SUBJECT: Separating federal funds from the general revenue fund

COMMITTEE: Appropriations — favorable, without amendment

VOTE: 17 ayes — Zerwas, Longoria, Ashby, G. Bonnen, Capriglione, Dukes, Giddings, Gonzales, Howard, Koop, Muñoz, Phelan, Roberts, Rose, Simmons, VanDeaver, Wu

0 nays

10 absent — Cosper, S. Davis, Dean, González, Miller, Perez, Raney, J. Rodriguez, Sheffield, Walle

WITNESSES: For — Dale Craymer, Texas Taxpayers and Research Association; Timothy Lee, Texas Retired Teachers Association; (*Registered, but did not testify*: Thomas Canby, Texas Association of School Business Officials; Ann Fickel, Texas Classroom Teachers Association; Mark Terry)

Against — Michael Openshaw

BACKGROUND: Art. 3, sec. 49-g of the Texas Constitution, ratified by voters in 1988, created the Economic Stabilization Fund (ESF), also known as the "rainy day fund." The Constitution requires that a portion of certain oil and gas taxes be deposited in the fund and specifies how appropriations from the fund may be made. The ESF is capped at 10 percent of general revenue funds deposited during the previous biennium, excluding investment income, interest income, and amounts in general revenue borrowed from special funds. The comptroller would suspend transfers to the ESF if it were to reach its cap, and interest on the money in the ESF would be deposited in the general revenue fund.

In 1995, the 74th Legislature enacted HB 3050 by Junell, which consolidated certain funds into the general revenue fund. As a result, certain federal funds that previously were excluded from general revenue now are included.

In January 2017, the comptroller estimated that if no money was appropriated from the ESF, its balance would be $11.9 billion at the end of fiscal 2018-19, below the estimated cap of $16.9 billion.

DIGEST:

HB 367 would prohibit the comptroller from depositing funds received from the federal government to the credit of the general revenue fund. Federal money would be required to be accounted for and administered separately from general revenue in a way that would ensure federal money was used for the purpose for which it was received. Interest and other earnings on money from the federal government would be deposited to the general revenue fund. The comptroller could designate, create, and adjust funds or accounts or money deposited to them to administer federal money under this bill or other laws.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect on the 91st day after the last day of the special session. To the extent of any conflict, HB 367 would prevail over other law providing for money received from the federal government, or earnings on such money, to be deposited to the credit of the general revenue fund.

SUPPORTERS SAY:

HB 367 would improve transparency in the state budgeting process by eliminating the comingling of federal and state dollars in the general revenue fund. The current practice of labeling federal money as "general revenue" is misleading because Texas receives those funds from the federal government for a specific purpose, and the state is not free to reallocate them. Having a mixture of state and federal money in the same fund can make it difficult to track whether dollars were spent for their intended purpose and to identify the amount of money that the Legislature has discretion in spending.

The bill also would restore the original purpose of the cap on the Economic Stabilization Fund (ESF). The fund is capped at 10 percent of general revenue from the previous biennium, but the definition of general revenue has broadened since the creation of the ESF, especially with the addition of federal funds. In fiscal 1990, federal funds were about 1.5 percent of deposits in the general revenue fund, and in fiscal 2016 they were about 30 percent. This has resulted in raising the base amount used to calculate the cap on the ESF, leading to a higher cap than originally was intended.

If federal money were removed from the general revenue fund, the base for calculating the cap and the cap itself would be reduced. According to the fiscal note, under current law the cap for fiscal 2020-21 would be $16.7 billion, whereas under HB 367 it would be $11.9 billion. If the bill were enacted, any funds earmarked for the ESF that exceeded the cap would then go to the general revenue fund. The fiscal note estimates that the bill would result in an increase of $213.7 million in general revenue in fiscal 2018-19 and $1.4 billion in fiscal 2020-21.

Additional revenue made available by reducing the ESF cap would be available for any purpose the Legislature deemed necessary. This could include meeting the state's obligations or paying for underfunded commitments of the state such as the Teacher Retirement System and TRS-Care. HB 367 could position the Legislature to consider dedicating money in excess of the cap for a specific purpose.

OPPONENTS SAY:

The Legislature should be deliberate about how it plans to spend any additional available general revenue that would result from HB 367. Returning dollars to taxpayers and the private sector, rather than increasing the size of state government, should receive a high priority. The Legislature also should consider dedicating excess funds to a specific purpose.

NOTES:

The Legislative Budget Board’s fiscal note estimates that the bill would have a positive impact of about $213.7 million on general revenue related funds through fiscal 2018-19. It also reports that health and human services agencies would need to reconfigure their internal accounting system, although a cost could not be estimated.