

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

*As Engrossed: S3/30/17*

# A Bill

SENATE BILL 552

5 By: Senator Teague  
6

## For An Act To Be Entitled

8 AN ACT TO CREATE THE RAINY DAY FUND; TO DEFINE THE  
9 MONIES TO BE AVAILABLE IN THE RAINY DAY FUND; AND TO  
10 ALLOW THAT ADDITIONAL FUNDS MAY BE MADE AVAILABLE FOR  
11 STATE AGENCIES AND INSTITUTIONS APPROPRIATIONS; AND  
12 FOR OTHER PURPOSES.  
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## Subtitle

15 TO CREATE THE RAINY DAY FUND AND TO  
16 PROVIDE ADDITIONAL FUNDS FOR STATE  
17 AGENCIES AND INSTITUTIONS.  
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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23 SECTION 1. Arkansas Code Title 19, Chapter 5, Subchapter 12, is  
24 amended to add an additional section to read as follows:

25 19-5-1258. Rainy Day Fund.

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

29 (b) The Rainy Day Fund shall consist of:

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

32 (2) Attorney General settlement funds;

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

34 (4) Any revenues provided by law; and

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

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



1 for transfers to:

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

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

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

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15 SECTION 2. DO NOT CODIFY. Legislative findings – Nonseverability.

16 (a) The General Assembly finds that:

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

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

26 (3) Creating the Rainy Day Fund and establishing the procedures  
27 for the transfer of funds to various funds and fund accounts provides for the  
28 efficient and effective operation of state government; and

29 (4) It is necessary and appropriate that the General Assembly  
30 maintain oversight by requiring prior approval of the Legislative Council or,  
31 if the General Assembly is in session, the Joint Budget Committee, as  
32 provided in § 19-5-1258(c)(2).

33 (b) The requirement of approval by the Legislative Council or, if the  
34 General Assembly is in session, the Joint Budget Committee, is not a  
35 severable part of § 19-5-1258. If the requirement of approval by the  
36 Legislative Council or, if the General Assembly is in session, the Joint

1 Budget Committee, is ruled unconstitutional by a court of competent  
2 jurisdiction, § 19-5-1258 is void in its entirety.

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4 SECTION 3. DO NOT CODIFY. *Rainy Day Funding. Immediately upon the*  
5 effective date of this Act, or as soon thereafter as is practical, the State  
6 Treasurer shall transfer and credit to the "Rainy Day Fund", upon  
7 certification of the amounts thereof by the Chief Fiscal Officer of the  
8 State, the following:

9 (a) all unobligated and unallocated monies remaining in the "General  
10 Improvement Fund" on June 30, 2017 which are not required to finance projects  
11 to be financed therefrom pursuant to appropriations enacted by the 90th  
12 General Assembly, or which have not been reappropriated or reallocated for  
13 financing from the "General Improvement Fund" by the 91st General Assembly;

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

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

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

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

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

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33 SECTION 4. DO NOT CODIFY. *Rainy Day Set-Asides.*

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

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

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

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

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

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

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

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

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

30 (e) Priority / Debt Obligations Set-Asides:

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

34 (2) Act 224 of 2017 and any reappropriation authorized by the  
35 General Assembly for Act 224 of 2017 for the Department of Correction, for  
36 lease payments associated with debt service on a 948-bed institution at

1 Malvern, a 400-bed addition at the Grimes Unit at Newport, and 862-bed  
2 Special Needs Unit and addition to the Ouachita River Unit at Malvern, in a  
3 sum not to exceed \$10,500,000;

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

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

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

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

20 (2) Act 468 of 2017 and any reappropriation authorized by the  
21 General Assembly for Act 468 of 2017 for the Arkansas Economic Development  
22 Commission for a transfer to the Economic Development Incentive Quick Action  
23 Closing Fund, for incentives to attract new business and economic development  
24 to the state, in a sum not to exceed \$30,000,000;

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

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

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32 SECTION 5. DO NOT CODIFY. (a) Transfer of funds from the "Rainy Day  
33 Fund" shall be made only after the Chief Fiscal Officer of the State has  
34 determined that all criteria or pre-conditions established in the  
35 appropriation act to receive the transfer have been met and that a Method of  
36 Finance has been filed with the Office of Accounting in the Department of

1 Finance and Administration, if required.

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

5 (c) Any recipient of the funds appropriated herein is also subject to  
6 an audit by the Arkansas Legislative Audit in order to determine that the use  
7 of the funds was in compliance with the intent and appropriated purposes of  
8 the General Assembly.

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10 SECTION 6. DO NOT CODIFY. Funding authority. (a) Any enactment of the  
11 91st General Assembly in either regular, fiscal or extraordinary session  
12 appropriating, transferring or allocating funds to the "Rainy Day Fund" shall  
13 be deemed to be payable from the "Rainy Day Fund".

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

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

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24 SECTION 8. EMERGENCY CLAUSE. It is hereby found and determined by the  
25 General Assembly of the State of Arkansas that changes in the state's fiscal  
26 laws must take effect at the beginning of the fiscal year, and that if the  
27 current legislative session is extended such that the ninety-day period is  
28 later than July 1, 2017, the changes required by this act will not be  
29 timely. Therefore, an emergency is declared to exist, and this act being  
30 necessary for the preservation of the public peace, health, and safety shall  
31 become effective on July 1, 2017.

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34 /s/Teague