

1 State of Arkansas
2 83rd General Assembly
3 First Extraordinary Session, 2002
4

A Bill

Call Item #4

HOUSE BILL 1004

5 By: Representatives M. Smith, Agee
6
7

For An Act To Be Entitled

9 AN ACT TO CREATE AND FUND THE ARKANSAS RAINY DAY
10 FUND WITH ESTATE, SALES AND USE TAXES; TO PROVIDE
11 THE CONDITIONS FOR TRANSFERS FROM THE FUND; AND
12 FOR OTHER PURPOSES.

Subtitle

15 AN ACT TO CREATE AND FUND THE ARKANSAS
16 RAINY DAY FUND AND PROVIDE FOR TRANSFERS
17 FROM THE FUND.
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. (a) There is hereby created on the books of the Treasurer
23 of State, the Auditor of State, and the Chief Fiscal Officer of the State a
24 special revenue fund to be known as the Arkansas Rainy Day Fund.

25 (b) The fund shall consist of such monies as made available by the
26 General Assembly, estate tax as provided in Arkansas Code 26-59-122, and
27 sales and use taxes as provided in Arkansas Code 26-26-310.
28

29 SECTION 2. Arkansas Code 26-59-122 is amended to read as follows:
30 26-59-122. Disposition and allocation of funds.

31 (a)(1) ~~All~~ Until January 1, 2003, all taxes, fees, penalties, and
32 costs received by the Director of the Department of Finance and
33 Administration under the provisions of this chapter shall be general revenues
34 and shall be deposited in the State Treasury to the credit of the State
35 Apportionment Fund, except that the amount of estate taxes collected in a
36 calendar year that exceeds ten percent (10%) of the average annual estate

1 taxes collected for a five-year period immediately preceding the calendar
2 year or fifteen million dollars (\$15,000,000), whichever is greater, shall be
3 deposited into the State Treasury as special revenues and credited to the
4 General Improvement Fund.

5 (2) Beginning January 1, 2003, all taxes, fees, penalties, and
6 costs received by the Director of the Department of Finance and
7 Administration under the provisions of this chapter shall be general revenues
8 and shall be deposited in the State Treasury to the credit of the State
9 Apportionment Fund, except that the amount of estate taxes collected in a
10 calendar year that exceeds ten percent (10%) of the average annual estate
11 taxes collected for a five-year period immediately preceding the calendar
12 year or fifteen million dollars (\$15,000,000), whichever is greater, shall be
13 deposited into the State Treasury as special revenues and credited to the
14 Arkansas Rainy Day Fund.

15 (b) The Treasurer of State shall allocate and transfer the funds to the
16 various State Treasury funds participating in general revenues in the
17 respective proportions to each as provided by and to be used for the
18 respective purposes set forth in the Revenue Stabilization Law, § 19-5-101 et
19 seq.

20 (c) Beginning with the effective date of this act and until January 1,
21 2003, all taxes, fees, penalties, and costs received by the Director of the
22 Department of Finance and Administration under the provisions of this chapter
23 that are in the General Improvement Fund or that will accrue to the General
24 Improvement Fund but are not transferred by any other provision of law, shall
25 be special revenues and shall be deposited in the State Treasury to the
26 credit of the Arkansas Rainy Day Fund.

27
28 SECTION 3. Arkansas Code 26-26-310(b), pertaining to county property
29 tax reimbursements, is amended to read as follows:

30 (b)(1) Reimbursements to each county shall continue on a monthly basis
31 from the fund until the full amount certified by the county collectors, as of
32 November 15 of each year, has been paid.

33 (2)(A) In no event shall the amount distributed to a county
34 during a calendar year from the fund exceed the final amount certified by the
35 county collector as of November 15 as the property tax reduction for that
36 calendar year resulting from § 26-26-1118.

1 (B) If a county is paid in excess of its proportionate
2 share, the Chief Fiscal Officer of the State shall have the authority to
3 reduce payments made to the county for the subsequent calendar year until the
4 overpayment is recovered.

5 (C) ~~(i) Commencing December 31, 2002, and each December 31~~
6 ~~thereafter, the Chief Fiscal Officer of the State, in cooperation with the~~
7 ~~Legislative Council and the Legislative Auditor, shall determine that portion~~
8 ~~of the balance remaining that is in excess of the required reimbursement to~~
9 ~~the counties and shall certify the excess to the Treasurer of State. Such~~
10 ~~excess funds may be used in accordance with subsequent legislation to provide~~
11 ~~additional tax relief or financial assistance to school districts that incur~~
12 ~~a reduction in revenue as a direct result of Arkansas Constitution, Amendment~~
13 79. On or after July 15, 2002, the Chief Fiscal Officer of the State, with
14 the review of the Legislative Council, shall determine the amount necessary
15 to pay the required reimbursement to the counties for calendar year 2002
16 certifications. The first thirty million dollars (\$30,000,000) available for
17 distribution from the Property Tax Relief Trust Fund in excess of the amount
18 determined to be required for reimbursement to the counties for calendar year
19 2002 shall be deposited in the Arkansas Rainy Day Fund.

20 (ii) Commencing December 31, 2003, and each December
21 31 thereafter, the Chief Fiscal Officer of the State, in cooperation with the
22 Legislative Council and the Legislative Auditor, shall determine that portion
23 of the balance remaining that is in excess of the required reimbursement to
24 the counties and shall certify the excess to the Treasurer of State. Such
25 excess funds may be used in accordance with subsequent legislation to provide
26 additional tax relief or financial assistance to school districts that incur
27 a reduction in revenue as a direct result of Arkansas Constitution, Amendment
28 79.

29 (3)(A) The Legislative Auditor or his or her designee shall audit
30 the books and records of the county assessor, county collector, or any other
31 party as needed to ensure that the amount of the property tax reduction
32 certified by the county collector is accurate.

33 (B) The Chief Fiscal Officer of the State shall have the
34 authority to adjust the amount certified by the county collector if it is
35 discovered that the certified amount is incorrect.

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1 SECTION 4. (a) In the event the Chief Fiscal Officer of the State
 2 lowers the estimate of general revenue available for distribution under the
 3 provisions of the Revenue Stabilization Law, beginning at Arkansas Code 19-5-
 4 101, in effect on July 1, 2002, such funds as are available from the Arkansas
 5 Rainy Day Fund may be used to supplement the lost general revenues that would
 6 have otherwise been distributed, by transferring those funds to the following
 7 general revenue funds and fund accounts in the following proportions:

8 (1) Department of Education Public School Fund Account (Arkansas
 9 Code 19-5-305(a)(1)) – Fifty Percent (50%);

10 (2) Department of Human Services Grants Fund Account (Arkansas
 11 Code 19-5-306(10)(A)) – Twenty-Five (25%); and

12 (3) Department of Correction Inmate Care and Custody Fund
 13 Account (Arkansas Code 19-5-302(1)(A)) – Twenty-Five Percent (25%).

14 (b) The Chief Fiscal Officer of the State shall make such fund
 15 transfers on the books of the Treasurer of State and Auditor of State as are
 16 necessary to effectuate the provisions of this section. In no event shall
 17 amounts transferred to the funds cited in subsection (a) of this section,
 18 cause the general revenues provided under this section to exceed the maximum
 19 allocations provided them in Arkansas Code 19-5-403 and 19-5-404.

20
 21 SECTION 5. EMERGENCY CLAUSE. It is found and determined by the
 22 General Assembly of the State of Arkansas that the general revenues of the
 23 State of Arkansas have significantly decreased as a result of distressed
 24 economic conditions; that a contingency fund should be created and funded for
 25 the purpose of adequately maintaining necessary state programs and services;
 26 that this bill provides a mechanism for necessary fund transfers in the event
 27 that the Chief Fiscal Officer is required to lower the estimate of available
 28 general revenues during the fiscal year ending June 30, 2003. Therefore, an
 29 emergency is declared to exist and this act being immediately necessary for
 30 the preservation of the public peace, health and safety shall become
 31 effective on the date of its approval by the Governor. If the bill is
 32 neither approved nor vetoed by the Governor, it shall become effective on the
 33 expiration of the period of time during which the Governor may veto the bill.
 34 If the bill is vetoed by the Governor and the veto is overridden, it shall
 35 become effective on the date the last house overrides the veto.