ECONOMIC STABILIZATION FUND

Texas Comptroller of Public Accounts — January 2015

Background

The Economic Stabilization Fund (ESF) — commonly called the "Rainy Day Fund" — was created by the passage of an amendment to the Texas Constitution in November 1988. The ESF is established in Article III, Section 49-g of the Constitution and became effective on Sept. 1, 1989.

Section 49-g spells out:

- Revenue sources deposited *to* the ESF and
- Requirements for making appropriations *from* the ESF

In November 2014, a constitutional amendment was passed allocating at least one-half of certain severance taxes to the ESF and the remainder to the State Highway Fund. Statute provided that the Legislature must establish a sufficient balance in the ESF. Depending on the amount established compared to the balance at the time of transfer, more than half of the allocated severance taxes could be moved to the ESF in order to maintain the sufficient balance.

How the ESF is funded

The ESF receives:

- An amount from General Revenue (GR) equal to one-half of 75 percent of Oil Production and Natural Gas Production tax revenues in any fiscal year that exceeds fiscal 1987 collections, exclusive of legislative action altering that amount, with the remainder going to the State Highway Fund. These taxes are also referred to collectively as "severance" taxes.
- One-half of any unencumbered GR surplus at the end of each biennium. Unencumbered GR is net of the amount of any tax allocations yet to be made, state agency encumbrances, accounts payable and payroll accruals, dedicated account balances and any required transfers to the ESF.
- All of the interest earned on the ESF balance.
- Direct appropriations to the ESF by the Legislature. Through fiscal 2014, no direct appropriations to the ESF have been made.

The ESF Cap

The Constitution caps the *maximum* ESF balance at an amount not to exceed 10 percent of certain GR deposited during the previous biennium. *Certain* GR is defined as the total amount deposited in the General Revenue Fund during the previous biennium *excluding* these revenue sources:

- Investment income
- Interest income
- Amounts borrowed from special funds

Reaching the ESF Cap

If the ESF were to reach the cap, the Texas Comptroller of Public Accounts (Comptroller's office) would:

- Reduce or eliminate transfers to the ESF to prevent the balance from exceeding the cap and
- Credit interest earned on the ESF balance to the General Revenue Fund

Transfers to and retention of interest in the ESF would resume in the first biennium in which the cap exceeds the ESF balance as a result of:

- An increase in the cap amount and/or
- A decrease in the ESF balance resulting from an appropriation

KEY FACTS

- Fiscal 1987 collections thresholds:
  - Natural gas production = $599.8M
  - Oil Production = $531.9M
- Result of passed November 2014 constitutional amendment:
  - One-half of 75% of Oil and Natural Gas Production tax revenues transfer to ESF; remainder to State Highway Fund contingent on legislative actions
- The ending fiscal 2014 ESF balance was $6.7B
- Fiscal 2014 Oil and Natural Gas Production tax revenues triggered a $3.48B transfer to the fund in December 2014 ($1.74B to ESF; $1.74B to State Highway Fund)
- The ESF cap for the 2014-15 biennium is $14.1 billion
- The ESF balance is expected to remain below the cap through the end of the 2014-15 biennium
- The Comptroller's office has up to 90 days after the end of the fiscal year to make transfers to the ESF — transfers are typically performed in late November

STATUTORY REFERENCE
Texas Constitution,
Article III, Section 49-g

Calculating the ESF Cap

The ESF cap for each biennium is based on certain revenue collections in the *previous* biennium. For example, the ESF cap for the 2014–15 biennium is based on revenue collections in fiscal 2012 and 2013.

As provided by the Constitution, the Comptroller's office calculates the ESF cap for each biennium by:

1. Starting with total net revenue deposited to the General Revenue Fund (including federal funds). This number is taken from Table 1 of the *Annual Cash Report* for each fiscal year of the previous biennium.
2. Adding revenue deposited to the Tobacco Settlement Fund, excluding accounting transfers. This number is taken from the Fund Detail section of the *Annual Cash Report* for each fiscal year of the previous biennium (listed as *GR Account — Tobacco Settlement 5040*).
3. Deducting interest and investment income deposited to the General Revenue Fund. This number is taken from Table 1 of the *Annual Cash Report* for each fiscal year of the previous biennium. (**NOTE:** Subtracting a negative results in a positive.)
4. Adding the results for the two years together to produce the revenue base for calculating the ESF cap. Ten percent of the revenue base is the ESF maximum limit for the following biennium.

It is possible to estimate the cap for the 2016-17 biennium. As with any *estimated* ESF Cap, the 2016-17 Cap is subject to revision based on any new estimates released by the Comptroller's office. The *actual* 2016-17 cap becomes final after fiscal 2015 closes and all collections affecting the 2016-17 cap have been received.

EXAMPLE: CALCULATION OF THE ESF CAP FOR THE 2014–15 BIENNIUM

	Fiscal 2012	Fiscal 2013	Biennium
Total Net Revenue			
General Revenue Fund	$ 67,599,178,506	$ 72,249,788,433	$ 139,848,966,939
Tobacco Settlement Account	474,568,628	484,717,059	959,285,687
	$68,073,747,134	$72,734,505,492	140,808,252,626
Less: Interest and Investment Income	(37,545,715)	(14,254,681)	(51,800,396)
Revenue Base	$68,111,292,850	$72,748,760,173	$140,860,053,022
			10%
		Economic Stabilization Cap for 2014-15 Biennium	**$14,086,005,302**

History of ESF Caps and Balances

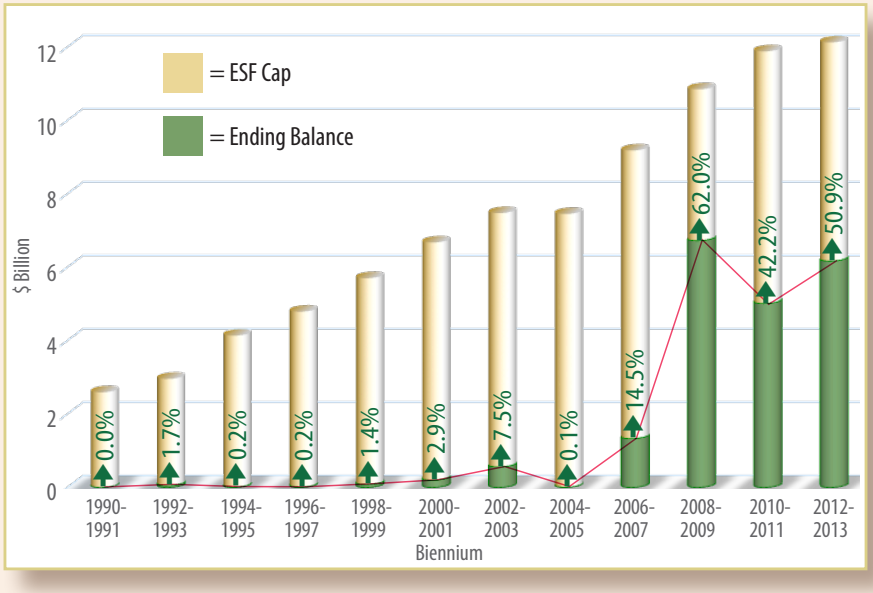
The graph in Figure 1 compares each biennial ESF cap to the ending balance during that biennium.

It also illustrates that from the fund's beginning in the 1990-91 biennium through the 2012-13 biennium, both the ESF cap and the ending balance generally increased.

Each biennium's ending balance is depicted as a percentage of the ESF cap. For the 2012-13 biennium, the ending balance was 50.9 percent of the cap.

For more information, see Figure 2 that provides comprehensive data for the ESF cap calculations and includes ending balances and percentages.

FIG. 1



ESF Balance Through End of Fiscal 2014-15 Biennium

The ESF balance is expected to remain *below* the cap through the end of the 2014–15 biennium due to recent and potential future appropriations from the fund including:

- A $1.9 billion appropriation from the ESF by the 83rd Legislature
- An additional $2 billion appropriation as a result of the constitutional amendment approved by voters in November 2013 creating the "State Water Implementation Fund for Texas" (see SJR 1, 83rd Legislature, Regular Session)
- A transfer equal to *one-half of the amount that would normally go to the ESF* that went to State Highway Fund 0006 beginning in fiscal 2015, due to the constitutional amendment passed in November 2014 — it contains provisions that could vary that amount based on certain actions (see SJR 1, 83rd Legislature, Third Called Session)

ESF History — by the Numbers

Figure 2 provides a comprehensive history of ESF revenues (transfers in) and appropriations (transfers out) and also includes end-of-fiscal-year balances, biennial caps and the ending balance as a percentage of the ESF cap.

FIG. 2 (Totals may not sum due to rounding)

Fiscal Year	Oil Production Tax Transfer	Natural Gas Production Tax Transfer	Unencumbered Balance Transfer	Interest	Net Transfers / Expenditures	Ending Balance	ESF Cap	End Bal as a % of ESF Cap
1990	$ –	$ 18,526,123	$ –	$ 768,017	$ –	$ 19,294,139	$ 2,590,973,396	0.7%
1991	–	7,779,489	–	1,920,687	(28,994,315) [1]	–	2,590,973,396	0.0%
1992	118,006,503	18,370,104	20,225,291	6,750,733	–	163,352,631	2,957,356,142	5.5%
1993	–	–	–	7,383,354	(119,040,135) [2]	51,695,850	2,957,356,142	1.7%
1994	–	31,048,685	–	3,000,440	(56,640,721) [2, 3]	29,104,254	4,134,982,882	0.7%
1995	–	–	–	577,535	(21,548,656) [2, 3]	8,133,133	4,134,982,882	0.2%
1996	–	–	–	423,018	(514,635) [2, 3]	8,041,517	4,788,944,776	0.2%
1997	–	–	–	436,219	50 [3]	8,477,786	4,788,944,776	0.2%
1998	–	47,526,206	–	2,299,758	–	58,303,750	5,701,820,276	1.0%
1999	–	17,914,917	–	3,778,399	–	79,997,066	5,701,820,276	1.4%
2000	–	–	–	4,684,904	–	84,681,970	6,674,876,709	1.3%
2001	–	103,132,694	–	8,681,293	–	196,495,956	6,674,876,709	2.9%
2002	–	685,804,382	–	21,635,787	–	903,936,125	7,475,639,977	12.1%
2003	–	83,567,733	–	19,439,820	(446,456,744) [4]	560,486,935	7,475,639,977	7.5%
2004	–	352,565,752	–	5,519,697	(553,002,886) [4]	365,569,498	7,451,288,798	4.9%
2005	–	594,494,766	–	17,347,524	(970,462,533) [4, 5]	6,949,255	7,451,288,798	0.1%
2006	112,066,771	792,982,384	–	21,490,970	(528,299,695) [5]	405,189,685	9,182,454,086	4.4%
2007	247,340,643	1,304,528,278	–	65,793,007	(691,459,011) [5]	1,331,392,602	9,182,454,086	14.5%
2008	226,876,754	971,783,592	1,779,873,149	135,989,995	(90,511,804) [5]	4,355,404,287	10,847,694,360	40.2%
2009	678,278,598	1,563,653,292	–	128,790,420	(447,576) [5]	6,725,679,021	10,847,694,360	62.0%
2010	263,926,649	605,971,991	–	97,004,212	360 [5]	7,692,582,232	11,883,851,665	64.7%
2011	357,152,197	94,321,451	–	66,994,776	(3,198,661,120) [6]	5,012,389,537	11,883,851,665	42.2%
2012	705,179,544	382,456,233	–	33,347,254	–	6,133,372,568	12,126,289,108	50.6%
2013	1,177,888,364	701,140,488	–	29,557,446	(1,871,774,448) [7]	6,170,184,418	12,126,289,108	50.9%
2014	1,843,252,767	671,569,881	–	24,519,557	(2,006,015,058) [7]	6,703,511,566	14,086,005,302	47.6%
Total	$ 5,729,968,790	$ 9,049,138,440	$ 1,880,098,439	$ 708,134,823	$ (10,583,828,927)	N/A	N/A	N/A

[1] Appropriated by S.B. 11, 71st Leg., 6th C.S., Ch. 27
[2] Appropriated by S.B. 171, 73rd Leg., R.S., Ch. 2
[3] Appropriated by S.B. 532, 73rd Leg., R.S., Ch. 988
[4] Appropriated by H.B. 7, 78th Leg., R.S., Ch. 1311
[5] Appropriated by H.B. 10, 79th Leg., R.S., Ch. 1362
[6] Appropriated by H.B. 275, 82nd Leg., R.S., Ch. 208
[7] Appropriated by H.B. 1025, 83rd Leg., R.S., Ch. 836