LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82nd LEGISLATURE 1st CALLED SESSION - 2011

June 1, 2011

TO: Honorable Jim Pitts, Chair, House Committee on Appropriations

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

IN RE: **HB1** by Pitts (Relating to certain state fiscal matters; providing penalties.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1, As Introduced: a positive impact of $7,693,005,684 through the biennium ending August 31, 2013.

The bill would also result in a $141,680,500 loss to the Property Tax Relief Fund 304 for the biennium ending August 31, 2013. Therefore the bill would have a net positive impact of $7,554,507,478 to General Revenue Funds for the biennium.

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
2012	$2,086,484,671
2013	$5,606,521,013
2014	$1,428,294,271
2015	$2,150,744,271
2016	$2,155,685,771

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 Savings/(Cost) from *Foundation School Fund* 193
2012	$1,989,794,729	$108,439,942	$0	($11,750,000)
2013	$2,123,694,822	$1,315,376,191	($134,338,000)	$2,300,000,000
2014	$1,990,194,330	($696,238,059)	$134,338,000	$0
2015	$1,990,219,330	$160,524,941	$0	$0
2016	$1,990,394,330	$165,291,441	$0	$0

Fiscal Year	Probable Revenue Gain/(Loss) from *Foundation School Fund* 193	Probable Revenue Gain/(Loss) from *State Parks Acct* 64	Probable Revenue Gain/(Loss) from *Oper & Chauffeurs Lic Ac* 99	Probable Savings/(Cost) from *Oil-field Cleanup Acct* 145
2012	$0	$1,600,000	$0	$27,500,000
2013	$1,788,000	$1,600,000	$0	$27,500,000
2014	$0	$1,600,000	($21,300,000)	$27,500,000
2015	$0	$1,600,000	($21,300,000)	$27,500,000
2016	$0	$1,600,000	($21,300,000)	$27,500,000

Fiscal Year	Probable Revenue Gain/(Loss) from *Oil-field Cleanup Acct* 145	Probable Revenue Gain/(Loss) from *Petro Sto Tank Remed Acct* 655	Probable Revenue Gain/(Loss) from *Tx Preservation Trust Acc* 664	Probable Savings/(Cost) from *GR Dedicated Accounts* 994
2012	($55,201,000)	$21,124,000	$10,089,461	($2,037,712)
2013	($25,111,000)	$23,663,000	$0	($2,032,706)
2014	($25,268,000)	$23,807,000	$0	($2,032,706)
2015	($25,483,000)	$23,937,000	$0	($2,032,706)
2016	($25,696,000)	$2,007,000	$0	($2,032,706)

Fiscal Year	Probable Revenue Gain/(Loss) from *Tobacco Education/Enforce* 5044	Probable Revenue Gain/(Loss) from *Children & Public Health* 5045	Probable Revenue Gain/(Loss) from *Ems & Trauma Care Account* 5046	Probable Savings/(Cost) from *New General Revenue Dedicated - Oil and Gas Acct*
2012	$10,562,519	$5,281,258	$5,281,258	($50,300,000)
2013	$28,481,408	$14,240,704	$14,240,704	($50,300,000)
2014	$0	$0	$0	($50,300,000)
2015	$0	$0	$0	($50,300,000)
2016	$0	$0	$0	($50,300,000)

Fiscal Year	Probable Revenue Gain/(Loss) from *New General Revenue Dedicated - Jud Ed Acct*	Probable Revenue Gain/(Loss) from *New General Revenue Dedicated - Oil and Gas Acct*	Probable Savings/(Cost) from *Federal Funds* 555	Probable Savings/(Cost) from *State Highway Fund* 6
2012	$11,716,000	$79,097,500	($11,413,511)	($10,850,382)
2013	$10,660,000	$48,897,500	($11,385,468)	($10,823,723)
2014	$10,660,000	$48,897,500	($11,385,468)	($10,823,723)
2015	$10,660,000	$48,897,500	($11,385,468)	($10,823,723)
2016	$10,660,000	$48,897,500	($11,385,468)	($10,823,723)

Fiscal Year	Probable Revenue Gain/(Loss) from *State Highway Fund* 6	Probable Revenue Gain/(Loss) from *Property Tax Relief Fund* 304	Probable Revenue Gain/(Loss) from *Jud & Court Training Fd* 540	Probable Savings/(Cost) from *RETIRED SCHOOL EMP GROUP INSURANCE* 989
2012	$0	($71,684,750)	($11,716,000)	$0
2013	($403,016,000)	($69,995,750)	($10,660,000)	($133,675,492)
2014	$403,016,000	$5,557,250	($10,660,000)	$0
2015	$0	$5,727,250	($10,660,000)	$0
2016	$0	$5,311,000	($10,660,000)	$0

Fiscal Year	Probable Savings/(Cost) from *Other Special State Funds* 998	Probable Revenue Gain/(Loss) from *DIR Clearing Fund Account - AR* 8122	Probable Revenue Gain/(Loss) from *Telecommunications Revolving - AR* 8123	Probable Revenue Gain/(Loss) from *DIR Clearing Fund Account - IAC* 8124
2012	($9,569,872)	$272,351	$226,863	$116,722
2013	($9,546,359)	$256,572	$221,938	$109,960
2014	($9,546,359)	$0	$0	$0
2015	($9,546,359)	$0	$0	$0
2016	($9,546,359)	$0	$0	$0

Fiscal Year	Probable Revenue Gain/(Loss) from *Telecommunications Revolving - IAC* 8125	Probable Revenue Gain/(Loss) from *Statewide Technology Account - IAC* 8126	Probable Revenue Gain/(Loss) from *Insurance Trust Fund* 973	Probable Revenue Gain/(Loss) from *Cities*
2012	$1,550,119	$365,729	$105,424,456	$16,824,000
2013	$1,506,890	$344,541	$105,224,458	$18,745,000
2014	$0	$0	$105,224,458	$20,388,000
2015	$0	$0	$105,224,458	$21,127,000
2016	$0	$0	$105,224,458	$21,871,000

Fiscal Year	Probable Revenue Gain/(Loss) from *Counties and Special Districts*	Probable Revenue Gain/(Loss) from *Transit Authorities*	Change in Number of State Employees from FY 2011
2012	$3,830,000	$4,975,000	14.0
2013	$5,249,000	$5,175,000	14.0
2014	$6,693,000	$5,275,000	14.0
2015	$6,943,000	$5,475,000	14.0
2016	$7,198,000	$5,675,000	14.0

Fiscal Analysis

Article 1 would defer the Foundation School Program (FSP) payment to school districts scheduled for August of fiscal year 2013 to not earlier than September 5th of the following fiscal year. Article 1 would amend Government Code Section 466.355 to require the comptroller to estimate the amount to be transferred to the foundation school fund on or before September 15th and transfer the amount to the FSP before August 25. The provisions of this article would be effective September 1, 2011.

Article 2 would implement a recommendation in the report, "End the Use of General Revenue Funds to Pay for Insurance Company Examinations," in the Legislative Budget Board’s Government Effectiveness and Efficiency Report, submitted to the Eighty-second Texas Legislature, 2011, by repealing insurance premium tax credits for examination fees. This provision would apply to examination fees or evaluations paid in calendar year 2012 or 2013 and the provision would expire on January 1, 2014.

Article 3 would partially implement recommendations from the report, "Phase out Economic Development Tax Refunds," in the Legislative Budget Board's (LBB) Government Effectiveness and Efficiency Report submitted to the Eighty-Second Legislature, 2011. This bill would repeal Subchapter F of Chapter 111 of the Tax Code, regarding tax refunds for certain ad valorem taxpayers in reinvestment zones.

Article 4, relating to tax records, would amend the Occupations Code and the Tax Code to extend the amount of time that taxpayers must keep records such as electronically stored images of documents. Specifically, Section 111.0041 of the Tax Code would be amended to extend the time to at least four years that taxpayers would be required to maintain records to substantiate and verify a claim regarding the taxes, penalties, and interest. Conforming changes would be made elsewhere in the Tax Code and the Occupations Code.

Article 5 would implement the recommendation in the report, "Reduce the Unclaimed Property Dormancy Period for Certain Property Types" in the Legislative Budget Board's Government Effectiveness and Efficiency Report, submitted to the Eighty-second Legislature, 2011. It would decrease the unclaimed property dormancy period for utility deposits from three years to one year; money orders from seven years to three years; and bank deposits, savings accounts, and matured certificates of deposits from five years to three years. The bill would increase the maximum service, maintenance, or other charge from 50 cents to $1 that money order companies can assess before the property is defined as abandoned under the Property Code. Article 6 would move the deadline for businesses to transfer unclaimed property to the Comptroller from November 1 to July 1. As a result, three unclaimed property transfers would occur in the 2012-13 biennium. There would be two transfers in all future biennia, but with a new July 1st transfer deadline. Article 6 would also authorize the Comptroller to sell unclaimed securities upon receipt from the companies that hold them, as well as from time to time. Current law does not specifically permit the Comptroller to sell securities upon receipt.

Article 6 of the bill would change the classification of the Judicial and Court Personnel Training Fund No. 540 from Other Funds to a dedicated account within the General Revenue Fund.

Article 7 of the bill would amend the Government Code to allow the Process Server Review Board to recommend to the Supreme Court fees to be charged for the certification and renewal of certification of process servers. The Supreme Court would have to approve the fees before the fees could be collected. The proposed amendment also provides that the Office of Court Administration may collect the fees and that the fees collected shall be sent to the Comptroller for deposit into the General Revenue Fund. The bill would allow fees collected to be appropriated for the support of regulatory programs for process servers and guardians.

Article 8 would amend the Water Code to extend the petroleum product delivery fee. Under current law, the fee will not be collected after August 31, 2011. The bill would continue the fees with no expiration date and at the same rate as in fiscal 2011. The fee would continue to be imposed on the delivery of virtually all petroleum products withdrawn from bulk storage at various rates on each delivery, based on cargo tank capacity, and would range from $3.75 to $15 per delivery. According to the Comptroller, revenues collected would be subject to a 2 percent service charge that would be deposited to the General Revenue Fund, and the remaining receipts deposited to the GR-Dedicated Petroleum Storage Tank Remediation Account No. 655.

Article 9 would impact the collection of certain motor fuel taxes. The bill would amend various chapters of the Tax Code to require tax remittances on motor fuel taxes and delay the transfer of motor fuels taxes from general revenue to the State Highway Fund and Fund 002 that would normally occur in August 2013. The revenue would be deposited in September 2013.

Article 10 would impact collections of mixed beverage taxes and takes and fees on certain alcoholic beverages. The bill would amend various chapters of the Alcoholic Beverage Code to require tax remittances for the month of September to be paid in August for certain taxes in odd-numbered years.

Article 11 would reduce the cigarette tax distributors’ discount from three percent to two and a half percent.

Article 12 would amend Tax Code to redefine sale for resale. This provision would take effect immediately if the bill received the requisite two-thirds vote of each chamber; otherwise, it would take effect September 1, 2011.

Article 13 would amend Chapter 151 of the Tax Code relating to tax due dates and report dates to provide for a 25 percent prepayment of the sales and use tax in August 2013 and an offsetting credit in September 2013. The prepayment would be required of taxpayers who pay by electronic funds transfer and who do not prepay as provided by Section 151.424.

Article 14 would amend statute regarding reports by wholesaler and distributors of beer, wine, and malt liquor, as Section 151.461 in new Subchapter I-1, regarding reports by persons involved in the manufacture and distribution of alcoholic beverages and add new subsections with that subchapter. Article 14 would expand who would be required by the Comptroller's Office to file a monthly report on alcoholic beverage sales to retailers. Article 14 would provide the Comptroller the authority to inspect and conduct audits to ensure compliance; impose civil and criminal penalties for violations; bring forth a suit to enforce these provisions; and adopt rules to implement these provisions. The bill would amend Chapter 111 of the Tax Code, regarding collection procedures for state taxes, to require the Comptroller's Office to disclose information from the sales reports required under Section 151.462 of this Code.

Article 15, relating to the penalties for failure to report or remit certain taxes or fees, would amend the Tax Code and the Health and Safety Code to add a penalty of $50 for a person who fails to file certain reports required under the codes. The penalty would be in addition to any other authorized penalties, and without regard to whether the person subsequently files the report or whether any taxes or fees were due. The bill's provisions would apply to several taxes including the sales and use tax and motor vehicle rental and seller financed taxes.

Article 20 would end eligibility to redeem Early High School Graduation Scholarships awards issued prior to fiscal year 2012 effective for fiscal year 2018 and would close the program to new awards effective for fiscal year 2012. The bill would eliminate automatic transfers of funding from the Foundation School Program (FSP) to the Texas Higher Education Coordinating Board (THECB) for purposes of funding certain tuition exemption programs and repeal section 56.210 of the Education Code.

Article 21 would allow the state contribution to the Teacher Retirement System (TRS) pension trust fund for public education and higher education retirement to be less than contributions of active members for the fiscal ending August 31, 2012.The bill would also allow the state contribution to the TRS-Care insurance program to be less than 1.0 percent of total active payroll for fiscal year ending August 31, 2013.

Article 23 would implement a recommendation in the report, "Increase Private Contributions for State Parks" in the Legislative Budget Board's Government Effectiveness and Efficiency Report, submitted to the Eighty-second Legislature, 2011. The bill would establish a system in which motorists can voluntarily donate $5 or more with the vehicle registration to the Texas Parks and Wildlife Department.

Article 24 would create the Oil and Gas Regulation and Cleanup (OGRC) Fund as an account in the General Revenue Fund. The OGRC would replace the existing General Revenue-Dedicated Oil Field Cleanup (OFCU) Account No. 145, with all balances in that account transferring to the OGRC Fund, and all current revenue streams to the OFCU Account No. 145, except penalties, accruing to the OGRC Fund. Penalties would be deposited to the credit of the General Revenue Fund. The bill would authorize surcharges on the agency's existing fees to provide that the OGRC Fund cover all of the Railroad Commission's (RRC) costs related to the regulation of oil and gas development. The bill would provide a specific methodology for the RRC to determine the amount of such surcharges. The amount of such surcharges shall not exceed an amount equal to 185 percent of the fee on which they are imposed. In addition, the bill would require that the Comptroller notify the RRC when the OGRC Fund has an unexpended balance of $20.0 million or greater, at which point the agency would cease collecting oil field cleanup regulatory fees, until the unexpended balance of the OGRC Fund falls to$10.0 million.

Article 24 would also require the RRC to establish specific performance goals for oil and gas regulation through the appropriations process for: the number of orphaned wells plugged with the use of state funds; the number of abandoned sites to be investigated, assessed, or cleaned up; and the number of surface locations to be remediated. The RRC would also be required to submit quarterly reports to the Legislative Budget Board on OGRC Fund revenues and expenditures and progress towards the performance goals. Annually, the RRC would be required to report to the Legislature a review of the effectiveness of money provided in the OGRC Fund at enabling the agency to better protect the environment. Article 5 would also expand the applicability of the pipeline safety fee to include gas utility regulatory functions at the RRC.

Article 25 would implement a recommendation in the report, "Optimize the Use of State Parking Facilities" in the Legislative Budget Board's Government Effectiveness and Efficiency Report, submitted to the Eighty-second Legislature, 2011. The bill would expand the Texas Facilities Commission authority related to the operations of state-owned parking lots and garages by authorizing the agency to lease excess parking spaces and facilities.

Article 26 would eliminate the publication and distribution of bound copies of the General and Special Laws of Texas (referred to as session law) by the Secretary of State following each session of the legislation, replacing such information with an electronic version on the agency’s website.

Article 27 would authorize three specific fees for the Office of the Attorney General.

Article 28 would authorize money in the Preservation Trust Fund to be used for operation expenses of the Texas Historical Commission.

Article 29 would clarify the appropriate expenditure of revenue derived from the collection of fees imposed by the Department of Information Resources.

Article 31 would direct the State Bar to credit an attorney with meeting the minimum continuing legal education requirements while employed full-time with the Office of the Attorney General, with the exception of requirements for ethics and professional responsibility courses. The bill requires the OAG to provide OAG attorneys with continuing legal requirement opportunities. These provisions would expire January 1, 2014.

Article 32 would increase lobby registration fees by 50 percent.

Article 33 would implement a recommendation in the report, "Implement a Tobacco User Surcharge on Employees Retirement System Health Premiums" in the Legislative Budget Board's Government Effectiveness and Efficiency Report, submitted to the Eighty-second Legislature, 2011. The bill would require the Employees Retirement System to apply a monthly tobacco user premium differential which could be set in the General Appropriations Act.

Article 36 would expand the use of three tobacco settlement funds to pay the principal or interest on a bond issued on behalf of the Cancer Prevention and Research Institute of Texas, including: the Permanent Fund for Health and Tobacco Education and Enforcement; the Permanent Fund for Children and Public Health; and the Permanent Fund for Emergency medical Services and Trauma Care. Article 36 provisions would take immediate effect upon receiving two-thirds vote in both houses; otherwise, the provisions would take effect September, 1, 2011.

Article 37 would require the ERS board to assess an enrollment fee on each state and higher education employer whose employees participate in the ERS group benefits program. The amount of the fee would be determined by the General Appropriations Act. The ERS board would deposit the enrollment fees to the credit of the ERS Employees Life, Accident, Health Insurance and Benefits Trust Account 973.

Article 38 of the bill would restructure the process used to dispose of state surplus or salvage property to improve the efficiency of the program.

Article 39 of the bill would amend the Government Code relating to allocation of court costs so that the portion previously allocated to the Operator's and Chauffeur's License Fund 99 would be re-allocated to the LECOS Retirement Fund. This provision of the bill would take effect September 1, 2013 and would therefore have no fiscal impact in the 2012-13 biennium.

Article 40 relates to the collection and allocation of certain sales and use tax. The bill would amend Section 151.008(b) to provide that the terms "seller" and "retailer" include a person who by agreement with an owner of tangible personal property has been entrusted with possession of and authority to sell, lease, or rent the property without additional action on the part of the owner.

The bill would amend Section 151.107 to provide that a "retailer engaged in business in this state" includes a retailer that (1) holds a substantial ownership in, or is owned in whole or substantial part by, a person who maintains a business location in this state if the retailer sells substantially the same product line and does so under substantially the same business name as the related retailer or if the facilities or employees of the related person in this state are used to advertise, promote, or facilitate sales by the retailer or are used to maintain a marketplace in this state for the retailer, exchanging returned merchandise; or (2) holds a substantial ownership in, or is owned in whole or substantial part by, a person that maintains a distribution center, warehouse, or similar location in this state that delivers property sold by the retailer.

Article 41 extends the eligibility period for which businesses can take tax credits that had accrued under the old franchise tax through to December 31, 2016.

Article 42 would allow the Comptroller to enter into contracts with procurement specialists to more effectively and inexpensively procure items purchased and used by state agencies. The specialist would be paid from the cost savings generated.

Article 44 would amend several sections of the Government Code related to the development of state budgets and the publication of related documentation, including: requiring the Legislative Budget Board (LBB) to hold public hearings each state fiscal year to hear a report from the comptroller on the financial condition of the state and receive public testimony; requiring the LBB to hold public hearings on interim budget reduction requests from state agencies; requiring the Comptroller of Public Accounts to publish data related to revenue from fees; and amending procedures related to the Cash Management Committee.

Article 45 of the bill would amend the Government Code relating to the Texas Back to Work Initiative would allow the Governor to transfer money from the Texas Enterprise Fund (TEF) to the Texas Back To Work initiative administered by the Texas Workforce Commission upon an appropriation made by the Legislature.

Article 46 would provide a homestead exemption for surviving veteran spouses.

Article 47 extends the small business franchise tax exemption at $1,000,000 until 2014.

Article 49 relates to fiscal matters concerning process servers and entitles a person appointed to the process server review board to reimbursement for actual and necessary expenses incurred in traveling and performing official board duties and requires the office to establish a certification division.

Article 50 relates to fiscal matters regarding reimbursement of jurors and entitles a person who reports for jury service to receive reimbursement for travel and other expenses.

Article 51 of the bill would amend the Code of Criminal Procedure Article 103.0033 by transferring audit responsibilities for the court-related Collection Improvement Program (CIP) from the Comptroller of Public Accounts (CPA) to the Office of Court Administration (OCA).

Article 52 would amend Government Code, Chapter 501, to decrease the number of public members appointed to the Correctional Managed Health Care Committee from nine to six, and require the committee to take certain actions relating to contracts.

Article 53 would expand the allowable use of the Texas Enterprise Fund to include grant awards under the Texas homeless housing and services program, administered by the Texas Department of Housing and Community Affairs.

Article 55 expands certain franchise tax exemptions to live entertainment events, couriers and Political Action Committees.

Article 56 would change the required content of the annual report for the Texas Emerging Technology Fund, change committee appointment procedures, require financial statements and specify committee meetings procedures.

Article 57 would amend Chapter 23 of the Tax Code to add beekeeping for the purpose of pollination, food production, or production of other commercial products to the list of activities that could qualify land for the reduced agricultural use property tax appraisal if the activity is at the degree of intensity generally accepted in the area and meets other existing requirements. The bill would provide that land used for these purposes could not be less than five acres but not more than 20 acres.

Article 60 allows state contribution rates for ERS and LECOS to be less than the member contribution rate for fiscal year 2012. The bill would also allow DPS, TRS, ERS and TWC to provide the Comptroller with certain information regarding individuals from their records every five years rather than annually.

Article 61 would allow the Comptroller to collect data for unclaimed property search every five years, instead of every year.

Article 62 would amend Chapter 11 of the Tax Code, regarding property taxation and exemptions, to change the definition of "goods-in-transit" to require that the personal property be stored under a contract of bailment by a public warehouse operator at one or more public warehouses that are not in any way owned or controlled by the owner of the personal property.

Article 63 would implement the recommendation in the report, "Limit Advanced Placement Incentive Program Exam Fee Subsidies and End Campus Awards," in the Legislative Budget Board’s Government Effectiveness and Efficiency Report submitted to the Eighty-Second Texas Legislature, 2011 by funding the cost of examinations for students who demonstrate financial need in accordance with adopted guidelines.

Article 64 would limit eligibility for Educational Aide tuition exemptions to persons seeking certification in teacher shortage areas, as determined by the Commissioner.

Article 65 would exclude physical education curriculum from counting towards contact hours used to determine a junior college’s proportionate share of the state money appropriated.

Article 66 would amend Chapter 171 of the Tax Code, regarding the franchise tax, by revising the definition of "retail trade." The bill would add apparel rental activities to the definition of retail trade. The bill would take effect on January 1, 2012, and apply only to reports due on or after that date.

Article 67 would authorize certain districts to retain additional state aid and would expire September 1, 2013.

Article 68 would amend Chapter 42 of the Education code to reduce a district’s additional state aid for tax relief in proportion to the degree to which its adopted maintenance and operations tax rates is below its compressed tax rate, applying beginning with tax rates adopted for the 2009 tax year.

Article 69 would remove the CPA from the Texas Guarantee Student Loan Board, authorize the Governor to appoint an additional member to the Board and authorize the Governor to appoint the Board of the Chair.

Article 70 relates to mineral funds outside of the treasury for Texas A&M University System, Texas State University System, Texas Tech University and Texas A&M Kingsville.

Article 71 relates to the Foundation School Program financing and reporting.

Article 72 of the bill would make structural changes in the Foundation School Program that would result in significant state savings in fiscal year 2012 and continuing thereafter.

The provisions of this bill would be effective September 1, 2011 except as otherwise provided.

Methodology

For Article 1 of the bill, the effect of deferring the August FSP payment in fiscal year 2013 to September of the following fiscal year is that a total of 23 monthly FSP payments would be dispersed during the 2012-13 biennium. Under current law funding of the FSP, this deferral would result in a one-time savings of $2.3 billion in fiscal year 2013. However, any statutory reduction to school districts' FSP entitlements would decrease the savings gained from this deferral. Funding levels in Conference Committee Report House Bill 1 (CCRHB 1) would produce a savings of $2.3 billion.

Article 2 would result in a revenue gain of $7.1 in General Revenue Related Funds in fiscal year 2013. To estimate the provisions of Article 2, data from TDI and the Comptroller were used to calculate the amount of examination fee and overhead assessment credits that would be available, the proportion of available examination fee credits that would be applied towards premium tax liability under current law, and the extent to which the repeal of these credits would increase the use of other types of premium tax credits.

Article 3 of the bill would result in a gain of $10 million in General Revenue Related funds in the2012-13 biennium. The Comptroller estimated fiscal impact from the proposed repeal based on refunds that have been made under the provisions of Subchapter F. There is no estimated fiscal impact for 2012 as the current statute and provisions of the bill would result in refunds being made through fiscal 2012. State savings would begin in fiscal 2013.

The Comptroller estimates that Article 4 would result in gain of $11 million in General Revenue Funds for the 2012-13 biennium.

In Article 5, moving the unclaimed property transfer deadline to July 1 from November 1 would result in a one-time gain of $200 million in fiscal year 2013. The estimate reflects the impact of changes in the unclaimed property determination and transfer date and was developed using Comptroller data.

For Article 5, there would be a one-time gain of $77.7 million in fiscal year 2013 from reducing various unclaimed property dormancy periods. The Comptroller based this estimate on data for the affected property types. The increase in service, maintenance, and other fees that may be assessed by money order issuers would not have a significant fiscal impact because the dormancy period decrease from seven years to three years would offset any potential reduction in unclaimed property receipts.

For Article 5, the Comptroller estimates that unclaimed securities liquidation would result in a gain of $38 million to the General Revenue Fund in the 2012-13 biennium.

For Article 6, this analysis projects probable revenue gain to the General Revenue Fund from the reclassification of the Judicial and Court Personnel Training Fund No. 540 from Other Funds to general Revenue account of $11,716,000 in fiscal year 2012 and $10,660,000 in each fiscal year thereafter. Projected revenues to the Judicial and Court Personnel Training Fund are based on amounts included in the Comptroller's 2012–13 Biennial Revenue Estimate, or $10.6 million in fiscal year 2012 and $10.7 million in fiscal year 2013. Additionally, this estimate assumes $1,128,000 in unexpended balances available in the Judicial and Court Personnel Training Fund at the end of fiscal year 2011.

Article 7 of the bill would result in cost of $150,000 to the General Revenue Fund in the 2012-13 biennium to establish a system to collect over 6,000 certification fees, as well as maintaining administrative information associated with these certificates. The CPA could not estimate the potential revenue gain.

Article 8 continues the petroleum products delivery fee which under current law is scheduled to expire on August 31, 2011. According to the Comptroller, extending the fee would generate an estimated $44.8 million to the Petroleum Storage Tank Remediation Fund 655 in the 2012-13 biennium.

Article 9, relating to the motor fuels tax speed-up would result in a revenue gain of $67.1 million in General Revenue Funds for the 2012-13 biennium.

Article 9 would also delay the motor fuels tax transfer to Fund 6 and 2 and this provision would result in a net revenue gain of $403 million in General Revenue Related Funds.

Article 10 relating to the alcohol tax speed up would result in a gain of $17.6 million in General Revenue funds in the 2012-13 biennium. The fiscal impacts of Articles 10 and 11 were based on the Comptroller's 2012-13 Biennial Revenue Estimate. The provisions of this bill would impact revenue collections only in fiscal year 2013 and 2014.

Article 11 would result in a revenue gain of $11.63 million in General Revenue Related funds in the 2012-13 biennium. The fiscal impact of Articles 11 was based on the Comptroller's 2012-13 Biennial Revenue Estimate. The proposed cigarette stamping allowance change would increase the revenue from each stamp by roughly one-half of one percent. First year revenue collections were adjusted for collection lags.

Article 12 would result in gain of $150 million in General Revenue Related funds in the 2012-13 biennium. Article 13 relates to a recent court decision that expanded the interpretation of items that may be purchased as a nontaxable sale for resale to include items purchased by contractors for use or consumption in performing services under federal contract. The bill would preclude the court decision from being further expanded to apply to contracts with exempt entities other than the federal government. The Comptroller used data on refund claims pursuant to the court decision to estimate the annual state sales tax reduction to be expected were the decision applied to contracts with exempt entities other than the federal government, and the implications for units of local government were estimated proportionally. The tables shown above assume an effective date of September 1, 2011.

For the 2012-13 biennium, Article 13 would result in a revenue gain of $231.2 million in General Revenue funds. The fiscal impact of Article 13 was based on the Comptroller’s 2012-13 Biennial Revenue Estimate. The provisions of this bill would impact revenue collections only in fiscal year 2013 and 2014. The analysis for this article assumes a one-time payment would apply only to state sales taxes.

Article 14 would result in a revenue gain of $25.8 million in General Revenue funds for the 2012-13 biennium. The Comptroller of Public Accounts (CPA) estimates the bill's provisions in Article 14 would increase collections from the mixed beverage tax due to an increase in the effectiveness of the audit selection process. Gains would be reflected in both revenue realized per audit and an increase in the percentage of mixed beverage audits yielding revenue. Additionally, in response to enhanced reporting requirements, there would be a revenue gain due to greater voluntary tax compliance. Cities and counties could also expect positive revenue gains. This analysis shows the estimated gains to cities and counties if they were to be appropriated their current share of total mixed beverage revenue. The number of potential violations and the amount of penalties levied are unknown, the fiscal impact relating to penalty provisions cannot be determined.

Article 15, relating to the penalties for failure to report or remit certain taxes or fees, would amend the Tax Code and the Health and Safety Code to add a penalty of $50 for a person who fails to file certain reports required under the codes. Article 15 would result in gain of $13.15 million in General Revenue Funds in the 2012-13 biennium.

Article 20 relating to the repeal of early High School Graduation credit would result in a revenue gain of $10.2 million in General Revenue Funds in the 2012-13 biennium.

For Article 21, it is assumed that by reducing the state contribution rate to the TRS Care retiree insurance fund below 1.0 percent of active employee payroll in fiscal year 2013, state costs to General Revenue would be reduced. The TRS-Care Insurance Trust Fund would experience a revenue loss in like amounts. CCRHB 1 captures savings totaling $133.7 million in fiscal year 2013 based on a state contribution rate of 0.5 percent of payroll.

Article 23 regarding Texas Parks and Wildlife would result in a revenue gain of $3.2 million to the General Revenue-Dedicated State Parks Account No. 64 in the 2012-13 biennium. The estimated revenue gain from motorists' donations is based on Washington State’s experience with a similar state park voluntary donation system. Based on the state of Washington's experience with its first year of donations, and applying that to fiscal year 2009 vehicle registrations in Texas yields an estimated revenue gain of $1.6 million for fiscal year 2012 and subsequent fiscal years for the General Revenue-Dedicated State Parks Account No. 64.

Article 24 relating to oil and gas regulation would result in a net positive impact of $53.6 million to General Revenue and General Revenue-Dedicated Funds. For article 24 regarding the creation of the OGRC Fund, this estimate assumes that all balances in the OFCU Account No. 145 as of August 31, 2011 as reported in the Comptroller's Biennial Revenue Estimate (BRE) for 2012-13 of $30.2 million would transfer to the new OGRC Fund (a General Revenue-Dedicated Account), with the General Revenue Fund experiencing an equal loss. Current revenues to the OFCU Account No. 145, estimated at approximately $25 million per year based on the Comptroller's BRE, less an estimated $2.5 million in penalties, or $22.5 million per year, would begin to accrue to the new OGRC Fund, and is shown in the table above as a revenue gain, while a loss of $25.0 million per fiscal year is shown to the OFCU Account No. 145. The $2.5 million per year in penalty revenues is shown in the table above as a gain to the General Revenue Fund.

Article 24 would also require the RRC to cover all costs of oil and gas-related activities. Currently in the 2010-11 biennium, $18.9 million in annual expenditures for oil- and gas-related strategies are being paid out of the General Revenue Fund, along with an estimated $3.9 million in associated employee benefits, for a total of $22.8 million. This amount is shown as a savings to the General Revenue Fund in the table above. Based on the agency's 2012-13 Legislative Appropriations Request, the Railroad Commission's costs in 2010-11 out of the OFCU No. 145 of $27.5 million exceed revenues by $2.5 million, including benefits costs. Upon passage of the bill, $2.5 million in penalties would no longer be available, increasing that deficit to $5.0 million per year. This estimate assumes that the agency would have to set fees sufficient to cover that deficit, along with the $22.8 million amount to replace current General Revenue appropriations. It is therefore estimated that the RRC would have to set surcharges sufficient to raise $27.8 million in new revenue per fiscal year. Because the agency would spend all of the new revenue stream plus amounts covered by revenues to the OFCU Account No. 145 ($22.5 million per fiscal year that would transfer to the new OGRC Fund), the OGRC would have total annual estimated costs of $50.3 million. As shown in the table above, this estimate assumes that revenue to the new OGRC Fund would be equal to total costs out of the Fund. The bill's provision relating to the 185 percent on surcharges is expected to reduce the revenue estimate for the new OGRC Fund by approximately $1.4 million per fiscal year and is included in the above table. For purposes of this analysis, it is assumed that available balances in the new OGRC fund would support costs in excess of the new Fund's annual revenue stream through the forecast period.

Article 25 relating to leasing of state parking facilities would result in a net General Revenue impact of $1.6 million. The LBB estimates that implementing the provisions contained in Article 25 of the bill would result in a General Revenue gain of $1.77 million in the 2012-13 biennium, or $887,471 per fiscal year. This estimate is based on leasing 40 percent of the estimated currently available excess parking spaces in the Capitol Complex to individual motorists at a rate of $50 per month and executing a revenue sharing long-term lease with the University of Texas for the use of state garages B and G. Because the exact implementation conditions (number of parking spaces to be leased and the contract least rate to be applied) are unknown, the Comptroller of Public Accounts was unable to provide a certifiable revenue estimate. Changes in the implementation of the program from the assumptions made above would alter projected revenue. For example, if demand is sufficient to support charging a higher monthly lease rate, additional revenues would be generated. The implementation of a program to lease specific parking spaces to individuals would require TFC to hire an additional employee due to the quantity of leases involved. TFC reports an additional employee and related expenses would carry a biennial cost of $127,812, including benefits. TFC could manage the lease of entire parking facilities within existing resources due to the limited number of opportunities for such a program.

The Secretary of State estimates that implementing the provisions contained in Article 26 of the bill would result in General Revenue savings of $75,000 in each even-numbered year.

The Office of the Attorney General (OAG) estimates that the bill's Article 27 provisions will result in increased General Revenue fee collections of $3.9 million in the 2012-13 biennium.

This analysis assumes the bill’s provisions contained in Article 28 would result in a one-time gain to General Revenue-Dedicated funds of $10,089,461 in fiscal year 2012 from transfer of the agency’s investments managed by the Comptroller through the Safekeeping Trust Company. The value of related Safekeeping Trust assets, as of February 28, 2011, was $10,604,461, offset by anticipated regular distributions of $212,000 into the Preservation Trust Fund during the remainder of fiscal year 2011 and a projected loss of $303,000 from the transition of the investments to cash in preparation for transfer into the Preservation Trust Fund. This analysis assumes no further changes would be made with regard to the fund’s fair market value.

The provisions contained in Article 29 of the bill would transfer existing fund balances from the Department of Information Resources’ telecommunications revolving fund to the General Revenue Fund and expand the allowable expenditure of fund revenues to appropriate information technology functions. The estimated unexpended balance in the revolving fund, to be transferred to General Revenue, for the fiscal year ending August 31, 2011 is $2.6 million. This analysis estimates that the allowable expansion of fee expenditures would result in a $5.0 million gain to the respective technology accounts during the 2012-13 biennium, as shown in the tables above.

The Office of the Attorney General (OAG) estimates that Article 31 provisions regarding continuing legal education for the OAG would result in a biennial General Revenue savings of $430,543.

The Texas Ethics Commission estimates that Article 32 regarding lobby registration fees would result in a revenue gain of $738,500 in General Revenue during the 2012-13 biennium.

Article 33 relating to state employee tobacco surcharge would result in a gain of $48 million to the insurance trust fund in the 2012-13 biennium. The bill's provisions in Article 33 regarding a state employee tobacco use premium charge would help defray the increased costs to the plan associated with tobacco users, reduce the need for appropriations to the health plan, and minimize the need for cost shifting to employees to fund the state health plan. ERS reports a total of 411,942 adults enrolled in the state health plan, as of February 2011. According to the Centers for Disease Control and Prevention, an estimated 18 percent of adult Texans smoke, resulting in an estimated 74,150 tobacco users in the ERS health plan. This analysis assumes that 90 percent of smokers (66,735 plan members) would pay the tobacco user premium differential, resulting in gross revenue of $24.0 million in All Funds per fiscal year, which would be deposited to the Employees Life, Accident, Health Insurance and Benefits Trust Account.

The provisions included in Article 36 related to expanding the use of three tobacco settlement funds to pay the principal or interest on a bond issued on behalf of the Cancer Prevention and Research Institute of Texas would result in a gain to General Revenue- Dedicated Funds of $78.1 in the 2012-13 biennium. The gain shown above is based on appropriated amounts for the 2012-13 biennium.

For Article 37 of the bill, the estimate assumes one percent of the employer's total payroll would be charged to state and higher education employers as an enrollment fee. The fee would generate $162.6 million per year which would be deposited to the ERS Employees Life, Accident, Health Insurance and Benefits Trust Account 973.

Article 38 relating to surplus and salvage property would have no significant fiscal impact in the 2012-13 biennium.

Article 39 relating to the reallocation of funds from the Operator's and Chauffeur's License Fund 99 to the LECOS Retirement Fund, would have no significant fiscal impact in the 2012-13 biennium. The provision would result in a negative general revenue impact starting in fiscal year 2014.

According to the CPA, Articles 40 and 41 regarding the sales and use tax, nexus and the franchise tax credits would result in a net revenue gain of $9.2 million in the 2012-13 biennium. The extension of certain franchise tax credits would result in a revenue loss of $6.8 million in General Revenue Funds in the 2012-13 biennium, and the provisions related to nexus are estimated to result in a revenue gain of $16 million in General Revenue Funds for the 2012-13 biennium.

The CPA estimates that Article 42 relating to procurement consultants would result in a General Revenue Fund savings of $16 million in the 2012-13 biennium.

Article 44 relating to annual LBB meetings, fee information, and budget reduction hearings would have no significant fiscal impact in the 2012-13 biennium.

Article 45 relating to the Texas Back to Work Programs would have no significant fiscal impact in the 2012-13 biennium.

Article 46 relating to ad valorem tax installment payments for surviving spouse of disabled veterans would have no significant fiscal impact in the 2012-13 biennium.

Article 47 relating to small business tax exemptions, would result in a revenue loss of $149.9 million in General Revenue Related Funds in the 2012-13 biennium.

Article 49 relating to the process server review board would result in a cost of $43,200 in General Revenue Funds in the 2012-13 biennium. According to OCA, the Process Server Review Board is composed of nine board members and currently meets once every month. OCA estimates travel reimbursement of approximately $200 per board member per meeting (9 board members x $200 per meeting x 12 meetings = $21,600). For purposes of this analysis, travel reimbursement costs for the board are estimated at $21,600 per fiscal year.

Article 50 relating to juror pay changes for fiscal year 2012 and 2013 would have no significant fiscal impact in the 2012-13 biennium.

Article 51 relating to the Collection Improvement Program would result in a net revenue gain of $9 million in General Revenue Related funds in the 2012-13 biennium. Article 52 of the bill would transfer the auditing of the court-related Collection Improvement Program (CIP) function from the Comptroller of Public Accounts (CPA) to the Office of Court Administration (OCA). When the mandatory CIP was created by legislation in 2005, the CPA received appropriations for eight full-time equivalents (FTEs) to fulfill the related auditing functions. It is assumed that eight FTEs, Auditor IV positions, would be needed at OCA at a salary cost of$54,498 per FTE per fiscal year, with a total salary cost of $435,984 to General Revenue per year. Additional expenses include travel, at a cost of $80,000 per year; other operating expenses, at a cost of $13,840-$14,640 per year; and equipment costs for computers at a cost $19,824 in fiscal year 2012with a four-year replacement schedule. In addition, benefits would cost $121,465 per fiscal year. The estimated cost to OCA for the auditing function is approximately $671,913 in fiscal year 2012 and$651,289 in subsequent fiscal years. The CPA reports that redirecting the existing staff currently performing court collections audits to taxpayer audits would result in additional General Revenue to the state of: $5.1 million fiscal year2012; $5.2 million in fiscal year 2013; $5.4 million in fiscal year 2014; $5.5 million in fiscal year2015; and $5.7 million in fiscal year 2016. Since existing CPA staff will be redirected to taxpayer audits, for purposes of this analysis, it is assumed that the OCA would require additional funding and FTEs, as previously described, to assume the auditing function currently performed by CPA staff.

Article 52 relating to correctional managed health care would have no significant fiscal impact in the 2012-13 biennium.

Article 53 relating to homeless housing and service programs would have no significant fiscal impact in the 2012-13 biennium.

Article 55 relating to certain franchise tax exemptions, would result in a net revenue loss of $2.42 million in General Revenue Related Funds in the 2012-13 biennium.

Article 56 relating to the transparency of the Texas Enterprise and Emerging Technology Funds would have no significant fiscal impact in the 2012-13 biennium.

The fiscal impact of Article 57 relating to ad valorem agricultural tax exemptions for beekeeping could not be determined.

Article 60 relating to state ERS and LECOS contribution rates would have no significant fiscal impact in the 2012-13 biennium.

Article 61 relating to data collection from unclaimed property searches would result in a General Revenue savings of $400,000 in the 2012-13 biennium.

The fiscal impact of article 62 relating to goods in transit could not be determined.

Article 63 would limit AP/IB exam fee subsidies to students who are educationally disadvantaged as defined in Section 5.001(4), Education Code, which would save an estimated $6.1 million in General Revenue Funds for fiscal year 2012 and $6.2 million in General Revenue Funds for fiscal year 2013, increasing to $6.5 million by fiscal year 2016. This estimate is based on current appropriations of $8.4 million for exam fee subsidies and assumes a 4 percent increase in the total number of AP/IB exams taken and a 9 percent increase in the number of AP/IB exams taken by low income students that would be eligible for a subsidy each school year. Projected increases are based on historical data and growth in participation provided by TEA. The savings from the provision are assumed in CCRHB 1.

Article 64 limiting eligibility for Educational Aide tuition exemptions to persons seeking certification in teacher shortage areas is estimated to reduce state costs for this program by $7.5 million in General Revenue related funds for the 2012-13 biennium. The savings from the provision are assumed in CCRHB 1.

Article 65 relating to the exclusion of physical education for dual credits would have no significant fiscal impact in the 2012-13 biennium.

Article 66 relating to the franchise tax and classification of entities as retail would result in a revenue loss of $200,000 in the 2012-13 biennium.

Article 67 relating to the retention of certain FSP payments would have no significant fiscal impact in the 2012-13 biennium.

Article 68 relating to the state compression percentage would have no significant fiscal impact in the 2012-13 biennium.

Article 69 relating to the TGSL Corporation Board of Director Membership, would have no significant fiscal impact in the 2012-13 biennium.

Article 70 relating to mineral funds outside of the treasury would have no significant fiscal impact in the 2012-13 biennium.

Regarding Article 71, according to data from the Texas Education Agency, districts affected by the bill would see the amount they owe the state, under the current school finance provisions of Chapter 41 and Chapter 42 of the Texas Education Code, decrease by an estimated $11.8 million entailing a one-time state cost to the Foundation School Program compared to current law of a like amount.

Regarding Article 72, a model of the bill’s changes to the calculation of Foundation School Program (FSP) formulas indicates that savings of approximately $2.0 billion each year would be achieved in the 2012-13 biennium. In fiscal year 2012 the $2.0 billion in reduction would be achieved through a proportional reduction to the FSP regular program. In fiscal year 2013 the reduction is achieved through a reduction to the regular program (25 percent of the reduction) and through a reduction to target revenue (75 percent of the reduction). In fiscal year 2014 and beyond those amounts are determined by in the General Appropriations Act.

Local Government Impact

School districts would experience significant loss of revenue under the Article 75's provisions. In total, revenues available to school districts would decline by approximately $2.0 billion per year relative to current law in fiscal year 2012 and fiscal year 2013. Reductions in revenue would vary among districts depending on specific local circumstances.

Source Agencies:

LBB Staff: JOB, KK, JI, ACl, JJ, LL