

By: Nelson

S.B. No. 69

A BILL TO BE ENTITLED

AN ACT

relating to the authority of the comptroller regarding the management of the general revenue fund and 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, not later than December 1 of  
3 each even-numbered year preceding the year in which this section  
4 expires [~~as provided by Subsection (e)~~], the comptroller [~~select~~  
5 ~~committee~~] shall determine and adopt for the next state fiscal  
6 biennium an amount equal to seven one-hundredths of the most recent  
7 estimate of anticipated revenue made under Section 49a(a), Article  
8 III, Texas Constitution [~~a sufficient balance of the fund in an~~  
9 ~~amount that the committee estimates will ensure an appropriate~~  
10 ~~amount of revenue available in the fund. In determining the~~  
11 ~~sufficient balance for that fiscal biennium, the committee shall~~  
12 ~~consider:~~

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

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

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

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

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

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

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

18 (c) [~~If under Section 316.092 a sufficient balance has not~~  
19 ~~been adopted for the comptroller to consider under this section,~~  
20 ~~the comptroller shall adjust the allocation of amounts to be~~  
21 ~~transferred to the fund and to the state highway fund provided by~~  
22 ~~Section 49-g(c), Article III, Texas Constitution, so that the total~~  
23 ~~of those amounts is transferred to the economic stabilization fund,~~  
24 ~~except that the comptroller shall reduce a transfer made under this~~  
25 ~~subsection as necessary to prevent the amount in the fund from~~  
26 ~~exceeding the limit in effect for that biennium under Section~~  
27 ~~49-g(g) of that article.~~

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

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

13           SECTION 3. Subchapter B, Chapter 403, Government Code, is  
14 amended by adding Section 403.0125 to read as follows:

15           Sec. 403.0125. FEDERAL MONEY DEPOSITED TO TREASURY. (a)  
16 The comptroller may not deposit to the credit of the general revenue  
17 fund money received from the federal government or accrued interest  
18 or other earnings on money received from the federal government.  
19 The comptroller shall account for and administer federal money  
20 separately from money in the general revenue fund in a manner that  
21 ensures federal money and earnings on federal money are used for the  
22 purposes for which federal money is received.

23           (b) To facilitate the administration of federal money under  
24 this section or other law, the comptroller may:

25           (1) designate or create a fund or account in the  
26 treasury for the deposit of federal money and any interest or other  
27 earnings on the federal money;

1           (2) merge, consolidate, or segregate funds or accounts  
2 or money deposited to funds or accounts; or

3           (3) abolish a fund, or an account in the general  
4 revenue fund, to which federal money has been deposited in  
5 accordance with other law.

6           (c) This section prevails over other general law that  
7 provides for money received from the federal government, or  
8 earnings on money received from the federal government, to be  
9 deposited to the credit of the general revenue fund or to the credit  
10 of an account in the general revenue fund. To the extent of any  
11 other conflict between this section and other law, this section  
12 controls.

13           SECTION 4. Section 404.0241, Government Code, is amended to  
14 read as follows:

15           Sec. 404.0241. INVESTMENT OF CERTAIN ECONOMIC  
16 STABILIZATION FUND BALANCES. (a) The comptroller may [~~shall~~]  
17 invest a percentage of the balance of the economic stabilization  
18 fund in an investment portfolio managed [~~balance in a state fiscal~~  
19 ~~biennium that exceeds the amount of the sufficient balance of the~~  
20 ~~fund adopted under Section 316.092 for that biennium] in accordance  
21 with the investment standard described by Section 404.024(j). The  
22 comptroller's investment of that percentage of the fund [~~excess~~]  
23 balance is not subject to any other limitation or other requirement  
24 provided by Section 404.024.~~

25           (b) The balance of the investment portfolio may not exceed  
26 three-quarters of the balance of the economic stabilization fund.

27           (c) The comptroller shall adjust the investment portfolio

1 ~~[of economic stabilization fund money]~~ periodically as necessary to  
2 ensure that:

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

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

8 (d) The comptroller may transfer to the credit of the  
9 endowment principal account of the state endowment fund any part of  
10 the accrued earnings attributable to the investment portfolio.

11 (e) [(c)] The comptroller shall include the fair market  
12 value of the investment portfolio of the economic stabilization  
13 fund in calculating the amount in the fund for purposes of Section  
14 49-g(g), Article III, Texas Constitution, and Section 316.093 of  
15 this code.

16 ~~[(d) This section expires on the date Section 316.092~~  
17 ~~expires.]~~

18 SECTION 5. Subchapter C, Chapter 404, Government Code, is  
19 amended by adding Section 404.0242 to read as follows:

20 Sec. 404.0242. STATE ENDOWMENT FUND. (a) The state  
21 endowment fund is a special fund in the state treasury outside the  
22 general revenue fund that consists of principal deposited or  
23 transferred to the credit of the fund in accordance with law and the  
24 accrued earnings on the balance of the fund.

25 (b) The comptroller shall maintain the principal of the fund  
26 in an endowment principal account and the accrued earnings in an  
27 accrued earnings account.

1        (c) Money deposited or transferred to the credit of the  
2 endowment principal account may not be appropriated for any  
3 purpose.

4        (d) Accrued earnings on the fund's principal maintained in  
5 the accrued earnings account and the accrued earnings on the  
6 balance of that account may be appropriated for any general  
7 governmental purpose.

8        (e) The comptroller may invest all or any part of the  
9 balance of the endowment principal account or the accrued earnings  
10 account in accordance with the investment standard described by  
11 Section 404.024(j). The comptroller's investment of those amounts  
12 is not subject to any other limitation or other requirement  
13 provided by Section 404.024.

14        SECTION 6. (a) Except as provided by Subsection (b) of this  
15 section, this Act takes effect September 1, 2019.

16        (b) Section 404.0241(d), Government Code, as added by this  
17 Act, takes effect January 1, 2020, but only if the constitutional  
18 amendment proposed by the 86th Legislature, Regular Session, 2019,  
19 to authorize the legislature to provide for a transfer of economic  
20 stabilization fund investment earnings to a special endowment fund  
21 in the state treasury is approved by the voters. If that amendment  
22 is not approved by the voters, Section 404.0241(d), Government  
23 Code, as added by this Act, has no effect.