

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

A Bill

HOUSE BILL 1065

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

17
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.
22
23
24

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

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.
36



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

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

1 jurisdiction, this entire section is void.

2

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

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

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

16 (2) A proposed distribution of monies from the Arkansas Rainy Day
17 Fund to one or more funds or fund accounts in the Revenue Stabilization Law;
18 and

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

21 Such documentation shall be submitted to the Arkansas Legislative
22 Council or Joint Budget Committee for approval prior to the implementation of
23 the proposed distribution. The Chief Fiscal Officer of the State, after
24 having sought and received prior approval of the Arkansas Legislative Council
25 or Joint Budget Committee, shall cause the required transfers to be made on
26 his books and on the books of the State Treasurer and Auditor of State from
27 the Arkansas Rainy Day Fund to the appropriate funds and fund accounts in the
28 Revenue Stabilization Law. In no event shall the amounts transferred in any
29 fiscal year to the funds and fund accounts in the Revenue Stabilization Law
30 by this Act cause the general revenues to exceed the maximum allocations
31 authorized in the Revenue Stabilization Law.

32 Determining the maximum amount of appropriation and general revenue
33 funding for a state agency each fiscal year is the prerogative of the General
34 Assembly. This is usually accomplished by delineating such maximums in the
35 appropriation act(s) for a state agency and the general revenue allocations
36 authorized for each fund and fund account by amendment to the Revenue

1 Stabilization Law. Further, the General Assembly has determined that
 2 creating the Arkansas Rainy Day Fund and establishing the procedures for the
 3 transfer of funds to various fund and fund accounts in the Revenue
 4 Stabilization Law provides for the efficient and effective operation of state
 5 government if a revenue shortfall is determined to exist. Therefore, it is
 6 both necessary and appropriate that the General Assembly maintain oversight
 7 by requiring prior approval of the Legislative Council or Joint Budget
 8 Committee as provided by this section. The requirement of approval by the
 9 Legislative Council or Joint Budget Committee is not a severable part of this
 10 section. If the requirement of approval by the Legislative Council or Joint
 11 Budget Committee is ruled unconstitutional by a court of competent
 12 jurisdiction, this entire section is void.

13
 14 SECTION 4. RAINY DAY FUND REPLENISHMENT. During each fiscal year,
 15 after the provisions of Arkansas Code 19-5-1004 (b)(2) are complied with, the
 16 Chief Fiscal Officer of the State may replenish the Arkansas Rainy Day Fund
 17 by transferring no more than fifty percent (50%) of the balance in the
 18 General Revenue Allotment Reserve Fund or an amount equal to all transfers
 19 made under the provisions of this Act during the fiscal year immediately
 20 preceding the fiscal year in which such replenishment is made under this
 21 section, whichever is less, to the Arkansas Rainy Day Fund. In no event
 22 shall the balance of the Arkansas Rainy Day Fund exceed Two Hundred Million
 23 dollars (\$200,000,000) at any time.

24
 25 SECTION 5. FUND TRANSFER. Immediately upon the effective date of this
 26 Act and prior to any other transfer from the General Revenue Allotment
 27 Reserve Fund as may be provided by law, the Chief Fiscal Officer of the State
 28 shall transfer, on his books and those of the State Treasurer and Auditor of
 29 State, the sum of two hundred million dollars (\$200,000,000) from the General
 30 Revenue Allotment Reserve Fund to the Arkansas Rainy Day Fund.

31
 32 SECTION 6. CODE. All provisions of this Act of a general and
 33 permanent nature are amendatory to the Arkansas Code of 1987 Annotated and
 34 the Arkansas Code Revision Commission shall incorporate the same in the Code.
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36 SECTION 7. GENERAL REPEALER. All laws and parts of laws in conflict

1 with this Act are hereby repealed.

2

3 SECTION 8. EMERGENCY CLAUSE. It is found and determined by the
4 General Assembly, that the Constitution of the State of Arkansas requires an
5 adequate education system for the state and that the efficient and effective
6 operation of state government is critical to the health and welfare of the
7 citizens of the state; that the provisions of this Act will provide the
8 necessary funds and procedures to assist in alleviating the effects of an
9 economic downturn on essential government programs; that the effectiveness of
10 this Act on July 1, 2007 is essential to the operation of state government;
11 with the exception that Section 5 in this Act shall be in full force and
12 effect from and after the date of its passage and approval, and that in the
13 event of an extension of the Regular Session, the delay in the effective date
14 of this Act beyond July 1, 2007, with the exception that Section 5 in this
15 Act shall be in full force and effect from and after the date of its passage
16 and approval, could work irreparable harm upon the proper administration and
17 provision of essential governmental programs. Therefore, an emergency is
18 hereby declared to exist and this Act being necessary for the immediate
19 preservation of the public peace, health and safety shall be in full force
20 and effect from and after July 1, 2007; with the exception that Section 5 in
21 this Act shall be in full force and effect from and after the date of its
22 passage and approval. If the bill is neither approved nor vetoed by the
23 Governor, it shall become effective on the expiration of the period of time
24 during which the Governor may veto the bill. If the bill is vetoed by the
25 Governor and the veto is overridden, it shall become effective on the date of
26 the last house overrides the veto.