LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 16, 2009

TO: Honorable Rene Oliveira, Chair, House Committee on Ways & Means

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

IN RE: **HB4611** by Oliveira (Relating to the treatment of proceeds from sales of certain loans and securities for purposes of apportionment under the franchise tax.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend Chapter 171 of the Tax Code, regarding the franchise tax, in relation to determining receipts arising from the sale of a loan or security for the purpose of apportioning margin.

Under current law in Section 171.106(f), if a loan or security is treated as inventory by the seller for federal income tax purposes, the gross proceeds of the sale of that loan or security are considered gross receipts for apportioning margin. Otherwise, gross receipts would be the gross proceeds from the sale minus the basis of the loan or security. The bill would add a provision stating that a lending institution could use the gross proceeds of the sale of a loan or security as gross receipts if the loan or security were categorized as "Securities Available for Sale" or "Trading Securities" under Financial Accounting Standard No. 115.

The bill would take effect on January 1, 2010, and apply to a report due on or after that date.

The bill would limit the use of Financial Accounting Standard No. 115 to taxable entities that are lending institutions. The change made by the bill conforms to the expected scope of the use of gross proceeds from the sale of a loan or security that was anticipated under the provisions of HB 3928 as passed by the 80th Legislature, Regular Session (2007).

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts

LBB Staff: JOB, MN, SD, SM