) from *STATE HIGHWAY FUND* 6	Probable Revenue Gain/(Loss) from *ECONOMIC STABILIZATION FUND* 599
2006	($103,346,272)	($15,620,642)	$8,026,228	($96,442,000)
2007	($108,760,864)	($28,784,331)	$9,312,836	($146,751,000)
2008	($109,154,041)	$393,258	$9,744,513	($180,310,000)
2009	($109,489,044)	$1,489,389	$10,226,351	($229,104,000)
2010	($109,866,377)	$2,462,837	$10,672,340	($266,792,000)

Fiscal Year	Probable Savings/ (Cost) from *OTHER SPECIAL STATE FUNDS* 998	Probable Revenue Gain/(Loss) from *Counties*	Probable Revenue Gain/(Loss) from *School Districts*	Change in Number of State Employees from FY 2005
2006	$119,259	$2,943,000	$0	0.0
2007	$130,015	$2,884,000	($7,800,000)	54.0
2008	$140,896	$3,000,000	($8,112,000)	91.0
2009	$153,053	$3,000,000	($8,436,000)	80.0
2010	$163,880	$3,000,000	($8,774,000)	50.0

Fiscal Analysis

Article 1 would extend the 90-day waiting period for new or reemployed state employees to become members of the Employees Retirement System (ERS). Currently the waiting period is set to expire on September 1, 2005. The bill would extend it permanently.

Article 2 of the bill would implement the Legislative Budget Board's (LBB) Staff Performance Report, "Offer an Incentive to Employees Who Opt Out of the State Employee Health Insurance Program."

The bill authorizes the board to allow an incentive payment to an employee or retiree who elects to opt out of the state's health coverage. The amount of the incentive payment is to be set in the General Appropriations Act. The employee or annuitant may use the incentive only to purchase optional coverage provided under the ERS group benefits plan, including TRICARE supplemental health coverage. The bill authorizes a reduction in the state contribution for an employee or retiree who waives participation in the state's health plan. The state is authorized to appropriate the amount specified in the General Appropriations Act for the incentive payment instead of the amount of the state contribution for "member-only" health coverage.

Article 3 of the bill would implement two LBB Staff Performance Reports, "Change Policies Governing Return to Work Retirees" and "Reduce the 12 Month Benefit Replacement Pay Eligibility Grace Period." The

bill would prohibit a state retiree from receiving longevity pay and benefit replacement pay. The bill would reduce the amount of vacation hours a state retiree who returns to work would accrue each month. The bill would also make any state employee who leaves state employment for at least 30 consecutive days ineligible to receive benefit replacement pay. The bill includes an exception for employees on leave without pay and certain employees whose positions typically include a break in service.

Article 4 would amend the Texas Water Code to extend certain deadlines related to corrective actions for releases from a petroleum storage tank and extends fee rates in effect for fiscal year 2004-2005 through fiscal year 2007. The bill would extend the September 1, 2005 deadline for the Texas Commission on Environmental Quality (TCEQ) to reimburse persons conducting corrective actions for releases from a Petroleum Storage Tank (PST) site to September 2, 2007, if an applicant has made a good faith effort to complete such actions by the original September 1, 2005 deadline. In cases where an extension has been granted because of good faith efforts made, the bill also would allow that such sites be placed in the PST "state-lead" program if corrective actions cannot be completed by September 1, 2007.

The bill also would extend the deadline to file PST reimbursement claims from March 1, 2006 to March 1, 2008 and specify that the TCEQ cannot use funds from the PST Remediation Account No. 655 to pay such reimbursement claims after September 1, 2008. The bill would maintain the rate of the petroleum product delivery fee imposed at the fiscal year 2005 level of one-half of one cent per gallon for fiscal years 2006 and 2007. Under current law, the fee for 2006 would effectively drop to one quarter of one-cent per gallon; for 2007, it would effectively drop to one-tenth of one cent per gallon. Article 4 would take effect on September 1, 2005.

Article 5 would require all new facilities constructed after September 1, 1998 meet specific standards to be eligible to be financed with state or local tax funds. It would also all school districts that purchase or lease industrialized buildings for use as school buildings after September 1, 2005 to have the building inspected by the Texas Department of Licensing and Regulation (TDLR).

Article 5 would also implement one of the recommendations included in the LBB Staff Performance Report, "Restrict Late Property Value Adjustments." The bill would limit audits of a school district's total taxable value and audits of related revisions to the annual property study to two years after the final certification of property values. Currently, school districts can request an audit up to three years after the final certification.

Article 6 of the bill would require the Texas Lottery Commission to study and report to the legislature on the return on investment for advertising dollars spent by the commission in fiscal years 2003 and 2004.

Article 7 would allow, rather than require, the Health and Human Services Commission (HHSC) to negotiate with generic drug manufacturers for supplemental rebates.

Article 7 would also implement a recommendation in the Legislative Budget Board's Staff Performance Report, "Consider Establishing a Multi State Medicaid Drug Purchasing Pool." The bill would authorize the to enter into agreements with other states for the joint bulk purchasing of prescription drugs for the Medicaid program. If HHSC finds such an agreement is feasible and cost-effective, the bill would require HHSC to enter into an agreement effective March 1, 2006.

Article 8 would implement a Staff Performance Report, "Expand the Use of the Long-Term Care Quality Assurance Fee." The bill would impose a quality assurance fee on each institution for which a license fee must be paid under Section 242.034, with certain exceptions. The bill would require HHSC to establish a quality assurance fee for each patient day so that the fee does not produce annual revenues greater than six percent of the total annual gross receipts in this state. The bill would exclude state-owned veterans nursing facilities and certain facilities providing a continuum of long-term care services. The bill provides that the quality assurance fee would be payable monthly, would be in addition to other fees imposed under Chapter 242, and would be an allowable cost for reimbursement under the state Medicaid program.

The bill would require the Comptroller of Public Accounts (comptroller) to deposit money collected in a nursing home quality assurance fee account, a dedicated account in the General Revenue Fund. The bill would require, subject to legislative appropriation and this subchapter, money in the account together with federal matching money to be used to support or maintain an increase in Medicaid reimbursement for institutions. The bill would authorize HHSC, subject to legislative appropriation, to use money in the nursing home quality assurance fee account, together with any federal money available to match that money, to offset allowable expenses under the state Medicaid program, or increase reimbursement rates paid under the Medicaid program to institutions.

The bill would add new provisions authorizing the executive commissioner of HHSC, by rule, to impose a

quality assurance fee on persons providing services under a home and community services (HCS) waiver or a community living assistance and support services waiver (CLASS).

The bill would require the executive commissioner of HHSC to establish the fee at an amount that will produce annual revenues of not more than six percent of the gross receipts of a person from services the person provides under the waiver. The bill would require fees collected under this section to be deposited in a waiver program quality assurance fee account, a dedicated account in the General Revenue Fund that is exempt from the application of Section 403.095, Government Code, relating to the use of dedicated revenue.

The bill would authorize money in the account, subject to legislative appropriation and state and federal law, to be appropriated only to HHSC to increase reimbursement rates paid under the HCS/CLASS waiver programs or to offset allowable expenses under the state Medicaid program. The bill would require HHSC, subject to legislative appropriation and state and federal law, to use money from the waiver program quality assurance fee account, together with any federal money available to match money from the account, to increase reimbursement rates paid under the home and community services waiver program or the community living assistance and support services waiver program.

The bill would repeal the expiration of the assessment of the quality assurance fee to ICF-MRs. This repeal would result in the continuation of the collection of revenue in General Revenue-Dedicated Account 5080 - Quality Assurance.

Article 9 would amend the Transportation Code to require the Department of Transportation (TxDOT) to issue only one license plate for attachment at the rear of the vehicle for which the plate is issued. This article takes effect November 1, 2005.

Article 10 amends the Transportation Code relating to non-constitutionally dedicated funds in the State Highway Fund, motor vehicle registration fees, and commercial drivers' licenses.

The bill would transfer $68.0 million each year in non-constitutionally dedicated funds from the State Highway Fund to the General Revenue Fund.

The bill would establish a $43.00 motor vehicle registration fee for vehicles weighing less than 6,000 lbs and more than six years old. Vehicles weighing less than 6,000 lbs and less than six years would be assessed a fee of $58.50. Fees for commercial motor vehicles, truck tractors, and buses weighing less than 6,000 lbs would be $58.50.

The bill would add certain information to the application for a commercial driver's license or commercial driver learner's permit. The fee for a nonresident commercial driver's license would increase to $100.

Article 11 would allow a fee to be imposed on cigarettes and cigarette tobacco products manufactured by certain companies. The bill would impose a fee on each manufacturer of cigarettes that did not sign the 1998 tobacco settlement agreement. Initially the rate of the fee would be 2 cents per cigarette and 0.09 ounce of tobacco product. The rate would increase annually by the greater of 3 percent or the change in U. S. consumer price index. These provisions would be effective September 1, 2005.

Article 12 would make it a Class C misdemeanor for a person under 18 to purchase or attempt to purchase cigarettes or tobacco products. The article would regulate internet and mail-order sales of cigarettes and tobacco products. It would prohibit internet and mail order sales, unless the container is labeled "cigarettes" or "tobacco products' and the sale or delivery is made to a permit holder, manufacturer or importer of tobacco products, an office, employee or agent of the government acting in the scope of their official duties. The article would provide for both civil and criminal penalties.

Article 13 would do the following:

- repeal the sales tax ½ percent timely filer discount for the sales tax and seller financed motor vehicle sales tax;
- delay the phase-in of the motor vehicle sales tax for motor vehicle registration fee exchange between the state and counties;
- provide a natural gas tax exemption for production from wells that have been vented or flared for six month as opposed to the12 month requirement under current law;
- provide for additional fuel tax credits and refunds for non-highway use of fuels;
- provide an oil production tax credit for taxpayers using enhanced efficiency production equipment;
- expand the use of accelerated depreciation under the franchise tax for oil and gas exploration;

- expand eligibility under the Texas Economic Development Act to land subject to leasehold interests; and
- amend sections of the Health and Safety Code, Insurance Code, Government Code, Local Government Code, Tax Code, and the Utilities Code to clarify administrative and technical issues relating to taxes and fees collected by the Comptroller.

This article would take effect October 1, 2005.

Article 14 would implement a recommendation in the LBB Staff Performance Report. The recommendation in the "Reduce the Interest Rate Paid on Tax Refunds" report proposes reducing the interest rate paid on tax refunds of voluntary overpayments to the average yield earned on funds in the state treasury. Under current law, the state pays interest on refunds of taxes paid for a report period on or after January 1, 2000. Interest is earned starting from the later of 60 days after payment or the due date of the tax report. The interest rate is set annually at the prime rate plus one percent. The bill would change the period of which interest is earned. Under the provisions of the bill, interest would be earned starting at the later of 1) 60 days after payment, 2) the due date of the tax report, or 3) the date the refund claim is filed.

The bill would change the rate of interest paid on certain tax refunds claimed after September 1, 2005 for any report period due on or after January 1, 2000. The rate would be the lesser of: 1) the prime rate plus one percent, or 2) the average rate of interest earned on state treasury deposits during the period for which interest is paid on the refund. The bill would take effect September 1, 2005.

Article 15 would authorize certain counties in or adjacent to a regional mobility authority to impose a local option gasoline tax of up to ten cents per gallon. Counties would transfer the proceeds to mobility authorities. Proceeds could be used only to reduce or waive tolls or reduce the number of miles of roadway subject to tolls. A county with a population of more than 2 million could not impose the tax.

Article 16 would implement the Legislative Budget Board's Staff Performance Report, "Recover Certain State Agency Overpayments to Vendors." The bill would require agencies with total expenditures exceeding $100 million in a biennium to participate in recovery audits on expenditures to third parties. The CPA may exempt some agencies by rule.

Article IX, Section 8.03 of the current version of the General Appropriations Bill as passed by the House and Senate directs the Comptroller to deposit 50 percent of recovered General Revenue Funds, General Revenue-Dedicated Funds, and Other Funds in the state treasury. The remaining 50 percent is retained by the agency for the original purpose of the appropriations and to pay the recovery audit firm. The bill would require the Comptroller to report results to the legislature.

Article 17 would require the Texas Department of Transportation (TxDOT) to enter into a contract with a private vendor for the marketing and sale of personalized license plates and other specialized license plates. Notwithstanding other provisions of the chapter, the Texas Transportation Commission (TTC) would be required to establish the fees for the issuance or renewal of souvenir license plates and specialty license plates.

Article 18 provides that hospital and clinic fees received by a state-owned clinical care facility would only be counted as educational and general funds if general revenue fund appropriations are used to fund the operations of the facility. The hospital and clinic fees received by a state owned clinical care facility that does not receive general revenue for operations would be excluded from the calculation of the proportionality ratio to pay for salary and wage related benefits.

Article 19 authorizes certain nonprofit organizations to conduct bingo and exempts certain tribal organizations from regulatory jurisdiction and license requirements. The bill would modify the Bingo Enabling Act by expanding the definition of fraternal organization to include certain federally recognized Indian tribes. The article would require that five percent of gross receipts from such bingo be transferred to the state.

Article 20 provides for the reimbursement, plus interest, on excessive or unfairly discriminatory rates charged by certain insurers.

Unless specified otherwise above, this Act takes effect immediately if it receives vote of two-thirds of all the members of each house, otherwise this Act takes effect on the 91st day after the last day of the legislative session.

Methodology

Article I would extend the waiting period for membership in ERS. The ERS retirement contributions in the General Appropriations Act as passed by the House reflect $16 million in All Funds ($10.2 million in General Revenue Related Funds) savings from not making contributions to ERS for newly hired employees at a 6.0 percent contribution rate. The long-term savings from implementing this permanently, as reflected in this fiscal note, are lower due to the increase in normal cost and a reduced payroll base to amortize the unfunded liability. The ERS actuary estimates the cost of an actuarially sound contribution would increase by the rate of 0.011%, though that increase would apply to a smaller payroll base; which results in a reduced contribution. The savings shown is the reduction in an actuarially sound contribution.

Article 2 of the bill authorizes a reduction in the state contribution for an employee or annuitant who waives participation in the state's health plan. Article IX, Section 13.16, of the General Appropriations Bill passed by the House provides a $60 per month state contribution for each employee or annuitant who opt out of the state's health coverage. The savings estimate assumes: 2,992 employees/annuitants currently enrolled in the state's health plan would opt out; the HealthSelect premium will increase each year; the employee/annuitant population will remain constant; and savings are reduced 20 percent for adverse selection. The total anticipated 2006-07 All Funds savings is $16,100,751; including General Revenue Related savings of $10,143,473.

Article 3 would result in 2006-07 All Funds savings of $19,294,222, which includes General Revenue Related savings of $12,155,360. All but $176,622 in All Funds in 2006-07 ($111,272 General Revenue savings) of Article 3 savings are assumed in Article IX of the current General Appropriations Bill as passed by the House.

The savings assumes a growth in state retirees that return to work of 358 per year. The trend is based on the number of return-to-work retirees employed from 1999 to 2003. The increase in the number of return-to-work retirees that occurred in 2004 was not included in the trend. The base amount used to calculate the future population of return-to-work retires was 3,830; equal to the number employed in May 2004. The saving estimate also assumes that 89 percent of return-to-work retirees are eligible for benefit replacement pay and 66 percent are eligible for longevity pay.

Reducing the benefit replacement pay grace period to 30 days would create an additional 2006-07 All Funds savings of $176,622 above amounts assumed in the General Appropriations Bill as passed by the House. These savings are based on a sample of data from the first half of fiscal year 2004. It is assumed that individuals during that period who returned to state employment after 30 days and terminated for a reason other than retirement would have been ineligible for benefit replacement pay.

Article 4 would result in a savings in fiscal year 2006 of $6.2 million to the PST Remediation Account No. 655 because extending the program would make it less imperative that cleanup sites be closed out as quickly as under current law. Extending the PST program through fiscal year 2008 and providing for applicants demonstrating good faith to move to the state-lead program would result in increased costs to the PST program in fiscal years 2007-2010.

Costs for the PST program in fiscal year 2007 would include costs to continue the reimbursement program of $54.3 million and costs for the state lead program established by the bill of $7.0 million. Administrative costs related to the program in fiscal year 2007 would be $7.4 million and would be paid out of funds transferred from the Waste Management Account No. 549. For purposes of this estimate, all costs are shown out of the PST Remediation Account No. 655. Costs of the PST program in fiscal year 2008 would include $42.0 million for the reimbursement program, $19.7 million for the state lead program, and $7.4 million for administration. Costs in fiscal year 2009 would include $17.7 million for the state lead program and $7.2 million in administrative costs. In fiscal year 2010, costs of the program would include $9.2 million for state lead and $3.0 million for administration.

Under current law, the number of FTEs required to operate the PST reimbursement program would begin to decline significantly in fiscal year 2007. Because the bill would continue the PST program, this estimate assumes that that decline would not occur, and that a significant number of FTEs would be required to operate the program through fiscal year 2010, as indicated in the table above.

The provisions of the bill relating to extending the current rate of the petroleum products deliver fee at one-half of one cent per gallon would result in an increase in revenues to the PST Remediation Account No. 655of $39.8 million in fiscal year 2006 and $65.6 million in fiscal year 2007. The Comptroller of Public Accounts provided this revenue estimate.

The provisions in **Article 5** relating to portable school building inspections would have no significant fiscal impact.

The provisions in **Article 5,** Section 5.02 limit audits of a school district's total taxable value and audits of related revisions to the annual property value study to two years after the final certification of property values and would result in cost savings to the Foundation School Fund beginning in fiscal year 2007. This provision would also reduce revenue to local school districts by the same amount.

Based on analysis by the Comptroller's office, 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 two years could result in at least three-quarters of the remaining 40 percent of audits being filed within the first year. 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. The resulting savings to the Foundation School Fund are $7,800,000 for FY 07; $8,112,000 for FY 2008; $8,436,000 for FY 2009; and $8,774,000 for FY 2010.

It is assumed that the Lottery Commission could conduct the study required by **Article 6** using current resources. There is no significant fiscal impact from this requirement.

In **Article 7,** there is no significant fiscal impact related to making the requirement to negotiate supplemental drug rebates with generic manufacturers permissive.

Related to the drug purchasing pool in **Article 7**, HHSC's Medicaid Preferred Drug List consultants estimated that the Texas Medicaid Vendor Drug Program would receive 3 percent of the Average Manufactured Price (AMP) in additional supplemental rebates. To estimate the savings from the additional 3 percent rebate, Medicaid drug utilization from the 2nd quarter of the fiscal year 2004 was used. Expenditures for fiscal year 2006 were reduced to reflect the impact from federal Medicare Modernization Act, which establishes Medicare Part D coverage for beneficiaries eligible for both programs - Medicaid and Medicare. Estimated savings for fiscal year 2006 are adjusted to reflect that the bulk-purchasing program would be in operation only for 6 months.

The state share of the additional supplemental rebates anticipated to receive from the bulk purchasing agreements with other states in fiscal year 2006 is estimated to be $5,626,901, and $11,934,280 in fiscal year 2007. Federal share of the additional supplemental rebates would be returned to the federal government. It is assumed that HHSC would absorb the cost of administering this program within current appropriations. It is assumed that the increase in supplemental rebates would be appropriated and spent in lieu of GR Match for Medicaid, resulting in a net positive impact to General Revenue Related Funds.

For **Article 8,** the comptroller estimates annual gross revenue from a quality assurance fee (QAF) on nursing homes to be $202.2 million in fiscal year 2006 (based on a transitional rate of $6.15 per bed), increasing to $208.9 million in fiscal year 2010. The comptroller's estimate of QAF revenue was based on historical nursing home gross receipts and occupied beds as reported by the Department of Aging and Disability Services (DADS); and DADS Medicaid nursing home reimbursement rates and estimated Texas private nursing home costs from a 2003 GE financial survey. The comptroller excluded potential revenues from facilities that would be exempt from the QAF.

It is assumed that funds would be appropriated for nursing home Medicaid reimbursement rate adjustments to account for the designation of the QAF as an allowable cost. Based on Health and Human Services Commission's estimates, the annual rate offset cost would be approximately $60.8 million from the General Revenue-Dedicated Nursing Home QAF Account and $93.8 million in Federal Funds in fiscal year 2006, and $61.6 million in General Revenue-Dedicated Nursing Home QAF Account and $98.4 million in Federal Funds in fiscal year 2007. This is based on an assessment model that includes exemption of certain facilities and a two-tier QAF rate.

The comptroller's estimates of revenue relating to **Article 8**'s provisions for a quality assurance fee on HCS and CLASS waiver programs are based on information from DADS. Revenues were estimated based on 6 percent of recommended appropriations in SB1 as introduced for these programs. Potential gains in federal Medicaid funds over the projection period were estimated by applying the appropriate match rate to estimated QAF revenues. According to DADS, there are some questions regarding the state receiving federal approvals for a QAF levied on waiver programs.

Repealing the expiration of the quality assurance fee on ICF-MRs in **Article 8** would result in a gain to the General Revenue-Dedicated Account 5080 - Quality Assurance of $108,761,000 for the biennium. The comptroller's estimate of revenues was obtained from the Department of Aging and Disability Services' (DADS) legislative appropriations request. The comptroller's revenue estimates for fiscal years 2008 through 2010 were based on fiscal year 2007 figures. The comptroller's estimate does not appear to include

interest earned on collected revenue.

Regarding the issuance and display of license plates in **Article 9**, the Department of Transportation estimates net savings in Fund 006 of approximately $4.1 million in fiscal year 2006 (when the program will be effective for 10 months) and $5.0 million each year thereafter for reduced license plate manufacturing costs. However, it is assumed that any savings realized from the implementation of the bill would be used for other eligible transportation related expenditures.

For **Article 10**, provisions in the bill would produce a $68 million gain to the General Revenue Fund each year from the non-constitutionally dedicated revenues from the State Highway Fund 06. It is also estimate that Fund 06 would have net gain of approximately $4.5 million in FY 06, $5.8 million in FY 07, $7.2 million in FY 08, $8.6 million in FY 09, and $10 million in FY 10 due to additional registration fee revenue.

Article 11 estimates are not included in the fiscal implication tables shown above. The comptroller initially estimated that the fee could result in a gain of approximately $25 million per fiscal year. However, the comptroller has indicated that, due to possible litigation, the revenue gain from the fee cannot be certified as available for certification.

Article 12 enforcement costs to the attorney general and the comptroller are not expected to be significant, and the revenue implication from penalties cannot be determined.

The comptroller provided the estimates for **Article 13**. The comptroller estimates are based on the Biennial Revenue Estimate and various comptroller and Railroad Commission data sources.

The savings estimate for **Article 14** is based on the comptroller's forecast of the prime rate and the comptroller's estimate of the rate of interest earned on state deposits.

Article 15 gains from local option gasoline taxes cannot be certified for appropriation and, therefore, are not included in the tables shown above. If no counties choose to implement the special gasoline tax there would be no fiscal impact to either state or counties. Assuming that the constitutional dedication of 25 percent of motor fuel taxes to the Available School Fund would apply a local option gasoline tax and assuming counties with one-half of the state’s fuel consumption would impose the tax at a rate of 10 cents per gallon, the revenue gain to the Available School Fund would be approximately $137 million per year and the gain to local governments would be approximately $412 million per year.

For **Article 16**, it is assumed that the recovery audit firm would produce a 0.04 percent recovery rate on all expenditures. It is assumed that recoveries from fiscal years 2003 to 2005 would be collected in fiscal year 2007, but subsequent years would recover expenditures from a single prior fiscal year. As each Federal Funds program has its own rules regarding recovered expenditures, it is estimated that there would be no savings or revenue gain from Federal Funds.

Per Article IX, Section 8.03 of the General Appropriations Bill passed by the House, half of recovered funds would be returned to the state treasury for each fiscal year that is audited. In fiscal year 2007, recovered funds returned to the state treasury would be for three years, thus saving $10.5 million in General Revenue Related Funds and $3.0 million in Other Funds. It is assumed that the CPA could absorb the cost of administering this program within current appropriations.

The revenue gain in **Article 17** is based on TxDOT’s estimate of the number of (and related fee for) new personalized specialty designer plates, designer nonpersonalized specialty designer plates, and personalized organizational license plates to be issued in each fiscal year. The analysis includes the TxDOT estimate of lost revenue to certain sponsoring organizations and colleges through the General Revenue Fund of $216,000 each year as a result of current specialty plate-holders switching to new designer plates authorized by the bill.

TxDOT does not anticipate a significant fiscal implication from the issuance of personalized and non-personalized organizational license plates and souvenir license plates. It is assumed that fees established by TTC would offset any costs associated with the vendor contract bid process and the implementation and enforcement of the contract. It is also assumed that any other costs and duties associated with implementing the provisions of the bill could be absorbed within existing resources

The **Article 18** provision that excludes non-general revenue clinics or hospitals from benefit proportionality requirements would have no significant fiscal impact in the 2006-2007 biennium. However, this provision would result in annual costs in excess of $5 million to general revenue after fiscal year 2008 and thereafter depending of the benefit proportionality of non-general revenue funded facilities.

Article 19 revenue gains from the provisions related to bingo conducted by Indian tribes cannot be estimated.

There is no significant fiscal impact from **Article 20.**

The bill would create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either within 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.

Local Government Impact

Article 5 woud limit audits of a school district's total taxable value and audits of related revisions to the annual property value study to two years after the final certification of property values. This would result in cost savings to the Foundation School Fund beginning in fiscal year 2007 and would reduce revenue to local school districts by the same amount.

Article 9 would have no significant impact on local government. Counties would lose revenue due to a decrease in the number of replacement plates issued. TXDOT estimates a 20 percent drop in the number of replacement plates. Counties retain $2.50 of the $5.00 fee collected. However, county tax offices will realize some savings from reduced mailing costs due to lower postage costs to mail a single license plate.

Related to Article 10, for the purposes of this analysis it is assumed that counties would retain an additional amount of approximately $3 million each year from establishing a flat motor vehicle registration fee of $58.80 for vehicles less than 6,000 lbs (passenger cars, municipal buses, private buses, commercial motor vehicles) and light trucks.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 362 Texas Lottery Commission, 405 Department of Public Safety, 454 Department of Insurance, 529 Health and Human Services Commission, 539 Department of Aging and Disability Services, 582 Commission on Environmental Quality, 601 Department of Transportation

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