

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

**FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION**

**May 21, 2019**

**TO:** Honorable Dan Patrick, Lieutenant Governor, Senate

**FROM:** John McGeady, Assistant Director    Sarah Keyton, Assistant Director  
Legislative Budget Board

**IN RE:** SB69 by Nelson (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.), **As Passed 2nd House**

**Estimated Two-year Net Impact to General Revenue Related Funds** for SB69, As Passed 2nd House: an impact of \$0 through the biennium ending August 31, 2021.

**However, there would be a positive impact of \$247,377,000 to Economic Stabilization Fund through the biennium ending August 31, 2021.**

**General Revenue-Related Funds, Five-Year Impact:**

<b>Fiscal Year</b>	<b>Probable Net Positive/(Negative) Impact to General Revenue Related Funds</b>
2020	\$0
2021	\$0
2022	\$0
2023	\$0
2024	\$0

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

<b>Fiscal Year</b>	<b>Probable Revenue Gain from Economic Stabilization Fund 599</b>
2020	\$88,193,000
2021	\$159,184,000
2022	\$193,110,000
2023	\$235,707,000
2024	\$273,595,000

**Fiscal Analysis**

The bill would amend various Sections of the Government Code relating to the allocations of money for transfer to the State Highway Fund (SHF) and the Economic Stabilization Fund (ESF)

and the investment of money in the ESF.

SECTIONS 1 and 2 of the bill would amend Subchapter H, Chapter 316 of the Government Code. The current provisions regarding maintenance of a sufficient balance in the ESF for the purpose of limiting allocations to the SHF pursuant to Section 49-g(c), Article III, Texas Constitution, would be abolished. New provisions for governing allocations of transfers to the ESF and SHF would be added to require determination of a threshold for constitutional transfers to the SHF. The threshold would be determined by the Comptroller as an amount equal to seven percent of the certified general revenue-related appropriations made for that biennium. Section 49-g(c) transfers to the SHF would be limited, and transfers to the ESF increased, as necessary to maintain the threshold amount in the ESF.

The bill would amend Section 316.092 to extend provisions of the Government Code relating to the determination of a sufficient balance of the ESF to December 1, 2034. Under current law those provisions would expire December 1, 2024.

The bill would amend Sections 316.093 to extend provisions of the Government Code relating to the adjustment of allocations of oil and gas production tax revenue to the ESF and SHF through September 1, 2035. Similarly, Section 316.093 would be amended to extend the expiration of various Subsections until December 31, 2034.

SECTION 3 of the bill would amend Section 404.0241 of the Government Code to provide that the Comptroller may invest up to three-quarters of the balance of the ESF in an investment portfolio managed in accordance with the prudent person investment standard as described by Section 404.024(j); the bill would require that at all times at least one-quarter of the balance of the ESF must be invested in a manner to ensure the liquidity of the fund.

The bill would take effect September 1, 2019, with the exception that revisions to Chapter 316, Government Code would take effect September 1, 2021.

### **Methodology**

SECTIONS 1 and 2 of the bill would change the calculation and authoritative body for establishing the balance necessary in the ESF for certain transfers to the SHF. Under current law, the special joint legislative ESF committee established a \$7.5 billion sufficient balance using historical balances, future transfers and other factors for the fiscal 2020-21 biennium. The proposed legislation would authorize the Comptroller to establish the threshold balance of the ESF in an amount equal to seven percent of the certified general revenue-related appropriations made for that biennium. The proposed language would require the Comptroller to establish a threshold balance for the ESF for the 2022-23 biennium. Because the general revenue-related appropriations for that biennium are unknown at this time, the fiscal implications of this section cannot be estimated.

SECTION 3 of the bill would change the share of the ESF balance the Comptroller would be able to invest in accordance with the prudent investor investment standard. The Comptroller would be required to keep no less than 25 percent of the total ESF balance in cash or cash equivalents, while up to 75 percent could be invested in a diversified mix of fixed income investment strategies. The Fund would remain sufficiently liquid to allow for short-term access to the funds and to meet cash flow requirements of the ESF. The estimated gains to the ESF are the results of investment gains expected as a result of changes to allowable investment policy and are based on the *2020-21 Biennial Revenue Estimate*.

The estimates do not take into consideration any appropriations from the ESF that are currently considered in the general and supplemental appropriations bills. After deducting the costs of those appropriations, the fiscal impacts would differ significantly from those in the table.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 304 Comptroller of Public Accounts

**LBB Staff:** WP, KK, SD