

1 State of Arkansas
2 91st General Assembly
3 Regular Session, 2017
4

A Bill

SENATE BILL 552

5 By: Senator Teague
6

For An Act To Be Entitled

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

15 TO CREATE THE RAINY DAY FUND AND TO
16 PROVIDE ADDITIONAL FUNDS FOR STATE
17 AGENCIES AND INSTITUTIONS.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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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.

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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.

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4 SECTION 3. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED
5 SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. Immediately upon the
6 effective date of this Act, or as soon thereafter as is practical, the State
7 Treasurer shall transfer and credit to the "Rainy Day Fund", upon
8 certification of the amounts thereof by the Chief Fiscal Officer of the
9 State, the following:

10 (a) all unobligated and unallocated monies remaining in the "General
11 Improvement Fund" on June 30, 2017 which are not required to finance projects
12 to be financed therefrom pursuant to appropriations enacted by the 90th
13 General Assembly, or which have not been reappropriated or reallocated for
14 financing from the "General Improvement Fund" by the 91st General Assembly;

15 (b)(1) any unobligated or unallocated funds remaining on July 2, 2017,
16 including all General Revenue Funds recovered from remaining fund balances in
17 the "General Revenue Allotment Reserve Fund" from monies accruing thereto
18 during the 2015-2017 fiscal biennium which are not required to finance
19 enactments of the 91st General Assembly that do not expire on June 30, 2017,

20 (2) All General Revenue Funds recovered from remaining fund balances
21 in the "General Revenue Allotment Reserve Fund" from monies accruing thereto
22 during the 2017-2018 fiscal year which are not required to finance enactments
23 of the 91st General Assembly that do not expire on June 30, 2018.

24 (c) Those special revenues credited to the General Improvement Fund
25 from estate taxes as set out in Arkansas Code § 19-6-301(171); and

26 (d) Any available balance remaining in the 90th Session Projects Account
27 of the General Improvement Fund from funds set aside and any funds made
28 available for a Rainy Day Set-Aside; and

29 (e) Any funds provided by the Arkansas Attorney General from the
30 Attorney General Consumer Education and Enforcement Account, received by the
31 State of Arkansas through Settlement agreements or as designated by court
32 order.

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34 SECTION 4. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED
35 SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. SENATE AND HOUSE BILL
36 REFERENCES. Any Senate and House bills referenced in this Act are effective

1 as enacted by the 91st General Assembly in the 2017 Regular Session.

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3 SECTION 5. TRANSFER OF FUNDS. (a) Transfer of funds from the "Rainy
4 Day Fund" shall be made only after the Chief Fiscal Officer of the State has
5 determined that all criteria or pre-conditions established in the
6 appropriation act to receive the transfer have been met and that a Method of
7 Finance has been filed with the Office of Accounting in the Department of
8 Finance and Administration, if required.

9 (b) Any matching funds as may be provided in law shall be certified to
10 the Chief Fiscal Officer of the State prior to the commencement of the
11 project.

12 (c) Any recipient of the funds appropriated herein is also subject to
13 an audit by the Arkansas Legislative Audit in order to determine that the use
14 of the funds was in compliance with the intent and appropriated purposes of
15 the General Assembly.

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17 SECTION 6. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED
18 SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. (a) Any enactment of the
19 91st General Assembly in either regular, fiscal or extraordinary session
20 appropriating, transferring or allocating funds to the "Rainy Day Fund" shall
21 be deemed to be payable from the "Rainy Day Fund".

22 (b) Appropriations which are not enumerated in this Act may be
23 financed from monies accruing to the "Rainy Day Fund" to fund appropriations
24 as authorized by the General Assembly.

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26 SECTION 7. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED
27 SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. DUPLICATE ACTS. If the House
28 and the Senate bills of the 2017 Regular Session of the 91st General Assembly
29 creating a Rainy Day Fund, are both enacted and adopted by the 91st General
30 Assembly in identical form, then the last Act passed or latest expression
31 shall supersede the other.

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33 SECTION 8. EMERGENCY CLAUSE. It is found and determined by the
34 General Assembly that it has considered and enacted appropriations for State
35 Agencies, Institutions and other programs to be financed from the accumulated
36 balances, fund transfers and reserve funds available in the State Treasury

1 and outside of the State Treasury; that the total of the enacted
2 appropriations exceed the estimated available funding available for such
3 State Agencies, Institutions and projects and that the immediate passage of
4 this Act is necessary to establish a method of providing for the orderly
5 financing and a method for the financing of such projects. Therefore, an
6 emergency is declared to exist and this act being immediately necessary for
7 the preservation of the public peace, health and safety shall become
8 effective on July 1, 2017.

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