

By: Nelson  
(Capriglione)

S.B. No. 69

Substitute the following for S.B. No. 69:

By: Capriglione

C.S.S.B. No. 69

A BILL TO BE ENTITLED

AN ACT

relating to the allocations of money for transfer to the state highway fund and the economic stabilization fund and the investment of money in the economic stabilization fund.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Subchapter H, Chapter 316, Government Code, is amended to read as follows:

SUBCHAPTER H. ALLOCATION OF TRANSFERS TO ~~[PRESERVATION OF SUFFICIENT BALANCE IN]~~ ECONOMIC STABILIZATION FUND AND STATE HIGHWAY FUND

SECTION 2. Sections 316.092 and 316.093, Government Code, are amended to read as follows:

Sec. 316.092. DETERMINATION OF THRESHOLD FOR CONSTITUTIONAL TRANSFER TO STATE HIGHWAY ~~[SUFFICIENT]~~ FUND ~~[BALANCE]~~. (a) ~~[Not later than September 1 of each even-numbered year preceding the year in which this section expires as provided by Subsection (c), the speaker of the house of representatives and the lieutenant governor shall appoint a select committee as follows:~~

~~[(1) the speaker of the house of representatives shall appoint five members of the house of representatives as members of the committee, and~~

~~[(2) the lieutenant governor shall appoint five members of the senate as members of the committee.~~

~~[(b)]~~ For the purposes of adjusting the allocations of

1 transfers in accordance with Section 49-g(c-2), Article III, Texas  
2 Constitution, and Section 316.093 for a state fiscal biennium [~~not~~  
3 ~~later than December 1 of each even-numbered year preceding the year~~  
4 ~~in which this section expires as provided by Subsection (e)] , the  
5 comptroller [~~select committee~~] shall determine and adopt for the  
6 [~~next~~] state fiscal biennium an amount equal to seven percent of the  
7 certified general revenue-related appropriations made for that  
8 state fiscal biennium [~~a sufficient balance of the fund in an amount~~  
9 ~~that the committee estimates will ensure an appropriate amount of~~  
10 ~~revenue available in the fund. In determining the sufficient~~  
11 ~~balance for that fiscal biennium, the committee shall consider:~~~~

- 12 [~~(1) the history of fund balances;~~
- 13 [~~(2) the history of transfers to the fund;~~
- 14 [~~(3) estimated fund balances during that fiscal~~  
15 ~~biennium;~~
- 16 [~~(4) estimated transfers to the fund to occur during~~  
17 ~~that fiscal biennium;~~
- 18 [~~(5) information available to the committee regarding~~  
19 ~~state highway congestion and funding demands; and~~
- 20 [~~(6) any other information requested by the committee~~  
21 ~~regarding the state's financial condition]~~.

22 [~~(c) On or before October 1 of each even-numbered year~~  
23 ~~preceding the year in which this section expires as provided by~~  
24 ~~Subsection (e), the comptroller shall provide to the select~~  
25 ~~committee the comptroller's projection of the amounts to be~~  
26 ~~transferred to the fund during the next state fiscal biennium.~~

27 [~~(d) When the select committee has adopted under Subsection~~

1 ~~(b) the amount of the sufficient balance of the fund for a state~~  
2 ~~fiscal biennium, the matter of approving that amount shall be~~  
3 ~~presented to each house of the legislature in a concurrent~~  
4 ~~resolution during the next succeeding regular legislative session.~~  
5 ~~The resolution must be presented for a vote in each house of the~~  
6 ~~legislature not later than the 30th day of that legislative~~  
7 ~~session, must be approved by a vote of a majority of the members of~~  
8 ~~each house, and must be finally approved by each house not later~~  
9 ~~than the 45th day of that legislative session. If a resolution~~  
10 ~~finally approved under this subsection is amended during the~~  
11 ~~legislative process to provide for a different sufficient balance~~  
12 ~~of the fund than that adopted under Subsection (b), that different~~  
13 ~~balance is the sufficient balance adopted under this section for~~  
14 ~~purposes of Section 316.093. If a resolution finally approved~~  
15 ~~under this subsection does not provide for a different sufficient~~  
16 ~~balance of the fund or if a resolution is not finally approved as~~  
17 ~~provided by this subsection, the sufficient balance adopted under~~  
18 ~~Subsection (b) is the sufficient balance adopted under this section~~  
19 ~~for purposes of Section 316.093.]~~

20 (b) ~~[(e)]~~ This section expires December 31, 2024.

21 Sec. 316.093. ADJUSTMENT OF CONSTITUTIONAL ALLOCATIONS TO  
22 FUND AND STATE HIGHWAY FUND. (a) Before the comptroller makes  
23 transfers for a state fiscal year in accordance with Section  
24 49-g(c), Article III, Texas Constitution, the comptroller shall  
25 determine whether the sum of the unappropriated balance of the fund  
26 on the preceding August 31, any projected transfer to the fund under  
27 Section 49-g(b) of that article, and any projected transfer to the

1 fund under Section 49-g(c) of that article in accordance with the  
2 allocations for the transfer as provided by Section 49-g(c-1) of  
3 that article is less than the amount determined under [~~sufficient~~  
4 ~~balance adopted under~~] Section 316.092 for that state fiscal  
5 biennium.

6 (b) If the sum described by Subsection (a) is less than the  
7 amount determined under [~~sufficient balance adopted under~~] Section  
8 316.092 for that state fiscal biennium, the comptroller shall  
9 reduce the allocation to the state highway fund provided by Section  
10 49-g(c), Article III, Texas Constitution, and increase the  
11 allocation to the economic stabilization fund, in an equal amount,  
12 until the amount determined under [~~sufficient balance adopted~~  
13 ~~under~~] Section 316.092 for that state fiscal biennium would be [~~is~~  
14 achieved by the transfer to the fund or the total amount of the sum  
15 described by Section 49-g(c), Article III, Texas Constitution, is  
16 allocated to the fund, whichever occurs first.

17 (c) [~~If under Section 316.092 a sufficient balance has not~~  
18 ~~been adopted for the comptroller to consider under this section,~~  
19 ~~the comptroller shall adjust the allocation of amounts to be~~  
20 ~~transferred to the fund and to the state highway fund provided by~~  
21 ~~Section 49-g(c), Article III, Texas Constitution, so that the total~~  
22 ~~of those amounts is transferred to the economic stabilization fund,~~  
23 ~~except that the comptroller shall reduce a transfer made under this~~  
24 ~~subsection as necessary to prevent the amount in the fund from~~  
25 ~~exceeding the limit in effect for that biennium under Section~~  
26 ~~49-g(g) of that article.~~

27 [~~e~~] For the purposes of Section 49-g(c-2), Article III,

1 Texas Constitution, the comptroller shall adjust the allocation  
2 provided by Section 49-g(c-1) of that article of amounts to be  
3 transferred to the fund and to the state highway fund under Section  
4 49-g(c) of that article in a state fiscal year beginning on or after  
5 September 1, 2025, so that the total of those amounts is transferred  
6 to the economic stabilization fund, except that the comptroller  
7 shall reduce a transfer made under this subsection as necessary to  
8 prevent the amount in the fund from exceeding the limit in effect  
9 for that biennium under Section 49-g(g) of that article.

10 (d) [~~(f)~~] Subsections (a) and [~~(b)~~] [~~(c)~~] and this  
11 subsection expire December 31, 2024.

12 SECTION 3. Section 404.0241, Government Code, is amended to  
13 read as follows:

14 Sec. 404.0241. INVESTMENT OF CERTAIN ECONOMIC  
15 STABILIZATION FUND BALANCES. (a) Subject to Subsection (b) and  
16 notwithstanding Section 404.024, for the purpose of investing the  
17 assets of the economic stabilization fund, the [~~The~~] comptroller  
18 may acquire, exchange, sell, supervise, manage, or retain any kind  
19 of investment that a prudent investor exercising reasonable care,  
20 skill, and caution would acquire, exchange, sell, supervise,  
21 manage, or retain in light of the purposes, terms, distribution  
22 requirements, and other circumstances then prevailing for the fund,  
23 taking into consideration the investment of all the assets of the  
24 fund rather than a single investment [~~shall invest a percentage of~~  
25 ~~the economic stabilization fund balance in a state fiscal biennium~~  
26 ~~that exceeds the amount of the sufficient balance of the fund~~  
27 ~~adopted under Section 316.092 for that biennium in accordance with~~

1 ~~the investment standard described by Section 404.024(j). The~~  
2 ~~comptroller's investment of that percentage of the excess balance~~  
3 ~~is not subject to any other limitation or other requirement~~  
4 ~~provided by Section 404.024].~~

5 (b) At least one-quarter of the economic stabilization fund  
6 balance must be invested in a manner that ensures the liquidity of  
7 that amount.

8 (c) The comptroller may pool assets of the economic  
9 stabilization fund with other state assets for purposes of  
10 investment under Section 404.024(b).

11 (d) The comptroller shall adjust the investment [~~portfolio~~]  
12 of economic stabilization fund money periodically as necessary to  
13 ensure that:

14 (1) at all times at least one-quarter of the balance of  
15 the economic stabilization fund is invested in a manner that  
16 ensures the liquidity of that amount; and

17 (2) the balance of the economic stabilization fund is  
18 sufficient to meet the cash flow requirements of the fund.

19 (e) [~~(c)~~] The comptroller shall include the fair market  
20 value of the investments [~~investment portfolio~~] of the economic  
21 stabilization fund in calculating the amount in the fund for  
22 purposes of Section 49-g(g), Article III, Texas Constitution, and  
23 Section 316.093 of this code.

24 [~~(d) This section expires on the date Section 316.092~~  
25 ~~expires.~~]

26 SECTION 4. Sections 316.093(a) and (b), Government Code, as  
27 amended by this Act, apply only to the allocation of money to the

1 economic stabilization fund and the state highway fund under  
2 Section 49-g(c-1), Article III, Texas Constitution, beginning with  
3 the state fiscal year beginning September 1, 2021. The allocation  
4 of money to the economic stabilization fund and the state highway  
5 fund under Section 49-g(c-1), Article III, Texas Constitution, for  
6 the state fiscal years beginning September 1, 2019, and September  
7 1, 2020, is governed by Sections [316.093](#)(a) and (b), Government  
8 Code, as those sections existed immediately before the effective  
9 date of this Act, and the former law is continued in effect for that  
10 purpose.

11 SECTION 5. This Act takes effect September 1, 2019.