

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

SENATE BILL 578

By: Senator J. Dismang
By: Representative Jean

For An Act To Be Entitled

AN ACT TO TRANSFER FUNDS, DEFINE THE MONIES TO BE AVAILABLE IN THE RESTRICTED RESERVE FUND; AND TO ALLOW THAT ADDITIONAL FUNDS MAY BE MADE AVAILABLE FOR STATE DEPARTMENTS, AGENCIES, AND INSTITUTIONS APPROPRIATIONS; AND FOR OTHER PURPOSES.

Subtitle

AN ACT TO TRANSFER FUNDS, DEFINE MONIES AVAILABLE IN THE RESTRICTED RESERVE FUND, AND TO ALLOW ADDITIONAL FUNDS FOR STATE DEPARTMENTS, AGENCIES AND INSTITUTIONS; 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 Restricted Reserve 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 § 19-5-1263(c).

(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 § 19-5-1263. 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, § 19-5-1263 (c)(d) and (e) are void in their entirety.

SECTION 2. DO NOT CODIFY. TRANSFERS TO THE RESTRICTED RESERVE FUND.
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 "Restricted Reserve Fund", upon certification of the amounts thereof by the Chief Fiscal Officer of the State, the following:

(a)(1) Notwithstanding other provisions of law as set out in Sections 2 (c) and 3 (d) of Act 225 of 2022, any unobligated funds which are set aside as authorized in Section 2 (a) of Act 225 of 2022 and in Section 3 (a) of Act 225 of 2022;

(2) Notwithstanding other provisions of law as set out subsections (c) and (d) of Section 3 of Act 1058 of the 2021 Regular Session, any unobligated funds which are set aside as authorized in Section 3 subsections (a)(1)(A) and (B), (a)(2)(A), (a)(3)(A),(B),(C), and (b) of Act 1058 of the 2021 Regular Session;

(b) All unobligated and unallocated monies remaining in the "Development and Enhancement Fund" on June 30, 2023 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 94th General Assembly;

(c)(1) All General Revenue Funds recovered from remaining fund balances in the "General Revenue Allotment Reserve Fund" from monies accruing thereto

during the 2021-2022 fiscal year which are not required to finance enactments of the 94th General Assembly that do not expire on June 30, 2022, including all General Revenue Funds recovered from remaining fund balances;

(2) Any unobligated or unallocated funds remaining on July 2, 2023 in the "General Revenue Allotment Reserve Fund" from monies accruing thereto which are not required to finance enactments of the 94th General Assembly that do not expire on June 30, 2023, including all General Revenue Funds recovered from remaining fund balances;

(3) All General Revenue Funds recovered from remaining fund balances in the "General Revenue Allotment Reserve Fund" from monies accruing thereto during the 2023-2024 fiscal year which are not required to finance enactments of the 94th General Assembly that do not expire on June 30, 2024, including all General Revenue Funds recovered from remaining fund balances;

(d) Those special revenues credited to 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.

SECTION 3. DO NOT CODIFY. TRANSFERS, RESTRICTED RESERVE FUND DISTRIBUTION AND SET-ASIDES. After having made transfers as authorized in this Act, and after having transferred or set-aside the obligations as set out in §19-5-202(b)(2)(B)(iii) as determined by the Chief Fiscal Officer of the State, for those funds transferred and credited to the Restricted Reserve Fund as authorized in Section 2 of this Act that are unobligated for other Set-Asides established in the 2023 Regular Session, the State Treasurer shall transfer funds or establish sub-funds in the Restricted Reserve Fund, referred to and established as Set-Asides in the Restrict Reserve fund herein, which shall be funded as funds are available in the following order:

(a) Set-Aside one billion one hundred fifty-two million two hundred twenty-seven thousand two hundred fifty-seven dollars (\$1,152,227,257) or so much as is available for the "Restricted Reserve Fund Set-Asides" as enumerated in subsections (a)(1) through (a)(27) of this section, less those Set-Asides that are effective upon passage and approval of this Act with fund transfer language, for purpose as set out in each Set-Aside, to be in the following order:

(1) Educational Facilities Set-Aside, Department of Education - Division of Public School Academic Facilities and Transportation, Educational

Facilities Partnership Fund Account, Academic Facilities Partnership for transfers from time to time, as authorized in 19-5-1263 (c), in a sum not to exceed \$250,000,000;

(2) Correctional Facilities Set-Aside, Department of Corrections, for transfers from time to time as determined by the Chief Fiscal Officer of the State, as authorized in 19-5-1263 (c), in a sum not to exceed \$330,000,000;

(3) State Crime Laboratory Building Set-Aside, Department of Public Safety - State Crime Laboratory, Development and Enhancement Fund, Arkansas State Crime Laboratory Facility Project for transfers from time to time, as authorized in 19-5-1263 (c), in a sum not to exceed \$200,000,000;

(4)(A) Infrastructure Investment and Jobs Act Grants Matching Set-Aside, for transfers from time to time as determined by the Chief Fiscal Officer of the State, as authorized in 19-5-1263 (c), to provide matching funds for the Infrastructure Investment and Jobs Act, in a sum not to exceed \$200,000,000;

(B) Notwithstanding other provisions as set out by law, immediately upon the effective date of this subsection, the Chief Fiscal Officer of the State shall transfer on his or her books and those of the State Treasurer and the Auditor of the State the sum of two hundred million dollars (\$200,000,000) from the General Revenue Allotment Reserve Fund to the Infrastructure Investment and Jobs Act Grants Matching Set-Aside as established in Section 3 (4)(A) herein;

(5) UAMS NCI Set-Aside, University of Arkansas for Medical Sciences for the University of Arkansas for Medical Sciences National Cancer Institute Designation Trust Fund or appropriated fund as determined by the Chief Fiscal Officer of the State, as requested by the University of Arkansas for Medical Sciences, for transfers from time to time, as authorized in 19-5-1263 (c), in a sum not to exceed \$50,000,000;

(6) School Safety Set-Aside, Department of Education for School Safety Grants for transfers from time to time as determined by the Chief Fiscal Officer of the State, as authorized in 19-5-1263 (c), in a sum not to exceed \$37,576,412;

(7) Transfer to the Arkansas Major Historic Rehabilitation Trust Fund, notwithstanding other provisions as set out by law and immediately upon the effective date of this subsection, the Chief Fiscal Officer of the State shall transfer on his or her books and those of the State Treasurer and the Auditor of the State the sum of forty million dollars (\$40,000,000) from the

General Revenue Allotment Reserve Fund to Arkansas Major Historic Rehabilitation Trust Fund for the Department of Parks, Heritage, and Tourism - Division of Heritage, for expenses to offset the cost of the income tax credits allowed under the Arkansas Major Historic Rehabilitation Income Tax Credit Act;

(8) Teacher Academy Scholarship Set-Aside, Department of Education - Division of Higher Education, Arkansas Teacher Academy Scholarship Program Fund for transfers from time to time, as authorized in 19-5-1263 (c), in a sum not to exceed \$12,000,000;

(9) Motor Vehicle Set-Aside, for transfers from time to time as determined by the Chief Fiscal Officer of the State, as authorized in 19-5-1263 (c), in a sum not to exceed \$20,000,000;

(10) Educational Freedom Account Set-Aside, Department of Education - Division of Elementary and Secondary Education, Arkansas Children's Educational Freedom Account Fund for transfers from time to time, as authorized in 19-5-1263 (c), in a sum not to exceed \$15,000,000;

(11) Transfer to the University of Arkansas for Medical Sciences - South Arkansas Hospital Expansion, notwithstanding other provisions as set out by law and immediately upon the effective date of this subsection, the Chief Fiscal Officer of the State shall transfer on his or her books and those of the State Treasurer and the Auditor of the State the sum of twelve million dollars (\$12,000,000) from the General Revenue Allotment Reserve Fund to the cash fund deposited in the State Treasury as determined by the Chief Fiscal Officer of the State to provide funds for the University of Arkansas for Medical Sciences to be used exclusively for grants for various expenses and working capital for hospital expansion in South Arkansas;

(12) Performance Fund Set-Aside, Performance Fund for transfers from time to time as determined by the Chief Fiscal Officer of the State, as authorized in 19-5-1263 (c), in a sum not to exceed \$10,000,000;

(13) Charter School Facilities Set-Aside, Department of Education, Division of Elementary and Secondary Education, Education Revolving Loan Certificates Fund or appropriated fund or fund account as determined by the Chief Fiscal Officer of the State for transfers from time to time, as authorized in 19-5-1263 (c), in a sum not to exceed \$12,000,000;

(14) State Police Troop School and Recruitment Set-Aside, Department of Public Safety - Division of Arkansas State Police, for Certified Troop School

and Training for transfers from time to time, as authorized in 19-5-1263 (c), in a sum not to exceed \$6,445,000;

(15) UAPB Land Grant Set-Aside, University of Arkansas at Pine Bluff, University of Arkansas at Pine Bluff Fund for transfers from time to time, as authorized in 19-5-1263 (c), in a sum not to exceed \$2,000,000;

(16) Teacher Education Program Set-Aside, Department of Education - Division of Higher Education, Higher Education Grants Fund Account or appropriated fund as determined by the Chief Fiscal Officer of the State, State Teacher Education Program for transfers from time to time, as authorized in 19-5-1263 (c), in a sum not to exceed \$1,100,000;

(17) Pregnancy Help Organization Grants Set-Aside, Department of Finance and Administration - Disbursing Officer, Pregnancy Help Organization Sub-Fund in the Miscellaneous Agencies Fund Account, Pregnancy Help Organization Grants for transfers from time to time, as authorized in 19-5-1263 (c), in a sum not to exceed \$1,000,000;

(18)(A) Various General Discretionary Majority Vote Set-Aside, for transfers from time to time as determined by the Chief Fiscal Officer of the State, in a sum not to exceed \$100,000,000;

(B) Notwithstanding other provisions of law as set out in 19-5-1263(c) the Various General Discretionary Majority Vote Set-Aside authorized in subsections (a)(18)(A) herein shall only require a majority affirmative vote as set out in the rules of the Legislative Council or the Joint Budget Committee during a legislative session of the General Assembly for prior approval of all disbursements;

(19) EBD or Contingency Set-Aside, for transfers from time to time as determined by the Chief Fiscal Officer of the State, as authorized in 19-5-1263 (c), in a sum not to exceed \$47,115,845;

(20) Game and Fish Grants Set-Aside, for transfers from time to time as requested by the Arkansas State Game and Fish Commission, as authorized in 19-5-1263 (c), in a sum not to exceed \$10,000,000;

(21) Rapid ID DNA Set Aside, Department of Public Safety – State Crime Laboratory, for the cash fund deposited in the State Treasury as determined by the Chief Fiscal Officer of the State for Rapid ID Jump Start Package, for transfers from time to time as determined by the Chief Fiscal Officer of the State, as authorized in 19-5-1263 (c), in a sum not to exceed \$370,000;

(22) Transfer to the Economic Development Incentive Quick Action Closing

Fund, Department of Commerce – Arkansas Economic Development Commission, for incentives to attract new business and economic development to the state, in a sum not to exceed \$35,000,000;

(23) Economic Stimulus Programs Set-Aside, For transfers from time to time to the Department of Commerce - Arkansas Economic Development Commission to fund or fund accounts as determined by the Chief Fiscal Officer of the State for funding for economic stimulus activities throughout the state, as authorized in 19-5-1263 (c), in a sum not to exceed \$10,000,000;

(24) Food Insecurity and Health Needs Set-Aside, to be funded with those funds deposited in the Restricted Reserve Fund as set out in SB479 of the 2023 Regular Session to be used to address food insecurity and health needs, for transfers from time to time, as determined by the Chief Fiscal Officer of the State as authorized in 19-5-1263 (c), in a sum not to exceed \$40,000,000;

(25) Drug Task Force Set-Aside, Department of Finance and Administration – Disbursing Officer, Miscellaneous Agencies Fund, State Drug Crime Enforcement and Prosecution Grant Awards, for transfers from time to time, as authorized in 19-5-1263 (c), in a sum not to exceed \$2,500,000;

(26) Economic Development Districts Set-Aside, for transfers from time to time by the Chief Fiscal Officer of the State in equal amounts to each of the eight Economic Development Districts, as authorized in 19-5-1263 (c), in a sum not to exceed \$120,000;

(27)(A) Law Enforcement Stipends Set-Aside. (i) The Arkansas Legislative Council may approve, modify, deny, pass-over or re-refer the report set out in subsection (ii), and may notify the Chief Fiscal Officer of the State how to distribute the Law Enforcement Stipends grants authorized in this Section. (ii) The Personnel Subcommittee of the Legislative Council shall report to the Legislative Council no later than September 15, 2023 a recommendation on how to distribute the Law Enforcement Stipends as grants. (iii) The Personnel Subcommittee shall implement a procedure to report to the Legislative Council as required in subsection (ii) herein.

(B) Notwithstanding other provisions of law as set out in Section 3 (ii) of Act 224 of 2022 on June 29, 2023, the Chief Fiscal Officer of the State shall transfer on his or her books and those of the State Treasurer and the Auditor of the State any remaining balances in the Law Enforcement Stipend Grant Sub-Fund in the Miscellaneous Agencies Fund Account as established in Act 224 of 2022 to the Law Enforcement Stipends Set-Aside as

established in subsection (27)(A) herein for distribution these funds from time to time as set out in subsection 27(A) herein.

(b) Next, set-aside three hundred eighty million six hundred forty-three thousand five hundred eighty-eight dollars (\$380,643,588) or so much as is available for the "Restricted Reserve Fund Set-Asides" as enumerated in subsections (b)(1) through (b)(9) of this section, for purpose as set out in each Set-Aside and funded in the following order:

(1) Educational Facilities Set-Aside, Department of Education - Division of Public School Academic Facilities and Transportation, Educational Facilities Partnership Fund Account, Academic Facilities Partnership for transfers from time to time, as authorized in 19-5-1263 (c), in a sum not to exceed \$250,000,000;

(2) UAMS NCI Set-Aside, University of Arkansas for Medical Sciences for the University of Arkansas for Medical Sciences National Cancer Institute Designation Trust Fund or appropriated fund for the designation as requested by the University of Arkansas for Medical Sciences for transfers from time to time, as authorized in 19-5-1263 (c), in a sum not to exceed \$50,000,000;

(3) Adequacy Set-Aside, Department of Education, Educational Adequacy Fund for transfers from time to time, as authorized in 19-5-1263 (c), in a sum not to exceed \$45,000,000;

(4) Teacher Academy Scholarship Set-Aside, Department of Education - Division of Higher Education, Arkansas Teacher Academy Scholarship Program Fund for transfers from time to time, as authorized in 19-5-1263 (c), in a sum not to exceed \$12,000,000;

(5) UAPB Land Grant Set-Aside, University of Arkansas at Pine Bluff, University of Arkansas at Pine Bluff Fund for transfers from time to time, as authorized in 19-5-1263 (c), in a sum not to exceed \$2,000,000;

(6) Teacher Education Program Set-Aside, Department of Education - Division of Higher Education, Higher Education Grants Fund Account or appropriated fund as determined by the Chief Fiscal Officer of the State, State Teacher Education Program for transfers from time to time, as authorized in 19-5-1263 (c), in a sum not to exceed \$1,100,000;

(7) School Safety Set-Aside, Department of Education for School Safety Grants for transfers from time to time as determined by the Chief Fiscal Officer of the State, as authorized in 19-5-1263 (c), in a sum not to exceed \$12,423,588;

(8) Human Development Center Master Plan Upgrades Set-Aside, Arkansas Department of Human Services – Division of Developmental Disabilities Services, for transfers from time to time as determined by the Chief Fiscal Officer of the State, as authorized in 19-5-1263 (c), in a sum not to exceed \$8,000,000;

(9) Economic Development Districts Set-Aside, for transfers from time to time by the Chief Fiscal Officer of the State as authorized in 19-5-1263 (c), in equal amounts to each of the eight Economic Development Districts, in a sum not to exceed, in a sum not to exceed \$120,000;

(c) Then all remaining unobligated funds not set-aside or transferred to the Restricted Reserve Fund as set out in SB479 of the 2023 Regular Session, that are transferred or credited to the Restricted Reserve Fund and any future collections, deposits and transfers authorized in Section 2 of this Act shall be transferred and credited to the General Revenue Allotment Reserve Fund.

SECTION 4. DO NOT CODIFY. Conditions and Audit. (a) Transfer of funds from the "Restricted Reserve 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 94th General Assembly in either regular, fiscal or extraordinary session appropriating, transferring or allocating funds to the "Restricted Reserve Fund" may be deemed to be payable from the "Restricted Reserve Fund".

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

SECTION 6. EMERGENCY CLAUSE. It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2023 is essential to allow transfers which can provide an additional funding mechanism for the operation of state departments, agencies and institutions of higher education, as well as to address unforeseen needs of the state through the disbursement of state funds with the Restricted Reserve Fund as authorized in this Act; with the exception that Section 3 Subsections (a)(4), (a)(7), (a)(11), and (a)(27) in this Act shall be in full force and effect from and after the date of its passage and approval, and that in the event of an extension of the Regular Session, the delay in the effective date of this Act beyond July 1, 2023, with the exception that Section 3 Subsections (a)(4), (a)(7), (a)(11), and (a)(27) in this Act shall be in full force and effect from and after the date of its passage and approval, could work irreparable harm upon the proper the proper transfer of funds, administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2023; with the exception that Section 3 Subsections (a)(4), (a)(7), (a)(11), and (a)(27) in this Act shall be in full force and effect from and after the date of its passage and approval.

APPROVED: 4/11/23