

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

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: S3/30/17
A Bill

SENATE BILL 552

By: Senator Teague

For An Act To Be Entitled

AN ACT TO CREATE THE RAINY DAY FUND; 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

TO CREATE THE RAINY DAY FUND AND TO PROVIDE ADDITIONAL FUNDS FOR STATE AGENCIES AND INSTITUTIONS.

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

SECTION 1. Arkansas Code Title 19, Chapter 5, Subchapter 12, is amended to add an additional section to read as follows:

19-5-1258. Rainy Day Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a miscellaneous fund to be known as the "Rainy Day Fund".

(b) The Rainy Day Fund shall consist of:

(1) Funds transferred to the Rainy Day Fund from the General Improvement Fund;

(2) Attorney General settlement funds;

(3) Interagency transfers of funds to the Rainy Day Fund;

(4) Any revenues provided by law; and

(5) Any other funds and fund transfers provided for by law.

(c) The Chief Fiscal Officer of the State shall use the Rainy Day Fund



for transfers to:

(1)(A) Provide funding for one (1) or more General Improvement Fund appropriations or General Improvement Fund reappropriations enacted by the General Assembly.

(B) At the time of a transfer under subdivision (c)(1)(A) of this section, the Chief Fiscal Officer of the State shall notify the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee, of the transfer of funds, the amount of funds transferred, and the purpose of the transfer; and

(2) One (1) or more funds or fund accounts authorized by the General Assembly, other than the General Improvement Fund, upon prior approval by the Legislative Council or, if the General Assembly is in session, the Joint Budget Committee.

SECTION 2. 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) Creating the Rainy Day Fund and establishing the procedures for the transfer of funds to various funds and fund accounts provides 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 § 19-5-1258(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 § 19-5-1258. 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, § 19-5-1258 is void in its entirety.

SECTION 3. DO NOT CODIFY. Rainy Day Funding. Immediately upon the effective date of this Act, or as soon thereafter as is practical, 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) all unobligated and unallocated monies remaining in the "General Improvement Fund" on June 30, 2017 which are not required to finance projects to be financed therefrom pursuant to appropriations enacted by the 90th General Assembly, or which have not been reappropriated or reallocated for financing from the "General Improvement Fund" by the 91st General Assembly;

(b)(1) any unobligated or unallocated funds remaining on July 2, 2017, including all General Revenue Funds recovered from remaining fund balances in the "General Revenue Allotment Reserve Fund" from monies accruing thereto during the 2015-2017 fiscal biennium which are not required to finance enactments of the 91st General Assembly that do not expire on June 30, 2017,

(2) All General Revenue Funds recovered from remaining fund balances in the "General Revenue Allotment Reserve Fund" from monies accruing thereto during the 2017-2018 fiscal year which are not required to finance enactments of the 91st General Assembly that do not expire on June 30, 2018.

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

(d) Any available balance remaining in the 90th Session Projects Account of the General Improvement Fund from funds set aside and any funds made available for a Rainy Day Set-Aside; and

(e) 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 4. DO NOT CODIFY. Rainy Day Set-Asides.

(a)(1) Of those funds transferred and credited to the "Rainy Day Fund" as authorized in Section 3 of this Act, the State Treasurer shall first set-aside one hundred sixty million five hundred thousand dollars (\$160,500,000)

for the Priority / Debt Obligations Set-Asides enumerated in subsection (e)(2) through (e)(4) of this Section.

(A) The Priority / Debt Obligations Set-Asides enumerated in Section 4 subsections (e)(2) through (e)(4) shall be distributed from time to time in amounts as determined by the Chief Fiscal Officer of the State.

(2) The Treasurer of State shall then set-aside the next fifty two million dollars (\$52,000,000) for the Executive / Legislative Shared Projects Set-Asides enumerated in subsection (f)(2) through (f)(4) of this Section.

(A) The Executive / Legislative Shared Projects Set-Asides enumerated in Section 4 subsection (f)(2) through (f)(4) shall be distributed from time to time in amounts as determined by the Chief Fiscal Officer of the State.

(b) If it is determined by the Chief Fiscal Officer of the State that funding made available and set-aside in subsections (a) herein are not required at the amount authorized, then all or any portion of those funds may be transferred from time to time from the Rainy Day Priority / Debt Obligations Set-Asides or the Executive / Legislative Shared Projects Set-Asides to the Rainy Day Fund.

(c)(1) The Treasurer of State shall then transfer and credit an amount not to exceed twenty million dollars (\$20,000,000) to the "Rainy Day Fund".

(2) Once the twenty million enumerated in subsection (c)(1) of this Section is fully funded no additional funds shall be transferred or credited to the "Rainy Day Fund" as authorized in Section 3 of this Act with the exception of those funds made available and allocated in the Revenue Stabilization Allocations enacted by the General Assembly.

(d) Any unobligated funds remaining in the Rainy Day Fund Priority / Debt Obligations Set-Asides or the Executive / Legislative Shared Projects Set-Asides established in Section (4) of this Act as of July 1, 2019 shall be transferred from the Set-Asides to the Rainy Day Fund.

(e) Priority / Debt Obligations Set-Asides:

(1) To establish the "Priority / Debt Obligations Set-Asides" within the Rainy Day Fund to be distributed as authorized and enumerated in subsections (e)(2) through (e)(4).

(2) Act 224 of 2017 and any reappropriation authorized by the General Assembly for Act 224 of 2017 for the Department of Correction, 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 the Ouachita River Unit at Malvern, in a sum not to exceed \$10,500,000;

(3) Act 230 of 2017 and any reappropriation authorized by the General Assembly for Act 230 of 2017 for the Department of Human Services, for grant payments of the Arkansas Medicaid Program of the Department of Human Services - Division of Medical Services - Grants, in a sum not to exceed \$90,000,000;

(4) Act 268 of 2017 and any reappropriation authorized by the General Assembly for Act 268 of 2017 for the Department of Education - Division of Public School Academic Facilities and Transportation for transfer to the Educational Facilities Partnership Fund Account, for grants and aid and special programs providing academic school facility and transportation assistance to the public school districts by the Division of Public School Academic Facilities and Transportation, in a sum not to exceed \$60,000,000.

(f) Executive / Legislative Shared Projects Set-Asides:

(1) To establish the "Executive / Legislative Shared Projects Set-Asides" within the Rainy Day Fund to be distributed as authorized and as enumerated in subsections (f)(2) through (f)(4).

(2) Act 468 of 2017 and any reappropriation authorized by the General Assembly for Act 468 of 2017 for the Arkansas Economic Development Commission 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;

(3) Act 468 of 2017 and any reappropriation authorized by the General Assembly for Act 468 of 2017 for the Arkansas Economic Development Commission, for a transfer to the Arkansas Acceleration Fund for the Arkansas business technology accelerator program, in a sum not to exceed \$2,000,000;

(4) For a transfer to the Arkansas Highway Transfer Fund, in a sum not to exceed, \$20,000,000.

SECTION 5. DO NOT CODIFY. (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 is also subject to an audit by the Arkansas Legislative Audit in order to determine that the use of the funds was in compliance with the intent and appropriated purposes of the General Assembly.

SECTION 6. DO NOT CODIFY. Funding authority. (a) Any enactment of the 91st 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 as authorized by the General Assembly.

SECTION 7. DO NOT CODIFY. Duplicate bills enacted. If the House and the Senate bills of the 2017 Regular Session of the 91st General Assembly creating a Rainy Day Fund, are both enacted and adopted by the 91st General Assembly in identical form, then the last Act passed or latest expression shall supersede the other.

SECTION 8. EMERGENCY CLAUSE. It is hereby 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 extended such that the ninety-day period is later than July 1, 2017, 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, 2017.

/s/Teague