

1 State of Arkansas

As Engrossed: S5/2/17

Call Item 6

2 91st General Assembly

# A Bill

3 First Extraordinary Session, 2017

SENATE BILL 5

4

5 By: Senators J. Hendren, J. Dismang

6 By: Representative Gillam

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## For An Act To Be Entitled

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

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## Subtitle

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

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

27

28 SECTION 1. DO NOT CODIFY. Legislative findings.

29 The General Assembly finds that:

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

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

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



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

2 (4) S&P affirmed its ‘AA’ long-term rating to Arkansas’s series  
3 2016 taxable refunding higher education general obligation bonds and noted,  
4 “The state lacks a formal reserve and liquidity policy . . .” but also noted  
5 that the State of Arkansas has formed a funding strategy for the state’s Long  
6 Term Reserve Fund;

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

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

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

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

21  
22 *SECTION 2. Arkansas Code § 19-6-486 is amended to read as follows:*

23 *19-6-486. Long Term Reserve Fund.*

24 *(a) There is created on the books of the Treasurer of State, the Auditor*  
25 *of State, and the Chief Fiscal Officer of the State a special revenue fund to*  
26 *be known as the “Long Term Reserve Fund”.*

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

29 *(c) The Long Term Reserve Fund shall be used to distribute moneys to one*  
30 *(1) or more funds or fund accounts in the Revenue Stabilization Law, § 19-5-*  
31 *101 et seq.*

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

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

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

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

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

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

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

1 *Fund, or both; and*

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

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

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

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

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

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

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

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

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

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

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

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

1 Trust Fund.

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

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

20 (1) The date of its approval by the Governor;

21 (2) If the bill is neither approved nor vetoed by the Governor,  
22 the expiration of the period of time during which the Governor may veto the  
23 bill; or

24 (3) If the bill is vetoed by the Governor and the veto is  
25 overridden, the date the last house overrides the veto.

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27 */s/J. Hendren*

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30 **APPROVED: 05/04/2017**

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