

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

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

**June 13, 2011**

**TO:** Honorable David Dewhurst, Lieutenant Governor, Senate

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

**IN RE: SB1** by Duncan (Relating to certain state fiscal matters; providing penalties.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB1, As Passed 2nd House: a positive impact of \$7,833,211,398 through the biennium ending August 31, 2013.

**The bill would also result in a \$2,167,766,500 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 \$5,665,444,898 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	\$2,140,147,706
2013	\$5,693,063,692
2014	\$1,105,269,925
2015	\$1,823,773,482
2016	\$1,784,475,019

**All Funds, Five-Year Impact:**

Fiscal Year	Probable Savings/ (Cost) from <i>General Revenue Fund</i> <b>1</b>	Probable Revenue Gain/(Loss) from <i>General Revenue Fund</i> <b>1</b>	Probable Revenue Gain/(Loss) from <i>Available School Fund</i> <b>2</b>	Probable Savings/ (Cost) from <i>Foundation School</i> <i>Fund</i> <b>193</b>
2012	\$2,086,537,419	\$83,591,663	\$0	(\$29,981,376)
2013	\$2,229,911,429	\$1,285,527,385	(\$134,338,000)	\$2,300,000,000
2014	\$1,722,100,912	(\$745,443,865)	\$134,338,000	(\$15,900,000)
2015	\$1,721,481,469	\$108,017,135	\$0	(\$15,900,000)
2016	\$1,686,481,148	\$103,718,993	\$0	(\$15,900,000)

<b>Fiscal Year</b>	<b>Probable Revenue Gain/(Loss) from Foundation School Fund 193</b>	<b>Probable Revenue Gain/(Loss) from Property Tax Relief Fund 304</b>	<b>Probable Savings/ (Cost) from Oil-field Cleanup Acct 145</b>	<b>Probable Revenue Gain/(Loss) from Oil-field Cleanup Acct 145</b>
2012	\$0	(\$1,069,084,750)	\$27,500,000	(\$55,201,000)
2013	\$11,962,878	(\$1,098,681,750)	\$27,500,000	(\$25,111,000)
2014	\$10,174,878	(\$1,044,128,750)	\$27,500,000	(\$25,268,000)
2015	\$10,174,878	(\$1,046,958,750)	\$27,500,000	(\$25,483,000)
2016	\$10,174,878	(\$1,056,375,000)	\$27,500,000	(\$25,696,000)

<b>Fiscal Year</b>	<b>Probable Revenue Gain/(Loss) from Crime Victims Comp Acct 469</b>	<b>Probable Savings/ (Cost) from Federal Funds 555</b>	<b>Probable Revenue Gain/(Loss) from Petro Sto Tank Remed Acct 655</b>	<b>Probable Revenue Gain/(Loss) from Tx Preservation Trust Acc 664</b>
2012	\$2,916,000	\$118,521,267	\$21,124,000	\$10,089,461
2013	\$2,916,000	\$244,484,948	\$23,663,000	\$0
2014	\$2,916,000	\$244,198,001	\$23,807,000	\$0
2015	\$2,916,000	\$244,198,001	\$23,937,000	\$0
2016	\$2,916,000	\$244,198,001	\$2,007,000	\$0

<b>Fiscal Year</b>	<b>Probable Savings/ (Cost) from GR Dedicated Accounts 994</b>	<b>Probable Revenue Gain/(Loss) from Tobacco Education/Enforce 5044</b>	<b>Probable Revenue Gain/(Loss) from Children &amp; Public Health 5045</b>	<b>Probable Revenue Gain/(Loss) from Ems &amp; Trauma Care Account 5046</b>
2012	\$466,345	\$10,562,519	\$5,281,258	\$5,281,258
2013	\$477,712	\$28,481,408	\$14,240,704	\$14,240,704
2014	\$477,712	\$0	\$0	\$0
2015	\$477,712	\$0	\$0	\$0
2016	\$477,712	\$0	\$0	\$0

<b>Fiscal Year</b>	<b>Probable Revenue Gain/(Loss) from DIR Clearing Fund Account - AR 8122</b>	<b>Probable Revenue Gain/(Loss) from Telecommunications Revolving - AR 8123</b>	<b>Probable Revenue Gain/(Loss) from DIR Clearing Fund Account - IAC 8124</b>	<b>Probable Revenue Gain/(Loss) from Telecommunications Revolving - IAC 8125</b>
2012	\$272,351	\$226,863	\$116,722	\$1,550,119
2013	\$256,572	\$221,938	\$109,960	\$1,506,890
2014	\$0	\$0	\$0	\$0
2015	\$0	\$0	\$0	\$0
2016	\$0	\$0	\$0	\$0

<b>Fiscal Year</b>	<b>Probable Revenue Gain/(Loss) from Statewide Technology Account - IAC 8126</b>	<b>Probable Savings/ (Cost) from New General Revenue Dedicated Oil &amp; Gas Acct</b>	<b>Probable Revenue Gain/(Loss) from New General Revenue Dedicated Oil &amp; Gas Acct</b>	<b>Probable Revenue Gain/(Loss) from New General Revenue Dedicated Jud Ed Acct</b>
2012	\$365,729	(\$48,897,500)	\$79,097,500	\$11,716,000
2013	\$344,541	(\$48,897,500)	\$48,897,500	\$10,660,000
2014	\$0	(\$48,897,500)	\$48,897,500	\$10,660,000
2015	\$0	(\$48,897,500)	\$48,897,500	\$10,660,000
2016	\$0	(\$48,897,500)	\$48,897,500	\$10,660,000

<b>Fiscal Year</b>	<b>Probable Revenue Gain/(Loss) from Texas Mobility Fund 365</b>	<b>Probable Revenue Gain/(Loss) from Jud &amp; Court Training Fd 540</b>	<b>Probable Savings/ (Cost) from Other Special State Funds 998</b>	<b>Probable Savings/ (Cost) from State Highway Fund 6</b>
2012	\$0	(\$11,716,000)	\$16,003	\$3,083,819
2013	\$1,432,595	(\$10,660,000)	\$16,393	\$3,158,986
2014	\$1,461,247	(\$10,660,000)	\$16,393	\$3,158,986
2015	\$1,490,467	(\$10,660,000)	\$16,393	\$3,158,986
2016	\$1,520,278	(\$10,660,000)	\$16,393	\$3,158,986

<b>Fiscal Year</b>	<b>Probable Revenue Gain/(Loss) from State Highway Fund 6</b>	<b>Probable Revenue Gain/(Loss) from Cities</b>	<b>Probable Revenue Gain/(Loss) from Transit Authorities</b>	<b>Probable Revenue Gain/(Loss) from Counties &amp; Sp Dist</b>
2012	\$0	\$15,625,000	\$4,975,000	\$2,750,000
2013	(\$403,016,000)	\$16,325,000	\$5,175,000	\$2,850,000
2014	\$403,016,000	\$16,725,000	\$5,275,000	\$2,950,000
2015	\$0	\$17,325,000	\$5,475,000	\$3,050,000
2016	\$0	\$17,925,000	\$5,675,000	\$3,150,000

<b>Fiscal Year</b>	<b>Change in Number of State Employees from FY 2011</b>
2012	8.1
2013	8.1
2014	8.1
2015	10.1
2016	10.1

## **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.

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, 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. This Article would take effect immediately if the bill receives the requisite two-thirds vote of each chamber, otherwise it would take effect October 1, 2011.

Article 4 as amended 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 4 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 4 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. Amendments 107 and 108 on House Floor Second Reading would amend the Property Code pertaining to a claim for delivered property to allow a person to submit a claim based on a declaratory judgment establishing that the person is an heir to unconveyed mineral right in a land grant evidenced from a certificate, title, or patent from the Crown of Spain or from Mexico, for which there has been mineral production and for which proceeds have been delivered to the comptroller.

Article 5 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 6 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. 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 \$3.125 to \$12.50 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 7 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. This article would take effect October 1, 2011.

Article 8 would impact collections of mixed beverage taxes 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 9 would reduce the cigarette tax distributors' discount from three percent to two and a half percent. This article would take effect October 1, 2011.

Article 10 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 October 1, 2011.

Article 11 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 12, 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. This Article would take effect immediately if the bill receives the requisite two-thirds vote of each chamber, otherwise it would take effect October 1, 2011.

Article 16 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 16 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 16 would also expand the applicability of the pipeline safety fee to include gas utility regulatory functions at the RRC. Amendment 8 on House Floor Second Reading would allow the RRC to use funds other than the oil and gas regulation cleanup fund for regulation and cleanup if appropriated.

Article 17 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 18 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 19 would authorize three specific fees for the Office of the Attorney General.

Article 20 would authorize money in the Preservation Trust Fund to be used for operation expenses of the Texas Historical Commission. This article would take effect November 1, 2011.

Article 21 would clarify the appropriate expenditure of revenue derived from the collection of fees imposed by the Department of Information Resources.

Article 22 as amended would direct the State Bar to credit an attorney with meeting the minimum continuing legal education requirements while employed full-time by a board, commission, department, agency, office, or other entity of this state's government, with the exception of requirements for ethics and professional responsibility courses. The bill requires the Office of the Attorney General (OAG) to provide OAG attorneys with continuing legal requirement opportunities. These provisions would expire January 1, 2014.

Article 23 would increase lobby registration fees by 50 percent.

Article 26 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 27 of the bill would restructure the process used to dispose of state surplus or salvage property to improve the efficiency of the program.

Article 28 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. This article would take effect January 1, 2012.

Article 29 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 30 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 32 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 33 would provide a homestead exemption for surviving veteran spouses. This article would take effect January 1, 2012.

Article 34 extends the small business franchise tax exemption at \$1,000,000 until 2014.

Article 36 as amended by Amendment 15 on House Floor Second Reading 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. The Article would also require OCA to establish a certification division to oversee regulatory programs and would enable fees collected under Section 51.008, Government Code, to be appropriated to the office to support the certification division. This support includes the restoration of salaries and operating costs that were cut from OCA's appropriations during the regular session, and adds funding for travel costs for members of the Process Server Review Board.

Article 37 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 38 would eliminate the Texas health opportunity pool (HOP) as a beneficiary of revenue from the fee imposed on certain sexually oriented businesses. The Comptroller of Public Accounts would be required to collect the fee until a court, in a final judgment upheld on appeal or no longer subject to appeal, finds the enabling statute or its predecessor to be unconstitutional. Allowable uses of the Sexual Assault Program Fund would be expanded; any entity receiving an appropriation from the fund would be required to report annually to the Legislative Budget Board (LBB). This Article prevails over any Act of the 82nd Legislature, Regular Session or 1st called session, 2011, or any provision of Chapter 1206 (H.B. 1751), Acts of the 80th Legislature, Regular Session, 2007.

Article 39 as amended by Amendment 1 on House Floor Second Reading would change the composition of the Correctional Managed Health Care Committee and require the committee to take certain actions relating to contracts.

Article 40 as amended by Amendment 1 on House Floor Second Reading allows state agencies that have received ARRA funds and are at risk of lapsing such funds to direct the Comptroller to transfer unexpended ARRA funds at risk of being lapsed to the Governor's Office for the funding of a back to work program and a homeless program. Total funds transferred can be no more than \$20 million and

must be evenly distributed between each program. To the extent that another provision in law requires funding of the back to work and homeless programs, the required amount of funding from other sources is decreased by the amount of ARRA funds applied to the programs.

Article 42 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 45 would allow the Comptroller to collect data for unclaimed property search every five years, instead of every year.

Article 46 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. Certain provisions of this article would take effect on January 1, 2012 or October 1, 2011.

Article 47 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 48 would limit eligibility for Educational Aide tuition exemptions to persons seeking certification in teacher shortage areas, as determined by the Commissioner. This article would apply beginning with tuition and fees charged for the 2012 fall semester.

Article 49 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 50 would authorize certain school districts to retain additional state aid and would expire September 1, 2013.

Article 51 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 52 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 53 redefines the disposition of mineral proceeds for Texas A&M University System, Texas State University System, Texas Tech University and Texas A&M Kingsville.

Article 54 reduces the reduction of a school district's financial entitlement by the amount a district has deposited into a TIRZ account. This section expires September 1, 2013.

Article 55 as amended by Amendments 20 and 163 on House Floor 2nd Reading would make structural changes in the Foundation School Program that would result in significant state savings in fiscal year 2012 and continuing thereafter.

Amendment 24 would waive sovereign immunity for breach of express or implied provisions of a contract, in excess of \$250,000, entered into by an agency of any branch of state government and institutions of higher education. The bill would place limits on adjudication awards related to such contracts and on the recovery of attorney's fees. The bill applies only to a claim arising under a contract executed on or after the effective date.

Amendment 25 would amend the Code of Criminal Procedure to authorize a peace officer that stops the driver of a motor vehicle to request and obtain a digital thumbprint from the driver if the driver fails to provide a driver's license, commercial driver's license, a United States passport or other form of photo identification issued by a governmental entity.

Amendment 41 would recalculate the recapture payments owed by Canadian ISD for the 2009-10 school year by having a minimum recapture provision in statute not apply to the district in that year.

Amendment 46 would require the state to refund districts for a loss related to a property value appeal if the refund exceeds 10 percent of the district's M&O tax revenue.

Amendment 51 would amend the Education Code, Section 55.05 to create a state debt service support program for strategic capital investment projects. Any university wishing to receive support would have to issue bonds and then apply to the commissioner of higher education for support based on meeting the criteria described in the article, including having two-thirds of the project costs covered by non-General Revenue funding sources. Qualifying projects shall receive bond issuance debt service reimbursement for the lesser of \$100 million or one-third of project costs. The commissioner is limited to approving state support of debt service to an aggregate total bond issuance of \$400 million and the legislature may not appropriate General Revenue for debt service support until the second state biennium after the bonds are issued.

If \$400 million in bonds are issued, assuming a level debt service structure, 20 year maturity, and a 6 percent interest rate, the resulting debt service is \$34.9 million per fiscal year, resulting in a cost to General Revenue. Depending upon the interpretation of Amendment 51 by the Bond Review Board and the Office of the Attorney General, the strategic capital investment debt service support program may impact the state constitutional debt limit (CDL). If it is determined that the program has a debt limit impact, assuming a \$400 million issuance, the related debt service would increase the fiscal year 2010 CDL by 0.10 percent, resulting in a total CDL of 4.20 percent.

Amendment 57 would permit the University of Houston to operate a summer program to prepare qualified, economically disadvantaged junior, senior, or post-baccalaureate students from any public or private institution of higher education for advanced studies and a career in the field of optometry.

Amendment 59 as amended would amend the Election Code to make additions to the list of information that must be included on campaign finance reports filed with the Texas Ethics Commission (Commission), and changes the reporting threshold for political contributions from \$50 to \$100. The bill would also change the procedures for filing amended reports to the Commission. The bill also would amend Government Code to add information that must be provided to the Commission by those registering as lobbyists. Finally, the bill would revise the procedures for dismissal of complaints challenging certain information in political reports made to the Commission. The bill would take effect September 1, 2011.

Amendments 62 and 63 would add a new article to the bill requiring the Health and Human Services Commission (HHSC) to ensure a premarital education course is made available to residents of the state regardless of whether the legislature appropriates funds for that purpose.

Amendment 64 would require judicial status reviews at least every six months for children age 18 or older in extended foster care placements. This would satisfy case plan requirements for Title IV-E reimbursement under the U.S. Fostering Connections to Success and Increasing Adoptions Act of 2008. It would also allow the Department of Family and Protective Services (DFPS) to use federal matching funds in lieu of state funds to pay for extended foster care maintenance costs. DFPS estimates that 222 children (monthly FTEs) will be affected by the new method of finance in fiscal year 2012. It is assumed that the number of affected children will increase by 5 percent each fiscal year, and that 73 percent of the affected children will be eligible for Title IV-E benefits. This will result in a cost to the General Revenue Fund of \$0.1 million per fiscal year due to state match requirements, and a savings in TANF Federal Funds that is offset by the cost of federal matching funds (\$2.0 million in fiscal year 2012, rising to \$2.5 million in fiscal year 2016). It is assumed that DFPS can absorb the cost to implement the provisions of the bill within available resources. The



Office of Court Administration reports that no significant impact on the courts is anticipated. 65 would allow the use of certain video communications technology in certain district court proceedings.

Amendment 66 would require agencies to submit a zero-based budget plan to the Legislative Budget Board (Board) to be used by the Board to prepare the introduced General Appropriations Bill for each regular legislative session. The format and timing of the zero-based budget plan would be established by the Board and would apply to the preparation of the budget for the biennium beginning on or after the effective date of the Act.

Amendment 67 would require the following changes to the format of the General Appropriations Act (GAA): an appropriation for each program or activity administered by an agency, a statement on the source of funding for each program of activity, a description of each program or activity, and a citation of the legal authority for each program or activity.

Amendment 74 allows the Governor to designate an agency to administer the CDBG program; however, the amendment does not designate a specific agency.

Amendment 75 would re-allocate the revenue collected from fees authorized by Sections 419.026(a) and 419.033 (b) of this code to be deposited to the credit of a special account in General Revenue Fund 0001 (i.e. GR Account—Fire Protection) in a portion of the fees not to exceed the amount appropriated to the TCFP for the biennium, less any other amount appropriated from a source other than the fees. The remainder of the fees would continue to be deposited to Fund 0001.

Amendment 78 would increase the allowable monthly call telephone usage rate for inmates.

Amendment 79 abolishes the Texas Department of Rural Affairs (TDRA) and creates the Office of Rural Affairs within the Texas Department of Agriculture (TDA). This amendment would transfer all of the appropriations from TDRA to the new office within TDA.

Amendment 81 as amended would amend Sections 499 and 501 of the Government Code to add provisions regarding TDCJ policies designed to manage inmate population based on similar health conditions, to require inmates to pay an annual \$100 health care services fee, and to require TDCJ to provide certain over-the-counter medications to offenders through commissary operations and do so at no cost if the inmate is indigent. The section relating to the \$100 healthcare service fee for inmates compared to the current \$3 co-payment for certain health care visits would expire on September 1, 2015 and the \$100 annual health care fee would revert back to a \$3 per visit co-payment. Amendment 81 would also implement recommendations in the in the report "Eliminate Statutory Barriers to Contain Costs in Correctional Managed Health Care" in the LBB's Government Effectiveness and Efficiency Report, submitted to the Eighty-second Texas Legislature, 2011. The bill would require TDCJ, UTMB, and TTUHSC to develop and implement a training program for corrections medication aides similar to the one currently offered by DADS which certifies medication aides who work in nursing homes. The amendment would provide an exemption from end stage renal disease licensing requirements for clinics and hospitals operated on behalf of the state that provide dialysis to individuals receiving services in the correctional managed health care program.

Amendment 84 and 85 would direct the Health and Human Services Commission (HHSC), if feasible and cost effective, to apply for a waiver from the federal government to maximize the federal Medicaid matching funds to counties by providing Medicaid benefits to individuals who have a net family income at or below 200 percent of the federal poverty level and who are eligible to receive mental health services through the county, and individuals who have a net family income at or below 150 percent of the federal poverty level and who are eligible to receive medical treatment for HIV or AIDS through the county.

Amendments 86 and 87 would authorize HHSC to include disproportionate share hospital (DSH) funds, upper payment limit (UPL) supplemental payments, or both in the HOP trust fund waiver and to include certain other funds, subject to limitations; current statute authorizes DSH and UPL to be included, but not one or the other. Use of the HOP trust fund for the financing of construction, improvement, or renovation of a building or land would be prohibited unless approved by HHSC.

Amendments 86 and 87 also amend intended uses of funds in the HOP trust fund.

Amendments 88 through 90 would implement a recommendation in the report "Repeal the Prohibition of Health Maintenance Organizations in Medicaid in South Texas" in the LBB's Government Effectiveness and Efficiency Report, submitted to the Eighty-second Texas Legislature, 2011. The amendments would repeal the prohibition on providing Medicaid using a health maintenance organization (HMO) in Cameron, Hidalgo, and Maverick counties. HHSC would be required to ensure all children residing in the same household be allowed to enroll in the same health plan, to evaluate certain Medicaid STAR+Plus services, and to ensure that managed care organizations (MCOs) promote development of patient-centered medical homes. The amendment would direct extra consideration for certain organizations in the awarding of managed care contracts and establish new requirements of MCO contracts. The amendment includes additional requirements for HMOs. HHSC would be required to establish a single portal for providers in MCO networks to submit claims. Amendment 92 would implement a recommendation in the report "Provide Commuter Choice Incentives for State Employees" in the Legislative Budget Board's Government Effectiveness and Efficiency Report submitted to the Eighty-second Texas Legislature, 2011. The bill would require the state's supplemental optional benefits program to include qualified transportation benefits.

Amendment 95 would amend Subchapter C, Chapter 2054, Government Code to require executive branch state agencies, excepting institutions of higher education, to lease advertising space on official state internet websites. The amendment would require DIR or a state agency to evaluate the effect of the advertising contract on bandwidth required by the agency for official duties; determine risk to the web site or to computer network security; develop and implement a plan to manage and reduce the amount of bandwidth used by the agency or DIR; and to ensure the continued security and integrity of electronic internet portals, computer networks, and confidential and sensitive data associated with the state.

Amendments 96 would require the Department of Information Resources to provide to a state agency technology that secures the consoles of cyber assets under all conditions regardless of the operating state or operating mode of the cyber asset.

Amendments 97 and 98 would amend the Government Code to require posting of cost-efficiency suggestions and ideas, high-value data sets, and certain budget documents on agency websites.

Amendment 99 would abolish the State Kids Insurance Program (SKIP) and allow children previously enrolled in SKIP to enroll in the Children's Health Insurance Program (CHIP). HHSC would be required to establish a process to ensure automatic enrollment of eligible children in CHIP and to modify administrative procedures to ensure children maintain continuous coverage.

Amendments 100 and 101 would eliminate state funding for hospital districts that perform abortions, except in the case of medical emergencies. Physicians who perform abortions in a medical emergency at a hospital or other health care facility owned or operated by a hospital district that receives state funds would be required to certify to the Department of State Health Services (DSHS) the specific medical condition constituting the emergency. Hospital districts that receive state funds would be prohibited from making a charitable donation or financial contribution from tax revenue of the district to, or contracting or having an affiliation with, organizations, agencies, or entities that provide or refer for abortion.

Amendment 102 would change various aspects of the equalization surcharge.

Amendment 105 would amend the Labor Code relating to the establishment of an employment services program to assist certain unemployed or underemployed child support obligors.

Amendment 109 would change certain practices and procedures for guardianships that are transferred from one jurisdiction to another.

Amendment 115 would provide certain religious, educational, public service or other exempt organizations a sales tax exemption for fund-raising.

Amendment 116 would extend the sales tax exemption for the purchase of gold, silver, or numismatic coins of platinum, gold, or silver to sales of less than \$1,000.

Amendment 117 would provide for a refund of sales and use taxes on certain property used by qualified data centers

Amendment 118 would amend the Tax Code to add land used for supporting outdoor education to the definition of "Wildlife management" for purposes of appraising agricultural land for property taxes.

Amendment 119 would amend the Government Code to allow the Comptroller to develop a habitat conservation plan (or to enter into an interagency contract with another agency for this purpose) to promote compliance with federal laws protecting endangered species. The amendment would also establish the Habitat Protection Fund as a fund outside of the Treasury and allow the Comptroller to impose a mitigation fee to support the development and coordination of the habitat conservation plan.

Amendment 121 relates to couriers and concert promoter franchise tax exemption.

Amendment 122 provides that a taxable entity would have no franchise tax liability for a tax period in which the entities taxable income was \$0 or negative.

Amendment 126 would extend the value limitation agreement program made available through the Texas Economic Development Act (Chapter 313) from the current expiration at the end of 2014 until December 31, 2016. Because tax benefits realized under Chapter 313 agreements in the form of school district levy losses increase state costs under the Foundation School Program (FSP), the bill would have negative fiscal implications to the state but not within the 2012-13 biennium.

Amendment 130 would amend the Transportation Code to specify that an urban transit district, which may otherwise become ineligible to receive certain state public transportation funds as a result of the 2010 federal decennial census, may continue to receive an amount of state funding not to exceed the amount of funds allocated to the district during the 2010-11 state fiscal biennium. The bill defines an urban transit district as one that fits certain criterion that the Texas Transportation Commission must consider for the purposes of the allocation of state public transportation funds. These provisions of the bill would expire on August 31, 2018.

Amendment 131 would remove the population brackets relating to the registration of golf carts on U.S. Corp of Engineers property.

Amendment 132 would require the Department of Public Safety (DPS) to designate certain driver's license offices as temporary visitor stations employing at least two staff who have completed certain specialized training. The bill would amend the Transportation Code to establish expiration dates for driver's licenses issued to people who are not citizens, nationals, or legal permanent residents of the United States or a refugee or asylee lawfully admitted into the United States. The bill would also establish fee amounts for various issuances of the license or personal identification certificate issued to applicants who are not citizens of the United States.

Amendment 136 would repeal a 15-cent state court cost associated with the offense of failing to secure a child passenger in a motor vehicle. To the extent the repeal of the court cost may result in decreased state revenue, the fiscal implication to the state is not anticipated to be significant.

Amendment 139 affecting Groundwater Conservation Districts prohibits TCEQ from creating a groundwater conservation district prior to September 1, 2015 in a county with a population greater than 2.3 million, located in a priority groundwater management area, and, in which the annual surface water used exceeds by more than 50 times the annual amount of groundwater produced. This provision also allows TCEQ to charge the affected county (counties) an annual fee not-to-exceed \$500 to study overall groundwater consumption within the county, and is not expected to have a significant fiscal impact.

Amendment 141 would require the Supreme Court and certain county courts to determine state costs for attorneys ad litem and guardians ad litem appointed to represent minors in judicial bypass abortion

proceedings.

Amendment 166 would require a school district to post certain financial documents on the district's website or on an Internet website hosted by the district's business or financial services department. If a school district is unable to post the data, the district is required to submit a letter to the commissioner of the Texas Education Agency explaining the reasons for noncompliance.

Amendment 164 would add physician offices and urgent care facilities to the list of providers under Medicaid managed care required to be reimbursed for health care services provided outside of regular business hours at a rate equal to the allowable rate for those services determined under Human Resources Code, Section 32.028, regardless of whether the recipient has a referral from their primary care provider.

Amendments 169 and 170 would broaden the scope of low income organizations that could become exempt from the property tax under Section 11.182 of the Tax Code. The change would not apply to properties located in counties with a population of 3.3 million or more and would take effect January 1, 2013.

Amendment 1 on 3rd reading would authorize the Comptroller to contract for fleet management services for a state agency, exempting vehicles used for law enforcement, safety, or emergency purposes. The bill prohibits any payments to the vendor until savings of five percent have been achieved and caps total payments at not more than the total savings attributable to the vendor's performance.

Except as otherwise noted, this Act takes effect September 1, 2011, if it receives a vote of two-thirds of all the members elected to each chamber. If this Act does not receive the vote necessary for effect on September 1, 2011, this Act takes effect on the 91st day after the last day of the legislative session.

## **Methodology**

For Article 1 as amended, 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. If, in odd-numbered years starting in fiscal year 2013, there is additional available state revenue after providing for any necessary Medicaid payments, the bill would authorize a partial deferral of the August payment. 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.

The Comptroller estimates that Article 3 would result in gain of \$11 million in General Revenue Funds for the 2012-13 biennium.

For Article 4 as amended, 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. In Article 4, 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 4, 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. The fiscal

impact of House Floor Amendments 107 and 108 on Second Reading cannot be determined at this time.

For Article 5, 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 the General Revenue Fund. 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 6 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 7, 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 7 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 8 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 7 and 8 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 9 would result in a revenue gain of \$11.63 million in General Revenue Related funds in the 2012-13 biennium. The fiscal impact of Article 9 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 10 would result in gain of \$150 million in General Revenue Related funds in the 2012-13 biennium. Article 10 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 11 would result in a revenue gain of \$231.2 million in General Revenue funds. The fiscal impact of Article 11 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 16 relating to oil and gas regulation would result in a net positive impact of \$56.4 million to General Revenue and General Revenue-Dedicated Funds. For article 17 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 16 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 \$48.9 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. Amendment 8 on House Floor Second Reading would limit the amount of the fee to be used on regulatory programs to \$233,000 each year, resulting in a cost of \$233,000 in General Revenue Funds in the 2012-13 biennium which would be offset by fee revenues.

Article 17 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 18 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 18 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 19 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 20 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 21 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 22 provisions regarding continuing legal education of OAG attorneys would result in a biennial General Revenue savings of \$430,543. Additional savings could be realized by other state entities to the extent that these entities employ attorneys and pay for continuing legal education on behalf of employees, but amounts cannot be determined at this time.

The Texas Ethics Commission estimates that Article 23 regarding lobby registration fees would result in a revenue gain of \$738,500 in General Revenue during the 2012-13 biennium.

The provisions included in Article 26 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.

Article 27 relating to surplus and salvage property would have no significant fiscal impact in the 2012-13 biennium.

According to the CPA, Articles 28 and 29 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 30 relating to procurement consultants would result in a General Revenue Fund savings of \$16 million in the 2012-13 biennium.

Article 32 relating to the Texas Back to Work Programs would have no significant fiscal impact in the 2012-13 biennium.

Article 33 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 34 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 36 as amended by Amendment 15 on House Floor Second Reading relating to the process server review board and certification division would result in a cost of \$218,898 in General Revenue Funds in the 2012-13 biennium. Travel reimbursement costs for the Process Server Review Board are estimated to be \$21,600 per year. OCA assumes the 9-member board would meet monthly, and provide reimbursement of approximately \$200 per board member per meeting (9 board members x \$200 per meeting x 12 meetings = \$21,600 per year). According to OCA, costs related to functions of the certification division would be \$87,849 per year (including \$79,564 for the guardianship program and \$8,285 for court reporters).

Article 37 relating to juror pay changes for fiscal year 2012 and 2013 would have no significant fiscal impact in the 2012-13 biennium.

Article 38 is assumed to have no fiscal impact. Fees are currently deposited to a suspense account, which is assumed to continue. Expanding allowable uses of the fund would have no fiscal impact.

Article 39 as amended by Amendment 1 on House Floor Second Reading relates to correctional managed health care and would have no significant fiscal impact in the 2012-13 biennium.

Article 40 as amended by Amendment 1 on House Floor Second Reading relates to homeless housing and service programs and would have no significant fiscal impact in the 2012-13 biennium.

The fiscal impact of Article 42 relating to ad valorem agricultural tax exemptions for beekeeping could not be determined.

Article 45 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 46 relating to goods in transit could not be determined.

Article 47 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 48 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 49 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 50 relating to the retention of certain FSP payments would have no significant fiscal impact in the 2012-13 biennium.

Article 51 relating to the state compression percentage would have no significant fiscal impact in the 2012-13 biennium.

Article 52 relating to the TGSL Corporation Board of Director Membership, would have no significant fiscal impact in the 2012-13 biennium.

Article 53 relating to the disposition of mineral proceeds for certain institutions of higher education would have no significant fiscal impact in the 2012-13 biennium.

Regarding Article 54, 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.

Article 55 as amended by Amendments 20 and 163 on House Floor Second Reading, 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 the regular program allotment factor is repealed; assuming the percent applied to target revenue remains at fiscal year 2013 levels, the reduction from current law would be \$1.5 billion a year. To the extent the percent applied to target revenue is changed, the amount of the reduction may change.

There would be a significant indeterminate fiscal cost to the state associated with the provisions of Amendment 24. The aggregate statewide fiscal impact from the bill's provisions cannot be determined at this time because the amount of disputed state contracts to be taken to court in future years cannot



be anticipated. However, agencies reported that the bill's provisions expose the state to additional liability which could result in a significant negative fiscal impact.

Amendment 25 would have no significant fiscal impact to the state in the 2012-13 biennium.

Regarding Amendment 41, adjusting the recapture payment owed by Canadian ISD in the 2009-10 school year would result in a \$3.6 million cost to the state in fiscal year 2012 only.

Amendment 46 would require the commissioner to refund Port Arthur ISD an estimated \$14.6 million in fiscal year 2012, entailing a state cost of that amount. To the extent there are other eligible district losses due to property value appeals, state costs could increase.

Amendment 51 would have no significant fiscal impact in the 2012-13 biennium. This analysis assumes that the legislature would not appropriate General Revenue for debt service support until the second state biennium after the bonds are issued, resulting in a cost \$34.9 million in General Revenue Funds in 2016.

This fiscal impact of Amendment 57 could not be determined at this time.

Amendment 59, 60 and 61 would have no significant fiscal impact in the 2012-13 biennium. Amendment 59 would require the Texas Ethics Commission to make programming changes to the online forms and software used by the Commission. The agency reports that the implementation of these programming changes could temporarily delay the implementation of other information technology projects at the agency. It is anticipated that the increase in the reporting threshold could result in some savings due to decreased filings with the Commission. It is also anticipated that any additional costs associated with implementation of the legislation could be absorbed within existing resources.

Regarding Amendments 62 and 63, HHSC estimates the biennial cost to maintain a modified Texas Twogether program including grants and salaries is \$4.0 million in General Revenue Funds (\$5.7 million in All Funds) for the 2012-13 biennium. HHSC indicates 3.1 full-time equivalents (FTEs) would be required each year from fiscal year 2012 to fiscal year 2016.

Amendment 64 would have no significant fiscal impact in the 2012-13 biennium.

Amendment 65 would have no significant fiscal impact in the 2012-13 biennium.

This analysis assumes that Amendment 66 would have no significant fiscal impact to the Legislative Budget Board. However, the fiscal impact on agencies cannot be estimated and would depend on the Board's final requirements for the zero-based budget plan and whether or not the plan is required in addition to the current legislative appropriation request or instead of current requirements. It is estimated that implementation of Amendment 67 would result in a cost of \$638,717 in General Revenue Funds in the 2012-13 biennium. These costs relate to additional hours of work by the Legislative Budget Board (LBB) but do not address potential costs to state agencies and institutions of higher education.

Amendment 74 allows the Governor to designate an agency to administer the CDBG program; however, the amendment does not designate a specific agency. The amendment strikes statute language restricting TDRA to be the only agency to administer CDBG. If the governor were to designate a different agency to administer the program, this analysis assumes the new agency would be required to provide the matching requirement for the CDBG funds which is currently funded through TDRA at approximately \$3.6 million of General Revenue over the 2012-13 biennium. These amounts are not reflected in the tables above.

The fiscal implications of the Amendment 75 could not be determined. According to the Comptroller of Public Accounts, the amount appropriated to the TCFP for the biennium, less any other amount appropriated from a source other than the fees, is unknown.

Amendment 78 would result in a revenue gain of \$5.8 million in General Revenue-Dedicated Funds in

the 2012-13 biennium. Amendment 78 would increase the average monthly call usage rate for eligible offenders from 240 minutes to 480 minutes. In December 2010, 111,000 offenders were eligible for phone privileges, 35,227 offenders made calls, and 5,848 offenders used all 240 minutes allotted. The state revenue earned in December 2010 was \$486,000. Assuming similar phone usage rates year round, the annual revenue earned would be \$5.8 million. Assuming the same factors, it is anticipated that the increase in minutes could increase revenue up to \$2.9 million per year. Government Code, Section 495.027, requires the first \$10 million in phone revenue each year be transferred to the Crime Victim's Compensation Fund. Since the estimated annual revenue earned would not exceed \$10 million, the increase in phone minutes is not expected generate additional General Revenue Funds. Any additional revenue earned would be transferred to the Crime Victim's Compensation Fund (469), unless it exceeded \$10 million per year.

For this analysis, it is assumed that Amendment 79 would not reduce FTES or appropriations, but transfers both from Texas Department of Rural Affairs to the Texas Department of Agriculture. As a result, Amendment 79 would have no fiscal impact in the 2012-13 biennium since the total funds and FTEs would stay the same.

Amendment 81 as amended would result in a \$9.9 million gain General Revenue Funds in the 2012-13 biennium. Amendment 81 would replace an inmate copayment of \$3 for certain inmates with an annual inmate health care fee of \$100 for all confined inmates until September 1, 2015. Currently only certain inmates who use medical services are required to pay the \$3 copayment while the revision would require all inmates, regardless of the frequency in which they use health care services, to pay the annual fee. TDCJ reports that in fiscal year 2010, there were 77,058 offenders with annual trust deposits of \$100 or more. However, deposits are not expected to remain constant in future years as a result of a variety of economic and other factors. Assuming the fiscal year 2011 amount for fiscal year 2012 and calculating 75 percent of the amount for subsequent years, it is estimated that the bill would produce \$9.9 in revenue for the 2012-13 biennium. The other sections of Amendment 81 would have no significant fiscal impact in the 2012-13 biennium.

According to HHSC, Amendments 84 and 85 would have no significant fiscal impact in the 2012-13 biennium. The potential costs or savings of implementing a Medicaid waiver program for clients eligible for mental health services and HIV or AIDS medical treatment at the county level cannot be determined at this time. It is assumed HHSC would only implement the waiver programs if they were cost effective, and therefore, there is no significant impact to the state.

Amendments 86 and 87 could result in a revenue gain to the HOP trust fund, which is outside the treasury, but the amount of the gain cannot be determined at this time. It is unknown whether HHSC would deposit DSH funds, UPL payments, or both into the HOP trust fund.

Amendments 88, 89 and 90 would result in a net savings of \$337.2 million in General Revenue Funds in the 2012-13 biennium. It is assumed that repeal would result in HHSC implementing an HMO model of care throughout south Texas. According to HHSC, implementation of both the STAR and STAR+Plus models could be expected in March of 2012, resulting in a net savings of \$337.2 million of General Revenue in the 2013-13 biennium. Expanding managed care would also increase premium tax revenue; HHSC estimates additional revenue of \$40.7 million beginning in fiscal year 2013. It is assumed that prescription drugs could be included in Medicaid managed care plans by March 1, 2012. Administrative costs associated with implementation are estimated to be \$0.6 to \$0.8 million beginning in fiscal year 2012.

HHSC estimates a one-time cost to establish a claims submission portal of \$2.8 million in fiscal year 2012 and ongoing costs for the portal of \$1.2 million beginning in fiscal year 2013. The fiscal impact of other provisions in this section cannot be determined at this time. Additional requirements to be included in MCO contracts could have a substantial impact to administrative and client services costs included in managed care premiums statewide, potentially increasing expenditures; in particular, requiring that MCOs demonstrate that services will be accessible to recipients through their network to a comparable extent that health care services would be available under a fee-for-service or primary care case management model could impede the MCOs ability to achieve savings by managing the care of their enrollees.

Regarding Amendment 92, the Employees Retirement System reports any administrative costs resulting from the bill could be absorbed within existing resources. The state may realize savings from reduced payroll taxes paid as a result of the program; however, any savings would be insignificant.

Amendment 95 would result in an indeterminate negative fiscal impact to the state from the provisions due to the unknown nature of current advertising demand, applicable fee schedules to be set, and the cost to evaluate and implement sufficient bandwidth and network security to allow advertising on state agency websites. Federal General Service Administration guidelines prohibit advertising on .gov internet domains. In the past year several state websites have been migrated from the state's domain (.state.tx.us) to a .gov domain, including the state's electronic internet portal (www.texas.gov) and the internet addresses for the Texas Department of Transportation (www.txdot.texas.gov). DIR estimates an additional 50 state agencies are in the process of migrating to .gov domains and, under current federal guidelines, would not be able to participate in an internet advertising program. Therefore, no revenue gain is anticipated from any texas.gov websites. According to analysis by the Department of Information Resources, an outside consultant would be required to determine the risk to web sites or computer network security to evaluate and develop a plan that manages bandwidth and ensures security. DIR estimates that 1.0 security consultant and 1.0 high-level technical expert would be hired for 1,920 hours at \$167.51 per hour for a total of \$321,619 in fiscal year 2012. Due to the number of state agencies transitioning to the texas.gov domain and absent of any information about fees that would be set by DIR under the provision of the bill, the revenue gain cannot be estimated. However, it is estimated that statewide start-up costs could be approximately \$4.5 million depending on the number of agencies that would be eligible to advertise on its website, and would be required to manage bandwidth and assess computer network security as required under the provisions of the bill.

The Department of Information Resources (DIR) estimates that to provide security technology for the state's cyber assets as required by Amendment 96 would cost approximately \$64.6 million in fiscal year 2012 and \$18.4 million in fiscal year 2013 out of General Revenue. This analysis assumes that the state has approximately 26,000 cyber assets. For purposes of this analysis, the term "cyber assets" mean servers. However, cyber assets could include other devices such as personal computers, lap tops, routers, or switches. The costs to provide security of the state's cyber assets include up to 200 additional dedicated monitoring servers, monitoring software, implementation of the software including project management, training, configuration, documenting security procedures, testing, and operations and audit of monitoring the servers in a real-time environment. DIR estimates that statewide, agencies would need approximately 53 full-time equivalent system administrator positions to monitor the activity on the monitored servers.

Amendments 97 and 98 would have an indeterminate cost to the state. Costs for posting cost-efficiency suggestions and ideas would range from \$0 to approximately \$100,000 for affected agencies in the 2012-13 biennium. Factors affecting costs would vary based on rules adopted by the Department of Information Resources. This analysis assumes that costs for posting high-value data sets and budget documents could be absorbed using existing resources.

Amendment 99, abolishing SKIP and auto-enrolling eligible children in CHIP is estimated to save a net \$2.9 million All Funds in fiscal year 2012 and \$3.0 million in All Funds in fiscal year 2013 forward. The amount of additional administrative costs from auto-enrolling eligible children in CHIP cannot be estimated at this time.

Regarding Amendments 100 and 101, the fiscal impact of the amendments cannot be determined. States are required by federal Medicaid law to assure access to necessary care and services. Additionally, under federal Medicaid law, states may not restrict freedom of choice of provider except under certain waivers of federal law. Eliminating state funding for hospital districts that perform abortions would include the elimination of Medicaid funding, which could be viewed as a violation of federal Medicaid law by restricting access to care and limiting access to certain providers. Not complying with federal Medicaid law could result in the loss of all federal matching funds for Medicaid, an estimated \$15.0 billion each year. It is not known if or when the state could be penalized for not complying with federal Medicaid law.

Amendment 102 would have no significant fiscal impact in the 2012-13 biennium.

Relating to Amendment 105, the Office of the Attorney General (OAG) anticipates an increase in child support payments to custodial parents (based on Texas Workforce Commissions' (TWCs) projections); potential savings in Medicaid and TANF benefits; and additional federal performance incentives awarded to the state. Based on analysis by the TWC, OAG and Health and Human Services Commission (HHSC), it is assumed that costs associated with implementing the provisions of the bill would not be significant and could be absorbed within existing resources. Based on OAG and HHSC estimates, there is also a potential for savings in General Revenue in the range of \$500,000 to \$1,000,000 for the 2012-13 biennium.

Amendment 109 relating to the transfer of guardianships may have an impact on the court's time and resources, but it is assumed it would not be significant.

The CPA estimates that sales tax exemption provided in Amendment 115 would result in a loss of \$4.4 million in General Revenue Funds each fiscal year beginning in 2012.

According to the CPA, Amendment 116 would result in a revenue loss of \$1.5 million to the General Revenue Fund in the 2012-13 biennium.

According to the CPA, Amendment 117 would result in a revenue loss of \$29.3 million to the General Revenue Fund in the 2012-13 biennium.

Amendment 118 would have no significant fiscal impact to the state.

The fiscal impact of Amendment 119 cannot be determined at this time.

According to the CPA, Amendment 121 relating courier and concert promoter franchise tax exemptions would result in a net revenue loss of \$2.42 million in General Revenue Related Funds in the 2012-13 biennium.

According to the CPA, Amendment 122 relating to franchise tax liability would result in a revenue loss of \$2 million in General Revenue Funds in the 2012-13 biennium.

The proposed extension of Chapter 313 in Amendment 126 would continue to authorize the review and approval of agreements in tax years 2015 and 2016, estimated by the Comptroller of Public Accounts (CPA) to be 20 new agreements in each year. Under the bill, the school district levy loss for a project approved in tax year 2015—beginning in tax year 2016—would not start until tax year 2018, with associated state impact beginning in fiscal year 2019. The CPA estimates that it would be necessary to hire 2 FTEs beginning in fiscal year 2015 to process applications, conduct economic impact evaluations, and to collect and analyze data on the increased number of projects in the program.

Amendment 130 would have no significant fiscal implication to the State in the 2012-13 biennium. Based on the analysis of the Texas Department of Transportation (TxDOT), it is assumed any costs or duties associated with implementing the provisions of the bill could be absorbed within the agency's existing resources.

Amendment 131 affects golf carts residing only on U.S. Corp of Engineers property and would therefore have no significant fiscal implication.

Amendment 132 requiring DPS to designate certain driver's license offices as temporary visitor stations could be implemented within existing resources. The provisions of the bill related to expiration dates and fee amounts for driver's licenses or personal identification certificates issued to applicants who are not citizens of the United States would result in a revenue gain to the Texas Mobility Fund. The Comptroller of Public Accounts (CPA) indicates the impact on revenue cannot be determined, but DPS estimates a gain to the Texas Mobility Fund for the FY 2012-13 biennium would be \$1,432,595.

Regarding amendment 136, to the extent the repeal of the court cost may result in decreased state revenue, the fiscal implication to the state is not anticipated to be significant.

Amendment 139 affecting Groundwater Conservation Districts would have no significant fiscal impact in the 2012-13 biennium.

This analysis assumes that Amendment 141 would have no significant fiscal impact to the state in the 2012-13 biennium.

Amendment 164 would have no significant fiscal impact in the 2012-13 biennium. To the extent that the amendment results in additional visits to physician offices or urgent care facilities being reimbursed, there could be a cost to the Medicaid program; however, this analysis assumes that any increased costs for physician office visits or urgent care facilities would be offset by reduced non-emergent use of emergency rooms. According to findings in the report, "Reduce the Need for Emergency Room Utilization in the Medicaid Program," in the Legislative Budget Board's Government Effectiveness and Efficiency Report submitted to the Eighty-Second Texas Legislature, 2011, \$288.9 million was spent treating Medicaid clients with non-emergent conditions in the emergency room in fiscal year 2009; of this amount, \$205.0 million was for clients enrolled in a Medicaid managed care delivery model. The estimated cost to serve those same clients in a primary care setting is \$58.5 million, approximately 30 percent of the cost to provide services in the emergency room. It is assumed that the provisions of the bill could achieve cost neutrality if 30 percent of the newly reimbursed physician office visits avert a visit to the emergency room. If more than 30 percent averted a visit to the emergency room, there could be a savings to the Medicaid program; if fewer than 30 percent averted a visit to the emergency room, there could be a cost to the Medicaid program.

To the extent that adding urgent care facilities to the list of providers reduces ER utilization, there could be a savings to the Medicaid program. However, if provider rates for urgent care facilities exceed physician office rates and the greater availability of after-hours care at urgent care facilities results in a shift of patients who had previously opted to be served in physician offices to urgent care facilities, there could be a cost to the Medicaid program.

For Amendment 166, this analysis assumes any costs to comply with this amendment would not be significant for school districts.

Based on an analysis by the CPA, this analysis assumes that Amendments 169 and 170 would result in a \$15.9 million cost to the Foundation School Program each year beginning in fiscal year 2014.

House Floor Amendment 1 on 3rd reading would have no significant fiscal impact to the state.

### **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. For school districts currently taxing at \$1.17 for maintenance and operations, the bill would provide a temporary tier 2 yield to offset enrichment revenue reductions in fiscal year 2012. In addition, the bill would provide constant-level regular program allotment adjustments for school districts that receive no target revenue hold harmless aid to spread revenue reductions more evenly across fiscal years.

**Source Agencies:** 103 Legislative Council, 212 Office of Court Administration, Texas Judicial Council, 301 Office of the Governor, 313 Department of Information Resources, 332 Department of Housing and Community Affairs, 357 Texas Department of Rural Affairs, 454 Department of Insurance, 529 Health and Human Services Commission, 551 Department of Agriculture, 696 Department of Criminal Justice, 781 Higher Education Coordinating Board

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