

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 86TH LEGISLATIVE REGULAR SESSION

April 2, 2019

TO: Honorable Jane Nelson, Chair, Senate Committee on Finance

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

IN RE: SB69 by Nelson (Relating to the authority of the comptroller regarding the management of the general revenue fund and the economic stabilization fund.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for SB69, As Introduced: a positive impact of \$3,290,892,000 through the biennium ending August 31, 2021.

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
2020	(\$68,457,000)
2021	\$3,359,349,000
2022	\$8,381,640,000
2023	\$4,391,233,000
2024	\$4,613,975,000

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>Economic Stabilization Fund 599</i>	Probable Revenue Gain/(Loss) from <i>Economic Stabilization Fund 599</i>	Probable Savings from <i>General Revenue Fund 1</i>	Probable Revenue (Loss) from <i>State Highway Fund 6</i>
2020	\$1,399,601,000	\$92,322,000	\$0	(\$1,399,601,000)
2021	\$1,456,095,000	\$4,655,000	\$3,427,983,000	(\$1,456,095,000)
2022	(\$7,665,402,000)	(\$627,554,000)	\$8,450,579,000	(\$1,713,992,000)
2023	(\$4,129,841,000)	(\$492,587,000)	\$4,460,876,000	(\$2,064,920,000)
2024	(\$4,460,876,000)	(\$446,523,000)	\$4,683,919,000	(\$2,230,438,000)

Fiscal Year	Probable (Cost) from Federal General Revenue Dedicated Accounts	Probable Revenue (Loss) from General Revenue Fund 1	Probable Revenue Gain from State Endowment Fund	Probable (Cost) from General Revenue Federal Funds
2020	(\$202,009,000)	(\$68,457,000)	\$0	(\$39,136,917,000)
2021	\$0	(\$68,634,000)	\$11,827,000	(\$40,544,327,000)
2022	\$0	(\$68,939,000)	\$36,956,000	(\$38,752,771,000)
2023	\$0	(\$69,643,000)	\$70,016,000	(\$38,752,771,000)
2024	\$0	(\$69,944,000)	\$103,769,000	(\$38,752,771,000)

Fiscal Year	Probable Savings from New Fed Fund outside GR
2020	\$39,407,383,000
2021	\$40,612,961,000
2022	\$38,821,710,000
2023	\$38,822,414,000
2024	\$38,822,715,000

Fiscal Analysis

The bill would amend various Sections of the Government Code relating to the authority of the Comptroller regarding the management of the General Revenue (GR) fund and the Economic Stabilization Fund (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 State Highway Fund (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 one-hundredths of the most recent estimate of anticipated revenue made under Section 49a(a), Article III, Texas Constitution. 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.

Section 3 of the bill would amend Subchapter B of Chapter 403 of the Government Code, regarding general powers and duties of the comptroller. The bill would add Section 403.0125 to prohibit deposit in the general revenue fund of money received from the federal government or accrued interest or other earnings on money received from the federal government. The comptroller would be required to account for and administer federal money separately from the general revenue fund in a manner that ensures that federal money and earnings thereon are used for the purposes for which they are received. The comptroller could designate, create, merge, consolidate, segregate, or abolish funds or accounts to facilitate administration of federal money.

Section 4 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), and further, to provide that at all times at least one-quarter of the balance of the ESF is invested in a manner to ensure the liquidity of the fund. The comptroller could transfer any part of the accrued earnings attributable to the investment portfolio to the credit of the endowment principal account of the state endowment fund created under Section 404.0242 as would be added by Section 5 of the bill.

Section 5 of the bill would amend Subchapter C, Chapter 404 of the Government Code by adding Section 404.0242, providing for establishment of the state endowment fund (SEF) as a special fund in the state treasury outside the general revenue fund. The fund would consist of principal deposited or transferred to the credit of the fund and accrued earnings on the balance of the fund. The comptroller would be required to maintain the principal of the fund in an endowment principal account and the accrued interest in an accrued earnings account. Money deposited or transferred to the credit of the endowment principal account could not be appropriated for any purpose; accrued earnings on the fund's principal and on the accrued earnings account would be subject to appropriation for any general governmental purpose. Investment of the balances of both accounts in the ESF would be in accordance with the prudent person standard.

The bill would take effect September 1, 2019, with the exception that added Subsection (d) of Section 404.0241, Government Code would take effect January 1, 2020 but only if the constitutional amendment proposed by the 86th Legislature, Regular Session, 2019 (SJR 1) to authorize the legislature to provide for a transfer of ESF investment earnings to a special endowment fund in the state treasury is approved by the voters.

Methodology

The fiscal impacts discussed below do not take into consideration any appropriations from the ESF that are currently considered in the general and supplemental appropriations bills. The level and timing of any ESF Appropriations made by the 86th Legislature will significantly alter these fiscal impacts.

Under current law, the special joint legislative ESF committee established the \$7.5 billion sufficient balance using historical balances, future transfers, and other factors for fiscal 2020-21 biennium. The bill would result in an ESF threshold balance of \$18.6 billion for the upcoming 2022-23 biennium. Taken together with the effects of removing federal funds from GR, the sufficient balance will not be achieved; therefore, the SHF is not expected to receive any severance taxes during the forecast period.

Under the bill's provisions, no federal monies including interest and other earnings could be deposited to GR, including to GR-Dedicated accounts. In the 2020-21 Biennial Revenue Estimate, ending balances for such General Revenue Dedicated Accounts, as well as revenue from earned federal funds - Supplemental Nutrition Assistance Program recoupment (COBJ 3602), Earned Credits (COBJ 3702) and Indirect Cost Recoveries (COBJ 3726) - were included in General Revenue-related funds available for certification. Those resources would no longer be available for certification. For purposes of certifying the 2020-21 General Appropriations Act, the amount of funds available for general purpose spending would be reduced by \$339,100,000.

As federal funds would not be deposited in GR, these dollars would no longer be part of the revenue amount used to calculate the Economic Stabilization Fund (ESF) cap calculation. The bill's provisions would not affect the ESF cap for the 2020-21 biennium since that calculation is based on data from the previous 2018-19 biennium during which federal funds were deposited to GR. For the 2022-23 biennium, and under the provisions of this bill, the ESF cap would be decreased from an estimated \$19.9 billion to an estimated \$14.1 billion. Based on the requirements of Section 49-g (c), Article III, Texas Constitution, and the modification of the sufficient balance made in the bill, the ESF balance at the end of fiscal 2021 is projected to be \$18.3 billion, assuming no additional appropriations from the ESF. Therefore, the projected balance would be above the allowable cap of \$14.1 billion and as a result, there would be no transfer to the ESF of revenue based on severance tax collections in fiscal 2020-23 and those monies would remain in GR. There would be no transfer of severance taxes to SHF since the ESF

balance would be below sufficient balance. In addition, the gain to GR in fiscal 2022 reflects a one-time cash transfer from the ESF to GR in the amount of \$4.2 billion and interest earnings that should be credited to the fund in the amount of \$83.3 million in order to keep the fund within its limit.

The bill requires the comptroller to ensure federal money and earnings on federal money be used for the purposes for which federal money is received. The comptroller cannot ensure all federal funds are spent in accordance with federal program guidelines, as this is the responsibility of those agencies to which the funds are granted and subsequently appropriated.

The estimated revenue losses to the ESF in the table above are due to expected transfers of investment earnings to the state endowment fund established by the bill, net of investment gains expected as a result of changes to allowable investment policy. The revenue gains to the State Endowment Fund represent 109 percent of the accrued earnings in the State Endowment account that would be available for appropriation in each fiscal year.

The bill could affect the size and timing of tax revenue anticipation notes in fiscal 2023.

This legislation would do one or more of the following: create or recreate a dedicated account in the General Revenue Fund, create or recreate a special or trust fund either with or outside of the Treasury, or create a dedicated revenue source. The fund, account, or revenue dedication included in this bill would be subject to funds consolidation review by the current Legislature.

Technology

The Health and Human Services Commission, the Department of Family and Protective Services, and the Department of State Health Services indicate there would be significant IT costs to implement the provisions of the bill that would require the Comptroller to deposit federal funds into an account outside of the General Revenue Fund.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 304 Comptroller of Public Accounts, 529 Health and Human Services Commission

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