

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

State of Arkansas
91st General Assembly
First Extraordinary Session, 2017

As Engrossed: S5/2/17
A Bill

Call Item 6
SENATE BILL 5

By: Senators J. Hendren, J. Dismang
By: Representative Gillam

For An Act To Be Entitled

AN ACT TO AMEND INITIATED ACT 1 OF 2000, ALSO KNOWN AS THE "TOBACCO SETTLEMENT PROCEEDS ACT"; TO AUTHORIZE THE TRANSFER OF FUNDS FROM THE ARKANSAS HEALTHY CENTURY TRUST FUND; TO TRANSFER FUNDS FROM THE ARKANSAS HEALTHY CENTURY TRUST FUND TO THE LONG TERM RESERVE FUND; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND INITIATED ACT 1 OF 2000; TO AUTHORIZE THE TRANSFER OF FUNDS FROM THE ARKANSAS HEALTHY CENTURY TRUST FUND TO THE LONG TERM RESERVE FUND; AND TO DECLARE AN EMERGENCY.

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

SECTION 1. DO NOT CODIFY. Legislative findings.

The General Assembly finds that:

(1) The level of state financial reserves affects the state's credit rating, as a higher level of reserves will result in a better credit rating;

(2) Arkansas scores low on financial reserves analyses, with the lack of adequate reserves negatively affecting the state's credit rating;

(3) S&P Global Ratings gives the highest possible score, consistent with a AAA-rating, for states in which "[t]here is a formal



budget-based reserve relative to revenue or spending that is above 8%”;

(4) S&P affirmed its ‘AA’ long-term rating to Arkansas’s series 2016 taxable refunding higher education general obligation bonds and noted, “The state lacks a formal reserve and liquidity policy . . .” but also noted that the State of Arkansas has formed a funding strategy for the state’s Long Term Reserve Fund;

(5) A funded reserve fund and a higher credit rating will save the state money;

(6) Arkansas currently has approximately one billion five hundred million dollars (\$1,500,000,000) in outstanding general obligation debt;

(7) An improvement in the state’s credit rating from AA to AAA would allow the state to borrow money at twelve (12) to fifteen (15) basis points below the current AA-rate, potentially saving the state one million eight hundred thousand dollars (\$1,800,000) per year in interest costs; and

(8) In addition to financial benefits from a higher credit rating, there are numerous qualitative benefits, including the increased appeal of a higher credit rating to potential new industries, which will assist the state in pursuing the important goal of recruiting industry to our state.

SECTION 2. Arkansas Code § 19-6-486 is amended to read as follows:

19-6-486. Long Term Reserve 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 special revenue fund to be known as the “Long Term Reserve Fund”.

(b) The Long Term Reserve Fund shall consist of such funds as may be provided by the General Assembly.

(c) The Long Term Reserve Fund shall be used to distribute moneys to one (1) or more funds or fund accounts in the Revenue Stabilization Law, § 19-5-101 et seq.

(d)(1) After determining the estimated amount of general revenue that will be available for allocation to the state agencies under the Revenue Stabilization Law, § 19-5-101 et seq., and after making the determination required by § 19-5-1227(c) and prior to making any transfers deemed necessary by the Chief Fiscal Officer of the State in § 19-5-1227(d), the Chief Fiscal

Officer of the State may transfer funds from the Long Term Reserve Fund in the event a "revenue shortfall" exists to meet the state's financial obligation to provide an adequate educational system for the state and to provide for the effective operation of state government. In the event the Chief Fiscal Officer of the State determines that a "revenue shortfall" exists as defined as a circumstance when the official forecast of gross general revenue certified by the Chief Fiscal Officer of the State is projected to increase less than three percent (3%) over and above the gross general revenue collections of the previous fiscal year due to changes in economic conditions, he or she may then transfer funds from the Long Term Reserve Fund, as approved by a vote of at least two-thirds (2/3) of the members of the Legislative Council or at least two-thirds (2/3) of the members of the Joint Budget Committee, to various funds and fund accounts, as deemed necessary, in the Revenue Stabilization Law, § 19-5-101 et seq., for the purpose of meeting unanticipated shortfalls in state general revenue.

(2) Or the Chief Fiscal Officer of the State may transfer funds from the Long Term Reserve Fund to the Economic Development Superprojects Project Fund for projects authorized under Arkansas Constitution, Amendment 82, as approved by the Governor and at least two-thirds (2/3) of the members of the Legislative Council or at least two-thirds (2/3) of the members of the Joint Budget Committee.

(e)(1) Upon recommendation by the Chief Fiscal Officer of the State, the Governor may determine that circumstances exist that meet the requirements for the utilization of the Long Term Reserve Fund as set out in this section, and the procedures set out herein shall apply.

(2) When the Governor determines there is a need requiring transfer from the Long Term Reserve Fund, he or she shall instruct the Chief Fiscal Officer of the State to prepare and submit written documentation to the Legislative Council or the Joint Budget Committee. Such documentation shall include:

(A) Sufficient financial data that will enable the verification of the existence of an emergency and the amount necessary to address the need for long term reserve funds;

(B) A proposed distribution of moneys from the Long Term Reserve Fund to one (1) or more funds or fund accounts in the Revenue Stabilization Law, § 19-5-101 et seq., or to the Economic Development Superprojects Project

Fund, or both; and

(C) A statement certifying that no other funds are available that could be transferred in lieu of the funds in the Long Term Reserve Fund.

(3) Such documentation shall be submitted to the Legislative Council or Joint Budget Committee for approval prior to the implementation of the proposed distribution. The Chief Fiscal Officer of the State, after having sought and received prior approval of at least two-thirds (2/3) of the members of the Legislative Council or at least two-thirds (2/3) of the members of the Joint Budget Committee, shall cause the required transfers to be made on his or her books and on the books of the Treasurer of State and the Auditor of State from the Long Term Reserve Fund to the appropriate funds and fund accounts in the Revenue Stabilization Law, § 19-5-101 et seq., or to the Economic Development Superprojects Project Fund, or both. In no event shall the amounts transferred in any fiscal year to the funds and fund accounts in the Revenue Stabilization Law, § 19-5-101 et seq., by this section cause the general revenues to exceed the maximum allocations authorized in the Revenue Stabilization Law, § 19-5-101 et seq.

(f) Determining the maximum amount of appropriation and general revenue funding for a state agency each fiscal year is the prerogative of the General Assembly. This is usually accomplished by delineating such maximums in the appropriation acts for a state agency and the general revenue allocations authorized for each fund and fund account by amendment to the Revenue Stabilization Law, § 19-5-101 et seq. Further, the General Assembly has determined that creating the Long Term Reserve Fund and establishing the procedures for the transfer of funds to various funds and fund accounts in the Revenue Stabilization Law, § 19-5-101 et seq., or to the Economic Development Superprojects Project Fund, or both, provides for the efficient and effective operation of state government if a revenue shortfall is determined to exist. Therefore, it is both necessary and appropriate that the General Assembly maintain oversight by requiring prior approval of the Legislative Council or Joint Budget Committee as provided by this section. The requirement of approval by the Legislative Council or Joint Budget Committee is not a severable part of this section. If the requirement of approval by the Legislative Council or Joint Budget Committee is ruled unconstitutional by a court of competent jurisdiction, this entire section is void.

(g) During each fiscal year, after the provisions of § 19-5-1004(b)(2) are complied with, the Chief Fiscal Officer of the State ~~may~~ shall replenish the Long Term Reserve Fund by transferring no more than fifty percent (50%) of the balance in the General Revenue Allotment Reserve Fund or an amount equal to all transfers made under this section during the fiscal year immediately preceding the fiscal year in which such replenishment is made under this section, whichever is less, to the Long Term Reserve Fund. ~~In no event shall the balance of the Long Term Reserve Fund exceed one hundred twenty five million dollars (\$125,000,000) at any time.~~

SECTION 3. Arkansas Code § 19-12-107(e), concerning the Arkansas Healthy Century Trust Fund and derived from Initiated Act 1 of 2000, is amended to read as follows:

(e) The Arkansas Healthy Century Trust Fund shall be held in trust and used for the following purposes, and no other purposes:

(1) investment earnings on the Arkansas Healthy Century Trust Fund may be used for:

(A) the payment of expenses related to the responsibilities of the State Board of Finance as set forth in § 19-12-103; and

(B) such programs, and other projects related to health care services, health education, and health-related research as shall, from time to time, be designated in legislation adopted by the General Assembly;

(2) the principal amounts in the Arkansas Healthy Century Trust Fund may ~~only~~ be used for such programs, and other projects related to health care services, health education, and health-related research as shall, from time to time, be designated in legislation adopted by the General Assembly, it being the intent of this chapter that the principal amount of the Arkansas Healthy Century Trust Fund should not be appropriated without amendment of this public trust; and

(3) notwithstanding subdivisions (e)(1) and (e)(2) of this section, investment earnings and principal amounts from the Arkansas Healthy Century Trust Fund may be transferred as designated in legislation adopted by the General Assembly.

SECTION 4. DO NOT CODIFY. Transfer from the Arkansas Healthy Century

Trust Fund.

Immediately upon the effective date of this act or as soon as is practicable after the effective date of this act, the Chief Fiscal Officer of the State shall transfer on his or her books and the books of the Treasurer of State and the Auditor of State the balance of the Arkansas Healthy Century Trust Fund to the Long Term Reserve Fund.

SECTION 5. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the State of Arkansas does not have a dedicated source of budget reserves; that providing funding for the Long Term Reserve Fund could improve the credit rating of the State of Arkansas and increase the fiscal strength and stability of the state; and that this act is immediately necessary because the transfer of the balance of the Arkansas Healthy Century Trust Fund to other state purposes would improve the state's credit rating and save the state a significant amount of money that could then be used for other important state purposes. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

- (1) The date of its approval by the Governor;
- (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or
- (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/J. Hendren