

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4
5 By: Representative Jean
6

As Engrossed: H3/30/17
A Bill

HOUSE BILL 1830

7
8 **For An Act To Be Entitled**

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

14
15 **Subtitle**

16 TO CREATE THE RAINY DAY FUND AND TO
17 PROVIDE ADDITIONAL FUNDS FOR STATE
18 AGENCIES AND INSTITUTIONS.
19

20
21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

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.

14
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.

3
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.

32
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 91st
11 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.

23
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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33 /s/Jean

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35 **APPROVED: 04/07/2017**