

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

As Engrossed: H3/2/07 H3/23/07

# A Bill

HOUSE BILL 1066

5 By: Representative Maloch  
6  
7

## For An Act To Be Entitled

9 AN ACT TO PROTECT THE STATE EDUCATION SYSTEM AND  
10 THE OPERATION OF STATE GOVERNMENT; TO PROVIDE FOR  
11 THE TRANSFER OF FUNDS TO THE ARKANSAS RAINY DAY  
12 FUND; AND TO ESTABLISH PROCEDURES FOR THE  
13 TRANSFER OF FUNDS FROM THE ARKANSAS RAINY DAY  
14 FUND TO THE VARIOUS FUNDS AND FUND ACCOUNTS IN  
15 THE REVENUE STABILIZATION LAW; AND FOR OTHER  
16 PURPOSES.

## Subtitle

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18 AN ACT TO PROTECT THE OPERATIONS OF  
19 ESSENTIAL STATE GOVERNMENT PROGRAMS BY  
20 ESTABLISHING TRANSFER PROCEDURES TO AND  
21 FROM THE ARKANSAS RAINY DAY FUND.  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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27 SECTION 1. Arkansas Code Annotated §19-6-486 is hereby amended to read  
28 as follows:

29 (a) There is created on the books of the Treasurer of State, the  
30 Auditor of State, and the Chief Fiscal Officer of the State a special revenue  
31 fund to be known as the "Arkansas Rainy Day Fund".

32 (b) The fund shall consist of such funds as ~~appropriated~~ may be  
33 provided by the General Assembly ~~and tobacco proceeds as set out by law.~~

34 (c) The fund shall be used to distribute monies to one or more funds  
35 or fund accounts in the Revenue Stabilization Law.  
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## 1 SECTION 2. ARKANSAS RAINY DAY FUND UTILIZATION REQUIREMENTS.

2 (a) After determining the estimated amount of general revenue that will  
3 be available for allocation to the state agencies under the provisions of the  
4 Revenue Stabilization Law, Arkansas Code §19-5-101 et seq., and after making  
5 the determination required by Arkansas Code §19-5-1227 (c) and prior to  
6 making any transfers deemed necessary by the Chief Fiscal Officer of the  
7 State in Arkansas Code §19-5-1227 (d), the Chief Fiscal Officer of the State  
8 may transfer funds from the Arkansas Rainy Day Fund in the event a "revenue  
9 shortfall" exists to meet the state's financial obligation to provide an  
10 adequate educational system for the state and to provide for the effective  
11 operation of state government. In the event the Chief Fiscal Officer of the  
12 State determines that a "revenue shortfall" exists as defined as a  
13 circumstance when the official forecast of Gross General Revenue certified by  
14 the Chief Fiscal Officer of the State is projected to increase less than  
15 three percent (3%) over and above the Gross General Revenue collections of  
16 the previous fiscal year due to changes in economic conditions, he or she may  
17 then transfer funds from the Arkansas Rainy Day Fund, as approved by the  
18 Arkansas Legislative Council or Joint Budget Committee, to various funds and  
19 fund accounts, as deemed necessary, in the Revenue Stabilization Law for the  
20 purpose of meeting unanticipated shortfalls in state general revenue.

21 (b) Or the Chief Fiscal Officer of the State may transfer funds from  
22 the Arkansas Rainy Day Fund to the Economic Development Superprojects Project  
23 Fund for projects authorized under Amendment 82 to the Constitution of  
24 Arkansas of 1874, as approved by the Governor and the Arkansas Legislative  
25 Council or Joint Budget Committee.

26 (c) Determining the maximum amount of appropriation and general revenue  
27 funding for a state agency each fiscal year is the prerogative of the General  
28 Assembly. This is usually accomplished by delineating such maximums in the  
29 appropriation act(s) for a state agency and the general revenue allocations  
30 authorized for each fund and fund account by amendment to the Revenue  
31 Stabilization Law. Further, the General Assembly has determined that  
32 creating the Arkansas Rainy Day Fund and establishing the procedures for the  
33 transfer of funds to various fund and fund accounts in the Revenue  
34 Stabilization Law or to the Economic Development Superprojects Project Fund,  
35 or both, provides for the efficient and effective operation of state  
36 government if a revenue shortfall is determined to exist. Therefore, it is

1 both necessary and appropriate that the General Assembly maintain oversight  
2 by requiring prior approval of the Legislative Council or Joint Budget  
3 Committee as provided by this section. The requirement of approval by the  
4 Legislative Council or Joint Budget Committee is not a severable part of this  
5 section. If the requirement of approval by the Legislative Council or Joint  
6 Budget Committee is ruled unconstitutional by a court of competent  
7 jurisdiction, this entire section is void.

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9 SECTION 3. ARKANSAS RAINY DAY FUND TRANSFER PROCEDURES. Upon  
10 recommendation by the Chief Fiscal Officer of the State, the Governor may  
11 determine that circumstances exist that meet the requirements for the  
12 utilization of the Arkansas Rainy Day Fund as set out in this Act and the  
13 procedures set out herein shall apply.

14 (a) When the Governor determines there is a need requiring transfer  
15 from the Arkansas Rainy Day Fund, he shall instruct the Chief Fiscal Officer  
16 of the State to prepare and submit written documentation to the Arkansas  
17 Legislative Council or the Joint Budget Committee. Such documentation shall  
18 include:

19 (1) Sufficient financial data that will enable the verification  
20 of the existence of an emergency and the amount necessary to address the need  
21 for rainy day funds;

22 (2) A proposed distribution of monies from the Arkansas Rainy Day  
23 Fund to one or more funds or fund accounts in the Revenue Stabilization Law;  
24 or to the Economic Development Superprojects Project Fund, or both, and

25 (3) A statement certifying that no other funds are available that  
26 could be transferred in lieu of the funds in the Arkansas Rainy Day Fund.

27 Such documentation shall be submitted to the Arkansas Legislative  
28 Council or Joint Budget Committee for approval prior to the implementation of  
29 the proposed distribution. The Chief Fiscal Officer of the State, after  
30 having sought and received prior approval of the Arkansas Legislative Council  
31 or Joint Budget Committee, shall cause the required transfers to be made on  
32 his books and on the books of the State Treasurer and Auditor of State from  
33 the Arkansas Rainy Day Fund to the appropriate funds and fund accounts in the  
34 Revenue Stabilization Law or to the Economic Development Superprojects  
35 Project Fund, or both. In no event shall the amounts transferred in any  
36 fiscal year to the funds and fund accounts in the Revenue Stabilization Law

1 by this Act cause the general revenues to exceed the maximum allocations  
2 authorized in the Revenue Stabilization Law.

3 Determining the maximum amount of appropriation and general revenue  
4 funding for a state agency each fiscal year is the prerogative of the General  
5 Assembly. This is usually accomplished by delineating such maximums in the  
6 appropriation act(s) for a state agency and the general revenue allocations  
7 authorized for each fund and fund account by amendment to the Revenue  
8 Stabilization Law. Further, the General Assembly has determined that  
9 creating the Arkansas Rainy Day Fund and establishing the procedures for the  
10 transfer of funds to various fund and fund accounts in the Revenue  
11 Stabilization Law or to the Economic Development Superprojects Project Fund,  
12 or both, provides for the efficient and effective operation of state  
13 government if a revenue shortfall is determined to exist. Therefore, it is  
14 both necessary and appropriate that the General Assembly maintain oversight  
15 by requiring prior approval of the Legislative Council or Joint Budget  
16 Committee as provided by this section. The requirement of approval by the  
17 Legislative Council or Joint Budget Committee is not a severable part of this  
18 section. If the requirement of approval by the Legislative Council or Joint  
19 Budget Committee is ruled unconstitutional by a court of competent  
20 jurisdiction, this entire section is void.

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22 SECTION 4. ARKANSAS RAINY DAY FUND REPLENISHMENT. During each fiscal  
23 year, after the provisions of A.C.A 19-5-1004 (b)(2) are complied with, the  
24 Chief Fiscal Officer of the State may replenish the Arkansas Rainy Day Fund  
25 by transferring no more than fifty percent (50%) of the balance in the  
26 General Revenue Allotment Reserve Fund or an amount equal to all transfers  
27 made under the provisions of this Act during the fiscal year immediately  
28 preceding the fiscal year in which such replenishment is made under this  
29 section, whichever is less, to the Arkansas Rainy Day Fund. In no event  
30 shall the balance of the Arkansas Rainy Day Fund exceed one hundred twenty  
31 five million dollars (\$125,000,000) at any time.

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33 SECTION 5. *Arkansas Code 19-5-1130 is hereby amended to read as*  
34 *follows:*

35  
36 (a) *There is created on the books of the Treasurer of State, the Auditor of*

1 State, and the Chief Fiscal Officer of the State a trust fund to be known as  
2 the "Economic Development Superprojects Project Fund".

3 (b) The fund ~~shall~~ may consist of the proceeds from the sale of bonds,  
4 together with all revenues derived by the Arkansas Development Finance  
5 Authority from any superproject financed or refinanced under § 15-4-3012~~r~~, or  
6 may consist of other funds as authorized by law.

7 (c) This fund ~~shall~~ may be used to provide for payment of all or a part of  
8 debt service on bonds and to directly fund superprojects on a pay-as-you-go  
9 basis as set out in § 15-4-3012~~r~~, or to fund projects authorized under  
10 Amendment 82 to the Constitution of Arkansas of 1874.

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12 SECTION 6. CODE. All provisions of this Act of a general and  
13 permanent nature are amendatory to the Arkansas Code of 1987 Annotated and  
14 the Arkansas Code Revision Commission shall incorporate the same in the Code.

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16 SECTION 7. GENERAL REPEALER. All laws and parts of laws in conflict  
17 with this Act are hereby repealed.

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19 SECTION 8. EMERGENCY CLAUSE. It is found and determined by the  
20 General Assembly, that the Constitution of the State of Arkansas requires an  
21 adequate education system for the state and that the efficient and effective  
22 operation of state government is critical to the health and welfare of the  
23 citizens of the state; that the provisions of this Act will provide the  
24 necessary funds and procedures to assist in alleviating the effects of an  
25 economic downturn on essential government programs; that the effectiveness of  
26 this Act on July 1, 2007 is essential to the operation of state government;  
27 with the exception that Section 5 in this Act shall be in full force and  
28 effect from and after the date of its passage and approval, and that in the  
29 event of an extension of the Regular Session, the delay in the effective date  
30 of this Act beyond July 1, 2007, with the exception that Section 5 in this  
31 Act shall be in full force and effect from and after the date of its passage  
32 and approval, could work irreparable harm upon the proper administration and  
33 provision of essential governmental programs. Therefore, an emergency is  
34 hereby declared to exist and this Act being necessary for the immediate  
35 preservation of the public peace, health and safety shall be in full force  
36 and effect from and after July 1, 2007; with the exception that Section 5 in

1 this Act shall be in full force and effect from and after the date of its  
2 passage and approval. If the bill is neither approved nor vetoed by the  
3 Governor, it shall become effective on the expiration of the period of time  
4 during which the Governor may veto the bill. If the bill is vetoed by the  
5 Governor and the veto is overridden, it shall become effective on the date of  
6 the last house overrides the veto.

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*/s/ Maloch*