LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 23, 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.), **Committee Report 2nd House, Substituted**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3540, Committee Report 2nd House, Substituted: a positive impact of $1,650,580,038 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	$538,533,748
2007	$1,112,046,290
2008	($158,375,147)
2009	$1,047,747,711
2010	($181,815,873)

All Funds, Five-Year Impact:

Fiscal Year	Probable Revenue Gain/(Loss) from *GENERAL REVENUE FUND* 1	Probable Savings/ (Cost) from *GENERAL REVENUE FUND* 1	Probable Revenue Gain/(Loss) from *FOUNDATION SCHOOL FUND* 193	Probable Savings/ (Cost) from *GR MATCH FOR MEDICAID* 758
2006	$555,944,000	($23,545,153)	$0	$5,626,901
2007	$1,104,213,000	($20,336,990)	$15,600,000	$11,934,280
2008	($171,399,000)	($18,193,528)	$16,224,000	$14,328,381
2009	$1,030,079,000	($17,092,347)	$16,873,000	$17,194,058
2010	($207,567,000)	($13,154,442)	$17,548,000	$20,632,569

Fiscal Year	Probable Revenue Gain/(Loss) from *HOTEL OCCUP TAX DEPOS ACC* 5003	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	$508,000	$5,626,901	($5,626,901)	$39,839,000
2007	$636,000	$11,934,280	($11,934,280)	$65,638,000
2008	$665,000	$14,328,381	($14,328,381)	$0
2009	$694,000	$17,194,058	($17,194,058)	$0
2010	$725,000	$20,632,569	($20,632,569)	$0

Fiscal Year	Probable Savings/(Cost) from *PETRO STO TANK REMED ACCT* 655	Probable Savings/(Cost) from *EST OTH EDUC & GEN INCO* 770	Probable Savings/(Cost) from *GR DEDICATED ACCOUNTS* 994	Probable Revenue Gain/(Loss) from *QUALITY ASSURANCE* 5080
2006	$6,200,000	($5,169,466)	($2,880,831)	$54,368,000
2007	($68,700,000)	($5,272,855)	($2,840,012)	$54,393,000
2008	($69,100,000)	($5,378,312)	($2,788,181)	$54,393,000
2009	($24,900,000)	($5,485,878)	($2,739,668)	$54,393,000
2010	($12,300,000)	($5,595,596)	($2,693,595)	$54,393,000

Fiscal Year	Probable Revenue Gain/(Loss) from *New GR-D Telecommunications Infrastructure Fund*	Probable Revenue Gain/(Loss) from *New GR-D Tobacco Endowment Funds*	Probable Savings/(Cost) from *FEDERAL FUNDS* 555	Probable Revenue Gain/(Loss) from *STATE HIGHWAY FUND* 6
2006	$33,333,000	$0	($10,043,329)	($465,418)
2007	$0	$1,151,040,000	($9,550,127)	($581,096,956)
2008	$0	$88,918,000	($9,363,478)	$583,955,139
2009	$0	$91,586,000	($9,177,411)	($615,689,509)
2010	$0	$94,333,000	($9,015,640)	$623,779,764

Fiscal Year	Probable Savings/(Cost) from *STATE HIGHWAY FUND* 6	Probable Revenue Gain/(Loss) from *TEXAS MOBILITY FUND* 365	Probable Revenue Gain/(Loss) from *RETIRED SCHOOL EMP GROUP INSURANCE* 989	Probable Savings/(Cost) from *OTHER FUNDS* 997
2006	($9,348,946)	($153,060,000)	$29,054,157	$975,000
2007	($9,322,470)	($101,630,000)	$30,216,323	$1,138,000
2008	($9,268,682)	$0	$31,424,976	$1,168,000
2009	($9,219,362)	$0	$32,681,975	$1,061,000
2010	($9,194,122)	$0	$33,989,254	$1,210,000

Fiscal Year	Probable Savings/(Cost) from *OTHER SPECIAL STATE FUNDS* 998	Probable Revenue Gain/(Loss) from *Tobacco Endowment Funds*	Probable Revenue Gain/(Loss) from *Counties*	Probable Revenue Gain/(Loss) from *School Districts*
2006	($656,094)	$0	$3,000,000	$0
2007	($607,394)	($1,151,040,000)	$3,000,000	($15,600,000)
2008	($554,375)	($88,918,000)	$3,000,000	($16,224,000)
2009	($501,678)	($91,586,000)	$3,000,000	($16,873,000)
2010	($449,896)	($94,333,000)	$3,000,000	($17,548,000)

Fiscal Year	Change in Number of State Employees from FY 2005
2006	0.0
2007	54.0
2008	91.0
2009	80.0
2010	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 would partially implement the recommendations in the Legislative Budget Board's (LBB) Staff Performance Report, "Offer an Incentive to Employees Who Opt Out of the State Employee Health Insurance Program." This article would modify the process an employee would use to waive participation in the ERS health benefit plan. The bill authorizes the board to allow an incentive payment to an employee or annuitant

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 retiree may only use the incentive to pay for optional coverage provided under the ERS group benefits plan. The bill authorizes a reduction in the state contribution for an employee or annuitant 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 concepts in 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 modify the amount of longevity pay retirees returning to state service after June 1, 2005 would earn. The bill would also exclude future return to work retirees from earning longevity pay and benefit replacement pay and reduce the amount of vacation hours they 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 3 would increase longevity pay and hazardous duty pay for state employees and employees of institutions of higher education. Currently longevity pay is $20 per month for every 3 years of service. The bill would increase this to $20 per month for every 2 years of service. Currently hazardous duty pay is $7 per month for every year of service. The bill would increase this to $10 per month for every year of service. Article 3 would take effect September 1, 2005.

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 such sites to 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 change the eligibility for the Existing Debt Allotment by rolling forward by two years the school year in which bonds are paid for a school district to be eligible for the allotment.

Article 6 would direct the Texas Education Agency (TEA) to provide funding to TRS-participating school districts, participating charter schools, and regional education service centers for the purpose of providing supplemental compensation to district employees in an amount established in the General Appropriations Act. This provision would also establish a 90-day waiting period before new employees could receive supplemental compensation.

Article 6 would also increase the rate at which active public education employees contribute to TRS-Care to 0.65 percent from 0.50 percent.

Article 7 would implement a recommendation in the LBB Staff Performance Report, "Consider Establishing a Multi State Medicaid Drug Purchasing Pool." The bill would authorize the Health and Human Services Commission (HHSC) to enter into agreements with other states for the joint bulk purchasing of prescription drugs for the Medicaid program, children's health insurance plan, or other programs. 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 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 require the Office of the Governor to establish a Texas mentoring initiative to fund activities that create or expand mentoring opportunities, promote responsible fatherhood and healthy marriages, and increase the capacity of faith- and community-based organizations to provide mentoring and other charitable services. It would also establish the Renewing Our Communities Account as an account in the General Revenue Fund that could only be appropriated to HHSC. The section creates the faith- and community-based initiatives advisory committee.

Article 10 would amend 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 $42.20 motor vehicle registration fee for vehicles weighing less than 6,000 lbs that are more than six years old. Vehicles weighing less than 6,000 lbs that are 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 Part A would repeal the one-half percent timely filer discount for the sales tax and seller financed motor vehicle sales tax.

Article 11 Part B 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.

Article 11 Part C would repeal Section 156.101 of the Tax Code, relating to the exception from the hotel occupancy tax for a permanent resident. Under current law, an individual or business with the right to use or possess a hotel room for at least 30 consecutive days without interruption of payment is not required to pay the hotel occupancy tax. The bill exempts tenants living in unfurnished apartments and condominium buildings from the hotel occupancy tax. The bill does not repeal the current permanent resident exception for participating counties and cities. This section would take effect July 1, 2005 if sufficient votes were received; otherwise, it would take effect October 1, 2005.

Article 11 Part D would delay certain transfers of motor fuel tax revenue. The comptroller would not make allocations of gasoline, diesel, and liquefied gas taxes to the State Highway Fund or County and Road District Highway Fund during the months of June, July, and August of each odd-numbered year. 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 section would take effect July 1, 2005 if sufficient votes were received; otherwise, it would take effect September 1, 2005.

Article 11 Part E would attempt to establish, for corporation franchise tax purposes, nexus for out-of-state corporations that hold a partnership interest in certain partnerships doing business in Texas. The bill would also require a corporation to add back certain royalty payments, interest payments, and management fees paid to related parties when computing reportable federal tax income for franchise tax purposes. These remedies are designed to eliminate the "Delaware Sub" and "Geoffrey" tax avoidance measures.

Article 12 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 has 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 13 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 or on behalf of 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.

Article 13 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 the General Revenue Fund. 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 the General Revenue Fund. This section would be effective September 1, 2005.

Article 13 Part C would amend Chapter 57 of the Utilities Code to continue GR Account 345 - Telecommunications Infrastructure Fund 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 bill would require the assessment to be deposited to the General Revenue Fund. This section would take effect July 1, 2005, if sufficient votes were received; otherwise, it would take effect September 1, 2005.

Article 14 would implement the recommendation entitled “Reduce the Interest Rate Paid on Tax Refunds” from the LBB Staff Performance Report. Under current law, the state pays interest on refunds of taxes paid for a report period on or after January 1, 2000. The interest rate is set annually at the prime rate plus one percent. 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 annual rate of interest earned on state treasury deposits during December of the previous year.

Article 15 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 16 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 a 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 percent, though that increase would apply to a smaller payroll base that results in a reduced contribution. The savings shown is the reduction in an actuarially sound contribution.

The savings estimate for **Article 2** assumes: one-half of one percent of employees and annuitant with member-only coverage would opt out of the state's health plan; the HealthSelect premium will increase each year; the population is constant; and savings would be reduced by 20 percent as a result of adverse selection.

Article IX of the current version of the General Appropriations Bill as passed the House authorizes a reduction in the state contribution for an employee or retiree who waives participation in the state's health plan. House Committee Report, C.S.S.B. 1, Article IX, Section 13.16 provides a $60 per month state contribution for each employee or retiree who opts out of the state's health coverage.

Using this incentive amount, the total anticipated 2006-07 All Funds savings is $4,763,952; including General Revenue Related savings of $3,001,290. The bill would remove the requirement for the Employee's Retirement System to include a TRICARE supplement as an optional coverage for employees who opt-out. This reduces the savings from this article.

Provisions in **Article 3** relating to benefit replacement pay and return to work retirees would result in 2006-07 All Funds savings of $2,770,837, which includes General Revenue savings of $1,579,376. The article 3 savings are assumed in Article IX of the current General Appropriations Bill as passed by the House, however, limiting the changes to policies governing return to work retirees who retire on or after June 1, 2005 would result in a cost to the current General Appropriations Bill of $16.3 million in All Funds in 2006-07.

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 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 $264,933. These savings are based on a sample of data from the first half of fiscal year 2004.

Article 3 would also increase monthly longevity payments and hazardous duty payments for state employees. Based on historic trends, these amounts were increased by 1 percent and 3 percent annually. A similar increase was applied to current expenditure amounts shown in the Uniform Statewide Accounting System for higher education employees, and this was grown at the historic trend of 2 percent. The current distribution of funds used to pay appropriated employee benefits payments was used to determine the method of finance. Institutions of higher education would incur some additional costs based on unappropriated funds held outside the treasury.

The cost of these increases would be paid by agencies and institutions of higher education from funds already appropriated to them in the General Appropriations Bill as passed by the House and Senate. Therefore, this change would not add cost to the bill. In addition, the tables above do not reflect a cost avoidance of approximately $3 million per year from freezing longevity payments to employees who have retired and returned to work before September 1, 2005. Exclusive of reductions for no longer paying longevity pay to future return-to-work retirees and freezing the amounts of current return-to-work retirees, the annual cost to state agencies and institutions of higher education for increasing longevity pay to $20 per month for every two years of service, and hazardous duty pay to $10 per month per year of service, would be $48.3 million in General Revenue and $79.8 million in All Funds.

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 this 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 delivery fee at one-half of one cent per gallon would result in an increase in revenues to the PST Remediation Account No. 655 of $39.8 million in fiscal year 2006 and $65.6 million in fiscal year 2007. The comptroller provided this revenue estimate.

The provisions in **Article 5** relating to rolling the eligibility date forward two years for the Existing Debt Allotment entails a state general revenue cost of $75.0 million annually. The General Appropriations Bill as passed by the Senate includes appropriations to pay for this increase.

Article 6 transfers the supplemental compensation program defined by Chapter 1580, Insurance Code, from TRS to TEA and stipulates that the rate of payment be established in the General Appropriations Act. For purposes of this estimate, it is assumed that the amount set in the General Appropriations Act would be equivalent to that stipulated in current law. To the extent that the amount set in the General Appropriations Act differs from the amount stipulated in current law, there could be state costs or savings. It is assumed that any administrative costs associated with transferring this function to TEA could be absorbed within the existing full-time equivalent (FTE) cap and administrative budget.

The provision that establishes a 90-day waiting period before new employees could receive supplemental compensation would result in savings to the state of $10 million in fiscal year 2006 and $11.6 million in fiscal year 2007.

Article 6 also increases the rate at which active public education employees contribute to TRS-Care to 0.65 percent. The associated additional revenue to TRS-Care would be about $29 million in fiscal year 2006 and $30 million in fiscal year 2007 statewide

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.

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.

Article 9 has no significant fiscal impact.

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 estimated that the

additional registration fee revenue deposited to Fund 06 would offset the transfer of the $68 million from Fund 06 to the General Revenue Fund in the 2006-07 biennium.

The comptroller has not yet reviewed the specific language in **Article 11 Part A**. These estimates are based on the assumption that the provisions would fully close two franchise tax avoidance measures commonly referred to as the "Delaware Sub" and "Geoffrey" avoidance measures. The final determination of whether the language does close these measures rests with the comptroller.

The comptroller provided the **Article 11 Part B** estimates relating to the presumptive value of motor vehicles. They are based primarily on estimates of sales of motor vehicles between individuals.

To calculate the gain from eliminating the permanent resident exception to the hotel occupancy tax in **Article 11 Part C**, data were collected from the comptroller's tax files on gross and taxable hotel receipts to estimate the value of exemptions from the hotel tax. It is estimated that 15 percent of hotel occupancy tax exemptions were due to the permanent resident exemption. The numbers above presume an effective date of October 1, 2005, and the revenue gain has been reduced to reflect 11 months of collections.

The estimates for the motor fuel allocation delay in **Article 11D** are based the comptroller's estimate of motor fuel tax revenues. The numbers above presume an effective date of September 1, 2005. If the Act were to receive sufficient votes to be effective July 1, 2005, there would be an additional General Revenue gain of $364.4 million and an equal loss to the State Highway Fund in the current biennium; the gain in the 2006-07 biennium would be $217.5 million.

The estimate of the fiscal impact of **Article 11 Part E** was provided by the comptroller, based on data from state franchise tax files. The comptroller did not consider the provisions related to nexus sufficient to eliminate the Delaware Sub avoidance measure. The comptroller estimates the Geoffrey remedy will raise $130 million in General Revenue per year.

Article 12 which limits audits of a school district's total taxable value and audits of related revisions to the annual property value study to one year after the final certification of property values 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 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. The resulting savings to the Foundation School Fund are $15,600,000 for FY 07; $16,224,000 for FY 2008; $16,873,000 for FY 2009; and $17,548,000 for FY 2010.

The estimate of the fiscal impact of **Article 13 Part A** is 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.

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.

The estimate for **Article 13 Part B** is based on the comptroller's estimate of driver's licenses, personal identification cards, and driver record fees.

The estimates for the Telecommunication Infrastructure Fund and assessment in **Article 13 Part C** were based

on data from assessment returns paid by telecommunication utilities and the 2006-07 Biennial Revenue Estimate.

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

There is no significant fiscal impact from **Article 16.**

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

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.

Article 12 would limit audits of a school district's total taxable value and audits of related revisions to the annual property value study to one year 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.

Source Agencies:

LBB Staff: JOB, SD, RS, WP, JI