

**SUBJECT:** Requiring repayment to the rainy day fund

**COMMITTEE:** Appropriations — committee substitute recommended

**VOTE:** 18 ayes — Heflin, Luna, Berman, B. Brown, F. Brown, Crownover,  
J. Davis, Deshotel, Ellis, Gutierrez, Hamric, Hope, Menendez, Pickett, Pitts,  
Solis, Stick, Wohlgemuth

0 nays

11 absent — Branch, Dukes, Eiland, Hupp, Isett, E. Jones, Kolkhorst,  
McClendon, Raymond, Truitt, Turner

**WITNESSES:** For — None

Against — None

On — James LeBas, Comptroller's Office

**BACKGROUND:** The Economic Stabilization Fund or "rainy day fund," established in Texas Constitution, Art. 3, sec. 49-g, by a constitutional amendment in 1988, is appropriated half of any unencumbered revenue at the end of a biennium and 75 percent of any oil or natural-gas- production tax revenue that exceeds the amount collected in fiscal 1987. No transfers of unencumbered revenue have occurred since 1991, as the state's budgets have left no such revenue at the end of fiscal biennia. However, the rainy day fund has received about \$1 billion from excess natural-gas- production tax revenues since 1997. The fund may not exceed an amount equal to 10 percent of the general revenue (minus certain types of income and funds) received during the previous biennium. The fund balance projected at the end of the current biennium — \$1.2 billion — would represent about 2 percent of general revenue appropriated for fiscal 2002-03.

Generally, money in the rainy day fund may be spent only as approved by at least three-fifths of the members present in each house. Spending from the fund generally may not exceed the amount of any unanticipated deficit or revenue shortfall. However, any amount from the fund may be spent for any

purpose if at least two-thirds of the members present in each house approve it. The Legislature authorized transfers from the rainy fund for the foundation school program in 1989 and for criminal justice programs in 1993.

**DIGEST:** CSHB 3207 would appropriate the amount of any funds borrowed from the rainy day fund for fiscal 2003 back to the fund in fiscal year 2006. It would direct the comptroller to conduct that transfer by August 31, 2006. The bill would take effect September 1, 2003.

**SUPPORTERS SAY:** CSHB 3207 would ensure that the rainy day funds the House has proposed to borrow were returned in a timely manner. With a shortfall for fiscal 2003 and a tough economic situation, the House approved borrowing \$789 million from the fund in HB 7 by Heflin. Unless voters approve a proposed constitutional amendment (HJR 2 by Heflin), there would be no mandate for the Legislature to repay those funds.

The state should return the borrowed funds in order to build back the balance of the rainy day fund. Over the history of the rainy day fund, the balance has been low because surpluses often were spent before they could be deposited into the fund. Due to higher excess natural-gas-production tax revenues, the fund balance rose to a substantial level over recent years. If the House proposal to borrow from the fund were enacted, the balance would drop to about \$400 million. The state should ensure that those funds are borrowed and not just spent.

Repaying the rainy day fund would have significant fiscal benefits to the state. Bond credit rating agencies consider the presence of a reserve fund and the relative size of that fund when determining a state's creditworthiness. Repaying the rainy day fund could save on debt-service payments for new bond issues.

**OPPONENTS SAY:** It would be more prudent to require the return of the borrowed funds over the course of a biennium, rather than in one fiscal year because it would spread the impact of the repayment across both years.

**NOTES:** The committee substitute differs from the bill as introduced by setting the repayment date for fiscal 2006, rather than 2004.

HB 7 by Heflin, the supplemental appropriations bill that would appropriate about \$789 million from the rainy day fund to cover an anticipated fiscal 2003 shortfall and fund economic development projects, passed the House on April 17 and was referred to the Senate Finance Committee.

HJR 2 by Heflin, which would require any borrowing from the rainy day fund to be repaid the following biennium and grant a temporary exception for funds borrowed by the 78th Legislature, which would be returned in fiscal 2006-07, is on today's Constitutional Amendments Calendar.