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California State Senate

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ON
BUDGET AND FISCAL REVIEW**

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Agenda

**February 2, 2012
Upon Call of the Chair
Room 4203**

<u>BILL:</u>		<u>AUTHOR:</u>	<u>SUBJECT:</u>
S.B. No.	81	Committee on Budget and Fiscal Review.	Budget Act of 2011.
S.B. No.	95	Committee on Budget and Fiscal Review.	State Cash Resources.
S.B. No.	98	Committee on Budget and Fiscal Review.	Nursing.

SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW
Mark Leno, Chair

Bill No:	SB 81
Author:	Budget and Fiscal Review
As Amended:	January 30, 2012
Consultant:	Kim Connor
Fiscal:	Yes
Hearing Date:	February 2, 2012

Subject: School Transportation Programs: Funding

Summary: Restores \$248 million in Proposition 98 General Funds for school transportation programs in 2011-12, and instead applies a reduction of \$248 million in Proposition 98 General Funds to school districts and county offices of education revenue limits in 2011-12. Specifically, this bill:

- 1) Increases the school district revenue limit deficit factor by 0.65 percent -- from 19.754 percent to 20.404 percent -- in 2011-12. This adjustment reduces school district and charter school revenue limit funding in the current year in order to fully offset restoration of funding for school transportation programs in 2011-12.
- 2) Increases the county office of education revenue limit deficit factor by 0.65 percent -- from 20.041 percent to 20.691 percent -- in 2011-12. This adjustment reduces county office of education revenue limit funding in the current year in order to fully offset restoration of funding for school transportation programs in 2011-12.
- 3) Increases the reduction to categorical programs for Basic Aid districts in 2011-12 by 0.65 percent -- from 8.92 percent to 9.57 percent. This ensures a "fair share" reduction commensurate with the revenue limit reduction for non-Basic Aid school districts in 2011-12. Basic Aid districts are defined as districts that do not receive state funding for revenue limits.
- 4) Makes an appropriation of \$248,000,000 from Proposition 98 General Funds to the State Department of Education, for transfer to Section A of the State School Fund, to restore funding for the Home-to-School Transportation (HTST) program and Small School District Bus Replacement program in 2011-12.
- 5) Declares this measure is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Existing Law:

- 1) Provides discretionary funding to school districts, county offices of education, and charter schools to support the general costs of operating schools. These funds are provided based on a formula that takes their average daily attendance over the

course of the year and multiplies it by their individual funding rate, known as a revenue limit.

- 2) Requires, for the 2011-12 school year, that the revenue limit for each school district and county office of education be reduced pursuant to a specified formula, known as a deficit factor.
- 3) Provides categorical program funding for school district and county office of education transportation costs based on the amount received for that purpose in the prior year, or the agencies' actual transportation costs, whichever is less. Existing law also requires school districts and county offices of education to provide transportation services for student with disabilities, as specified in the students' individualized education program. In addition, existing law also provides categorical grant funding to small schools districts for purposes of bus replacement.

Fiscal Effect: This bill is funding neutral to the state budget. This bill replaces a \$248 million General Fund (Proposition 98) reduction for school transportation programs in 2011-12 with a \$248 million General Fund (Proposition 98) that includes reductions for school district and county office revenue limits, and Basic Aid categorical programs in 2011-12. (Basic Aid school districts take a "fair share" reduction, to the extent they are not limited by Constitutional funding minimums.) While there is no fiscal effect at the state level, the revenue limit reductions implemented by this bill will have a different effect on school districts, county offices of education, and charter schools than the school transportation program reductions implemented pursuant law to current law.

Comments:

Background on HTST Program. The HTST program provides funds to offset school district cost to transport students to and from home and school. Allocations are based on either a district's prior year allocations or approved costs, whichever is less. In the 1992-93 fiscal year, school districts were required to establish a base year of funding for both home-to-school and special education transportation funding. All future allocations of this funding are based on the amount districts received in 1992-93.

2011-12 Budget Act. The 2011-12 Budget Act provided a total of \$496 million in Proposition 98 General Fund for the HTST Program. Of this amount, \$491 million is provided for Pupil Transportation, which includes both allocations for home-to-school transportation and allocations for some pupils with disabilities, specifically "severely disabled and orthopedically impaired" pupils. Another \$5 million is provided for the Small School District Bus Replacement program.

AB 121 (Chapter 41; Statutes of 2011) authorized additional reductions to school transportation appropriations in the Budget Act that would be "triggered" if state revenue estimates fall below specified levels. In December 2011, the Department of Finance applied the trigger cut to the HTST Program, which resulted in the elimination of the

remaining half year of funding for the program in 2011-12. A trigger cut of \$79.6 million was also applied to revenue limit funding pursuant to AB 121. This bill would restore the trigger cut for the HTST program and replace it with an additional revenue limit cut to school districts and county offices of education.

Governor Proposes to Eliminate HTST Program in 2012-13. The Governor proposes to eliminate funding for the HTST program in 2012-13 for a savings of \$496 million. The Governor also proposes eliminating most other categorical programs and instead would provide districts with a new weighted pupil formula in an effort to make more funds discretionary for school districts.

SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW
Mark Leno, Chair

Bill No:	SB 95
Author:	Budget and Fiscal Review
As Amended:	January 30, 2012
Consultant:	Brian Annis
Fiscal:	Yes
Hearing Date:	February 2, 2012

Subject: State cash resources.

Summary: The bill would increase the availability of various funds that could be used as borrowable resources for the state's General Fund for cash flow purposes. This is an Administration-supported bill and would increase borrowable funds by an estimated \$865 million. This legislation is necessary to carry-out the requirements of the 2011 Budget Act.

Background:

Most state special funds are eligible for cashflow borrowing and the Controller uses these cash resources to manage General Fund obligations in months where General Fund revenues are low and General Fund expenditures are high. Cashflow borrowing is distinguished from budgetary borrowing – budgetary borrowing involves funds being used across fiscal years and is scored as positive General Fund revenues when borrowed and negative General Fund revenues when repaid. Cashflow borrowing does not affect the budget directly, although it indirectly benefits the budget by reducing the need for more-costly external cashflow borrowing. Stronger cash reserves also benefit the budget by improving the State's credit rating and reducing other borrowing costs, such as for general obligation bonds. Cashflow borrowing does not affect the programs supported by special funds, as the funds are repaid with interest and as needed for special-fund expenditures. In recent years, the Legislature has approved multiple bills to increase the number of special funds that are eligible for cashflow borrowing – most recently SB 82 (Chapter 12, Statutes of 2011) opened up four additional special funds for cashflow borrowing.

Proposition 22 of 2010 placed new restrictions on revenue derived from motor vehicle fuels. The state discontinued cashflow borrowing of funds related to motor vehicle fuels after the passage of Proposition 22. This bill would provide new cashflow benefits to transportation projects in the case of late budgets and delayed bond sales, and this bill would resume cashflow borrowing from these funds to the General Fund. By offering these new benefits for transportation finance, this bill would further the purpose of Proposition 22.

Proposed Law: Specifically, this bill:

1. Specifies that existing language that authorizes cashflow borrowing from special funds in Government Code section 16310 is controlling, and would notwithstanding other code sections that limit this borrowing. Government Code section 16310 continues to exclude from cashflow borrowing the following: the Local Agency Investment Fund; bond funds; retirement funds; and other funds restricted in the Constitution, bond indentures, or by case law.
2. Authorizes the Director of Finance to designate up to 15 percent of the cash balances in the Highway Users Tax Account, Transportation Investment Fund, Motor Vehicle Fuel Account, Transportation Revolving Account and the State Highway Account be available for

contingency interim financing for critical state highway and local road projects that would otherwise be financed by General Obligation bonds. This authority would aid transportation projects in the case of a delayed bond sale.

3. Sanctions the Controller to receive and duly account for moneys received by the Condemnations Deposits Fund, maintained by the Treasurer's Office, to use such funds for cash flow loans to the General Fund. This fund holds court-ordered deposits in eminent domain proceedings pending resolution of the litigation. These amendments make the funds borrowable for cashflow, and make no change to eminent domain proceedings.
4. Allows the Controller to use funds in the Transportation Investment Fund, the Motor Vehicle Fuel Account, the Transportation Revolving Account, the State Highway Account, and the Highway Users Tax Account for cash flow loans to the General Fund as long as such loans would not interfere with the purpose of creating those funds. Interest would be computed based on the earnings rate of the fund.
5. Permits an exemption from the current prohibition against encumbrance without specific statutory authorization, with respect to moneys appropriated from the Highway Users Tax Account, and moneys apportioned or transferred from that account. These amendments would allow the Controller to transfer the funds in the Highway Users Tax Account to cities and counties, or to the State Highway Account without delay in the case of a late budget. This change would provide greater cashflow certainty for transportation projects.
6. Provides an appropriation to the Controller of \$1,000 for administrative costs and specified the bill is related to the Budget Bill. This bill would take effect immediately pursuant subdivision (e) of Section 12 of Article IV of the California Constitution.

Fiscal Effect: The bill will have no direct budgetary impact but facilitate and ease cash flow requirements within the budget year by increasing the amount of borrowable resources from internal funds. An estimated \$865 million will become available for General Fund borrowing for cash flow purposes during 2011-12. By increasing General Fund cashflow resources, this bill would improve the State's fiscal condition and may provide indirect budget benefits from reducing external cashflow borrowing and improving the State's credit ratings.

Support: California State Council of Laborers.

Opposed: None on file.

Comments: The bill includes various provisions that further transportation goals and facilitate the completion of projects. This bill, therefore, furthers the purpose of Proposition 22. This bill improves the State's fiscal conditional by increasing borrowable resources to better manage cashflow.

SENATE COMMITTEE ON BUDGET AND FISCAL REVIEW
Mark Leno, Chair

Bill No:	SB 98
Author:	Budget and Fiscal Review
As Amended:	January 26, 2012
Consultant:	Brady Van Engelen
Fiscal:	Yes
Hearing Date:	February 2, 2012

Subject: Board of Registered Nursing

Summary: This bill would restore the Board of Registered Nursing until 2016. Specifically, this bill:

1. Restores the Board of Registered Nursing (BRN) and establishes a new sunset date of January 1, 2016;
2. Establishes the BRN within the Department of Consumer Affairs (DCA);
3. Re-establishes the terms of office for the nine members of the BRN at four years, but with staggered initial appointments in order to have staggered terms going forward, as follows:
 - a) Senate appointment - public member: 4 years
 - b) Assembly appointment - public member: 4 years

Governor's appointments:

- c) #1 – public member: 1 year
 - d) #2 – public member: 5 years
 - e) #3 – RN #1: 2 years
 - f) #4 – RN #2: 3 years
 - g) #5 – nurse educator: 4 years
 - h) #6 and #7 – nurse administrator and advanced practice nurse: Governor's choice on which one serves 2 years and which one serves 3 years for their initial terms
4. Ratifies the interagency agreement between the BRN and the Director of Consumer Affairs;
 5. Provides for an interim executive officer until the board appoints a permanent executive officer, and deems that interim executive officer to be the same person who was serving as executive officer before the board expired;
 6. Appropriates to the BRN unencumbered funds in the Board of Registered Nursing Fund (Fund) that were appropriated to the BRN in the 2011 Budget Act and \$1,000 from the Fund for the purpose of administering the Nursing Practice Act.

Background: The BRN sunset on January 1, 2012 after the Governor vetoed SB 538 (Price), which extended the sunset of the BRN to 2016 and contained additional provisions that made changes to the operation of the BRN related to pension benefits. The Governor objected to the benefit pension changes and therefore vetoed the bill. In his veto message, the Governor asked the Legislature to send him legislation to restore the BRN as soon as possible.

The dissolution of the BRN means that substantial work in the area of licensing, disciplinary action, and general nursing practice oversight cannot continue. The BRN adopts, amends, or rejects proposed decisions by administrative law judges who hear cases on nurse discipline. Now, judges' decisions will automatically take effect if no board action is taken in 100 days. The BRN also approves or rejects settlements reached between attorneys representing nurses accused of misconduct and deputy attorneys general representing the board. Those cases also will be subject to approval by administrative judges whose decisions are final if the board takes no action

in 100 days. The DCA continues to do the staff work, such as processing licensing applications and investigating complaints.

Fiscal Effect: Approximately \$30 million (BRN Fund) annually in regulatory costs will continue to be incurred as a result of extending the sunset on the BRN. The BRN is fully-funded with fee revenue.

Support:

California Hospital Association
American Federation of State, County and Municipal Employees (AFSCME)
SEIU California

Opposed: None on file

Comments: The BRN is responsible for regulating the practice of registered nurses (RNs) in California. Currently, there are almost 380,000 licensed RNs in California, with over 23,000 new licenses issued annually, and more than 170,000 licenses renewed annually. The BRN also regulates interim permittees, i.e., applicants who are pending licensure by examination, and temporary licensees, i.e., out-of-state applicants who are pending licensure by endorsement. The interim permit allows the applicant to practice while under the supervision of an RN while awaiting examination results. Similarly, the temporary license enables the applicant to practice registered nursing pending a final decision on the licensure application. The BRN also issues certificates to Clinical Nurse Specialists, Nurse Anesthetists, Nurse Practitioners, Nurse-Midwives and Public Health Nurses. These titles are those most commonly used by the California RNs and use of the titles is protected under the Business and Professions Code. The BRN also issues furnishing numbers to nurse practitioners and nurse midwives to administer prescriptions and lists psychiatric/mental health nurses. In addition to its licensing and certification functions, the BRN also regulates and approves the following entities: 1) California Pre-licensure Registered Nursing Programs; 2) Nurse-Midwifery Programs; 3) Nurse Practitioner Programs; and 4) Registered Nursing Continuing Education Providers.

The BRN is responsible for implementation and enforcement of the Nursing Practice Act -- the laws and regulations related to nursing education, licensure, practice and discipline. The BRN implements regulatory programs and performs a variety of activities to protect the public. These programs and activities include: setting registered nurse educational standards for pre-licensure and advanced practice nursing programs; issuing and renewing registered nurse licenses; issuing certificates for advanced practice nurses and public health nurses; taking disciplinary action for violation of the Nursing Practice Act; and managing a Diversion Program for registered nurses whose practice may be impaired due to chemical dependency or mental illness.

Recognizing that registered nursing is an integral component of the health care delivery system, the BRN seeks to affect public policy by collaborating and interacting with legislators, consumers, health care providers, health care insurers, professional organizations, and other state agencies. According to the BRN, this enhances the Board's ability to interpret the Nursing Practice Act and establish policies for its regulatory programs and activities, which are then implemented by the BRN staff.