

ARKANSAS SENATE

91st General Assembly - First Extraordinary Session, 2017

Amendment Form

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Subtitle of Senate Bill No. 5

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.

Amendment No. ___ to Senate Bill No. 5

Amend Senate Bill No. 5 as originally introduced:

Delete SECTION 2 of the bill in its entirety, and substitute the following:

"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

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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."~~

The Amendment was read the first time, rules suspended and read the second time and _____
By: Senator Teague
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Secretary