

Stricken language would be deleted from and underlined language would be added to present law.

Act 997 of the Regular Session

Act 997 of the Regular Session

State of Arkansas

As Engrossed: S4/8/19

92nd General Assembly

# A Bill

Regular Session, 2019

SENATE BILL 595

By: Senator Teague

## For An Act To Be Entitled

AN ACT TO DEFINE THE MONIES TO BE AVAILABLE IN THE RAINY DAY FUND; AND TO ALLOW THAT ADDITIONAL FUNDS MAY BE MADE AVAILABLE FOR STATE AGENCIES AND INSTITUTIONS APPROPRIATIONS; AND FOR OTHER PURPOSES

### Subtitle

AN ACT TO DEFINE THE MONIES TO BE AVAILABLE IN THE RAINY DAY FUND; AND TO ALLOW THAT ADDITIONAL FUNDS MAY BE MADE AVAILABLE FOR STATE AGENCIES AND INSTITUTIONS APPROPRIATIONS; AND FOR OTHER PURPOSES

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Legislative findings – Nonseverability.

(a) The General Assembly finds that:

(1) Determining the maximum amount of appropriation and funding for a state agency or institution each fiscal year is the prerogative of the General Assembly;

(2) Determining the maximum amount of appropriation and funding for a state agency or institution is usually accomplished by delineating the maximum amounts in the appropriation acts for the state agency or institution and in the general revenue allocations authorized for each relevant fund and fund account by amendment to the Revenue Stabilization Law, § 19-5-101 et seq.;

(3) The Rainy Day Fund has established procedures for the



transfer of funds to various funds and fund accounts for the efficient and effective operation of state government; and

(4) It is necessary and appropriate that the General Assembly maintain oversight by requiring prior approval of the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, as provided in § 19-5-1262(c)(2).

(b) The requirement of approval by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, is not a severable part of § 19-5-1262. If the requirement of approval by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, is ruled unconstitutional by a court of competent jurisdiction, § 19-5-1262 (c)(2) is void in its entirety.

SECTION 2. DO NOT CODIFY. Rainy Day Funding. Immediately upon the effective date of this Act, as soon thereafter as is practical or as authorized in this Section the State Treasurer shall transfer and credit to the "Rainy Day Fund", upon certification of the amounts thereof by the Chief Fiscal Officer of the State, the following:

(a)(1) Any funds remaining in the Rainy Day Fund at the end of a Fiscal Year shall carried forward to the next Fiscal Year unless specifically stated otherwise by law;

(2) Any balance remaining in the Rainy Day Fund from funds made available for a Rainy Day Fund Set-Aside by the 91st General Assembly shall be carried forward in the Rainy Day Fund;

(b) All unobligated and unallocated monies remaining in the "General Improvement Fund" or the "Development and Enhancement Fund" on June 30, 2019 which are not required to finance projects to be financed therefrom pursuant to appropriations enacted by the General Assembly, or which have not been reappropriated or reallocated for financing from the "Development and Enhancement Fund" by the 92nd General Assembly;

(c)(1) Any unobligated or unallocated funds remaining on July 2, 2019 in the "General Revenue Allotment Reserve Fund" from monies accruing thereto during the 2017-2019 fiscal biennium which are not required to finance enactments of the 92st General Assembly that do not expire on June 30, 2019, including all General Revenue Funds recovered from remaining fund balances;

(2) All General Revenue Funds recovered from remaining fund balances

in the "General Revenue Allotment Reserve Fund" from monies accruing thereto during the 2019-2020 fiscal year which are not required to finance enactments of the 92st General Assembly that do not expire on June 30, 2020;

(d) Those special revenues credited to the General Improvement Fund or the Development and Enhancement Fund from estate taxes as set out in Arkansas Code § 19-6-301(171);

(e) Other revenues as may be transferred or authorized by law; and

(f) Any funds provided by the Arkansas Attorney General from the Attorney General Consumer Education and Enforcement Account, received by the State of Arkansas through Settlement agreements or as designated by court order.

SECTION 3. DO NOT CODIFY. Rainy Day Fund Distribution and Set-Asides.

(a) Of those funds transferred and credited to the Rainy Day Fund as authorized in Section 2 of this Act, the State Treasurer shall first set aside fifty-four million six hundred sixty-nine thousand five hundred ninety-eight dollars (\$54,669,598) for the "Debt Obligations/Priority Rainy Day Set-Aside" enumerated in subsections (b)(1) through (b)(7) of this section.

(b) Debt Obligations/Priority Rainy Day Set-Aside:

(1) To establish the Debt Obligations/Priority Rainy Day Set-Aside within the Rainy Day Fund to be distributed from time to time in amounts as determined by the Chief Fiscal Officer of the State as authorized in subsections (b)(2) through (b)(7).

(2) For transfers to subsection (A) of Section 1 of Act 411 of 2019 and any reappropriations authorized by the General Assembly for this purpose, for lease payments associated with debt service on a 948-bed institution at Malvern, a 400-bed addition at the Grimes Unit at Newport, and 862-bed Special Needs Unit and addition to Ouachita River Unit at Malvern, in a sum not to exceed \$10,500,000;

(3) For a transfer to the Economic Development Incentive Quick Action Closing Fund, for incentives to attract new business and economic development to the state, in a sum not to exceed \$30,000,000;

(4) For transfers to the University of Arkansas Fund – Division of Agriculture, in a sum not to exceed \$1,869,598;

(5) For a transfer for the Department of Education to appropriations authorized for the Succeed Scholarship Program, in a sum not to exceed

\$1,800,000;

(6) For a transfer to the State Military Department Fund Account for the State Military Department - Youth Challenge Program in a sum not to exceed \$500,000; and

(7) For a transfer to the University of Arkansas for Medical Sciences National Cancer Institute Designation Trust Fund, in a sum not to exceed \$10,000,000.

(c) If it is determined by the Chief Fiscal Officer of the State that funding made available and set-aside in subsection (b) herein are not required then all or any portion of those funds may be transferred from time to time to the Rainy Day Fund.

(d)(1) The Treasurer of State shall then transfer and credit an amount not to exceed thirty million dollars (\$30,000,000) to the Rainy Day Fund.

(2) Once the thirty million dollars (\$30,000,000) authorized in subsection (d)(1) of this section is fully funded no additional funds shall be transferred or credited to the Rainy Day Fund as authorized in Section 2 of this Act with the exception of those funds made available and allocated in the Revenue Stabilization Allocations enacted by the General Assembly and any remaining balances in the Rainy Day Fund as of June 30, 2019.

SECTION 4. DO NOT CODIFY. Conditions and Audit. (a) Transfer of funds from the "Rainy Day Fund" shall be made only after the Chief Fiscal Officer of the State has determined that all criteria or pre-conditions established in the appropriation act to receive the transfer have been met and that a Method of Finance has been filed with the Office of Accounting in the Department of Finance and Administration, if required.

(b) Any matching funds as may be provided in law shall be certified to the Chief Fiscal Officer of the State prior to the commencement of the project.

(c) Any recipient of the funds appropriated herein are also subject to an audit by the Arkansas Legislative Audit of the Legislative Joint Auditing Committee in order to determine that the use of the funds was in compliance with the intent and appropriated purposes of the General Assembly.

SECTION 5. DO NOT CODIFY. Funding Authority. (a) Any enactment of the 92nd General Assembly in either regular, fiscal or extraordinary session

appropriating, transferring or allocating funds to the "Rainy Day Fund" shall be deemed to be payable from the "Rainy Day Fund".

(b) Appropriations which are not enumerated in this Act may be financed from monies accruing to the "Rainy Day Fund" to fund appropriations authorized by the General Assembly and as set out in law.

SECTION 6. DO NOT CODIFY. Duplicate Bills Enacted. If the House and the Senate bills of the 2019 Regular Session of the 92nd General Assembly to define monies to be available and distributed in the Rainy Day Fund, as authorized in Sections 1 through 5 of this Act, are both enacted and adopted by the 92nd General Assembly in identical form, then the last Act passed or latest expression shall supersede the other.

SECTION 7. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that changes in the state's fiscal laws must take effect at the beginning of the fiscal year, and that if the current legislative session is such that the ninety-day period is later than July 1, 2019, the changes required by this act will not be timely. Therefore, an emergency is declared to exist, and this act being necessary for the preservation of the public peace, health, and safety shall become effective on July 1, 2019.

*/s/Teague*

**APPROVED: 4/15/19**