

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021
4

A Bill

SENATE BILL 375

5 By: Senators J. Dismang, Hickey
6

For An Act To Be Entitled

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

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15 AVAILABLE IN THE RESTRICTED RESERVE FUND;
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. DO NOT CODIFY. Legislative findings – Nonseverability.

26 (a) The General Assembly finds that:

27 (1) Determining the maximum amount of appropriation and funding
28 for a state agency or institution each fiscal year is the prerogative of the
29 General Assembly;

30 (2) Determining the maximum amount of appropriation and funding
31 for a state agency or institution is usually accomplished by delineating the
32 maximum amounts in the appropriation acts for the state agency or institution
33 and in the general revenue allocations authorized for each relevant fund and
34 fund account by amendment to the Revenue Stabilization Law, § 19-5-101 et
35 seq.;

36 (3) The Restricted Reserve Fund has established procedures for



1 the transfer of funds to various funds and fund accounts for the efficient
2 and effective operation of state government; and

3 (4) It is necessary and appropriate that the General Assembly
4 maintain oversight by requiring prior approval of the Legislative Council or,
5 if the General Assembly is in session, the Joint Budget Committee, as
6 provided in § 19-5-1263(c).

7 (b) The requirement of approval by the Legislative Council or, if the
8 General Assembly is in session, the Joint Budget Committee, is not a
9 severable part of § 19-5-1263. If the requirement of approval by the
10 Legislative Council or, if the General Assembly is in session, the Joint
11 Budget Committee, is ruled unconstitutional by a court of competent
12 jurisdiction, § 19-5-1263 (c)(d) and (e) are void in their entirety.

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14 SECTION 2. DO NOT CODIFY. TRANSFERS TO THE RESTRICTED RESERVE FUND.
15 Immediately upon the effective date of this Act, as soon thereafter as is
16 practical or as authorized in this Section the State Treasurer shall transfer
17 and credit to the "Restricted Reserve Fund", upon certification of the
18 amounts thereof by the Chief Fiscal Officer of the State, the following:

19 (a)(1) Any unobligated funds, which are set aside as authorized in
20 Subsections (b)(2)(4)(5)(6) and (7) of Section 3 of Act 1023 of 2019,
21 remaining in the Rainy Day Fund, on July 1, 2021;

22 (2) Any unobligated funds remaining in the Rainy Day Fund from funds
23 made available Subsections (d)(1) and (2) of Section 3 of Act 1023 of 2019
24 shall be transferred to the Unallocated Restricted Reserve General Set-Aside
25 as authorized in Section (3)(b)(2)(A) and (B) of this Act, on July 1, 2021;

26 (3) Any unobligated funds remaining in the Rainy Day Fund from funds
27 made available for the Debt Obligations/Priority Rainy Day Set-Aside, for a
28 transfer to the Economic Development Incentive Quick Action Closing Fund as
29 authorized in subsection (b)(3) of Section 3 of Act 1023 of 2019 shall be
30 transferred and credited to the Restricted Reserve Fund for the Quick Action
31 Closing Fund Carry Forward authorized in Section 3(d)(3) of this Act, on July
32 1, 2021;

33 (b) All unobligated and unallocated monies remaining in the "General
34 Improvement Fund" or the "Development and Enhancement Fund" on June 30, 2021
35 which are not required to finance projects to be financed therefrom pursuant
36 to appropriations enacted by the General Assembly, or which have not been

1 reappropriated or reallocated for financing from the “Development and
 2 Enhancement Fund” by the 93rd General Assembly;

3 (c)(1) Any unobligated or unallocated funds remaining on July 2, 2021 in
 4 the "General Revenue Allotment Reserve Fund" from monies accruing thereto
 5 which are not required to finance enactments of the 93rd General Assembly
 6 that do not expire on June 30, 2021, including all General Revenue Funds
 7 recovered from remaining fund balances;

8 (2) All General Revenue Funds recovered from remaining fund balances
 9 in the "General Revenue Allotment Reserve Fund" from monies accruing thereto
 10 during the 2021-2022 fiscal year which are not required to finance enactments
 11 of the 93rd General Assembly that do not expire on June 30, 2022, including
 12 all General Revenue Funds recovered from remaining fund balances;

13 (d) Those special revenues credited to the General Improvement Fund or
 14 the Development and Enhancement Fund from estate taxes as set out in Arkansas
 15 Code § 19-6-301(171);

16 (e) Other revenues as may be transferred or authorized by law; and

17 (f) Any funds provided by the Arkansas Attorney General from the
 18 Attorney General Consumer Education and Enforcement Account, received by the
 19 State of Arkansas through Settlement agreements or as designated by court
 20 order.

21
 22 SECTION 3. DO NOT CODIFY. RESTRICTED RESERVE FUND DISTRIBUTION AND
 23 SET-ASIDES. (a) After having transferred or set-aside the obligations as set
 24 out in §19-5-202(b)(2)(B)(iii) as determined by the Chief Fiscal Officer of
 25 the State, those funds transferred and credited to the Restricted Reserve
 26 Fund as authorized in Section 2 of this Act and any current unobligated
 27 balances in the Restricted Reserve Fund, the State Treasurer shall first set-
 28 aside ninety two million three hundred thousand dollars (\$92,300,000) and any
 29 Carry Forward of unspent discretionary Rainy Day Funds authorized in
 30 subsection (b)(2)(B) herein, for the "Restricted Reserve Fund Set-Asides"
 31 enumerated in subsections (b)(1) through (b)(6) of this section.

32 (b) Restricted Reserve Fund Set-Asides Requiring Approval by the General
 33 Assembly for Disbursement:

34 (1) To establish Restricted Reserve Fund Set-Asides within the
 35 Restricted Reserve Fund to be distributed from time to time in amounts as
 36 determined by the Chief Fiscal Officer of the State as authorized in

1 subsections (b)(2) through (b)(6) after meeting the requirements of 19-5-
2 1263.

3 (2)(A) Unallocated Restricted Reserve General Set-Aside. For
4 transfers from time to time as authorized 19-5-1263, in a sum not to exceed
5 \$25,000,000;

6 (B) Carry Forward of Unspent Discretionary Rainy Day Funds. Any
7 funds transferred to the Unallocated Restricted Reserve General Set-Aside
8 from transfers authorized from Section 2(a)(2) of this Act shall be in
9 addition to those funds authorized in subsection (b)(2)(A) herein.

10 (3) Educational Facilities Set-Aside. For transfer to the
11 Educational Facilities Partnership Fund, in a sum not to exceed \$28,500,000;

12 (4) Broadband Set-Aside. For transfers to the Arkansas Acceleration
13 Fund for Rural Broadband, in a sum not to exceed \$30,000,000;

14 (5) State Police Vehicles Set-Aside. For a transfer for the Division
15 of State Police Fund for State Police Vehicles, in a sum not to exceed
16 \$3,000,000;

17 (6) Economic Stimulus Programs. To the Department of Commerce
18 Arkansas Economic Development Commission to fund or fund accounts as
19 determined by the Chief Fiscal Officer of the State for funding for economic
20 stimulus activities throughout the state, in a sum not to exceed \$5,800,000.

21 (c) On July 1, 2023 any unobligated funds remaining in the Restricted
22 Reserve Fund Set-Asides established in subsection (b) herein shall be
23 transferred to the Long Term Reserve Fund.

24 (d) Additional Restricted Reserve Fund Transfers to various fund or fund
25 accounts:

26 (1) Then, of those funds remaining, transferred and credited to the
27 Restricted Reserve Fund as authorized in Section 2 of this Act, after the
28 transfers to the Restricted Reserve Set Asides established in subsection (b)
29 funds shall be set-aside in the Restrict Reserve Fund to be transferred from
30 time to time as set out in subsections (d)(2) through (4).

31 (2) Notwithstanding other provisions of law, transfers from set-
32 asides in subsection (d)(3) and (4) shall not be subject to the approval
33 requirements set out 19-5-1263(c) and shall only require reporting of the
34 date and amount of transfers:

35 (3) Quick Action Closing Fund Carry Forward Set-Aside. To the
36 Economic Development Incentive Quick Action Closing Fund, for incentives to

1 attract new business and economic development to the state, from funds made
2 available as authorized in Section 2(a)(3) of this Act;

3 (4) Department of Correction Lease Payments Set-Aside. For the
4 Department of Correction to the Development and Enhancement Fund or its
5 successor fund or fund accounts or any appropriation authorized by the
6 General Assembly for debt service payments, in a sum not to exceed
7 \$14,105,000;

8 (e) On July 1, 2023 any unobligated funds remaining in the Restricted
9 Reserve Fund Set-Asides established in subsection (d) herein shall be
10 transferred to the Long Term Reserve Fund.

11 (f) Then all remaining unobligated funds transferred and credited to
12 the Restricted Reserve Fund and future collections, deposits and transfers
13 authorized in Section 2 of this Act shall be transferred and credited to the
14 Long Term Reserve Fund.

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16 SECTION 4. Arkansas Code § 19-5-1263(c) and (d), concerning the
17 Restricted Reserve Fund, are amended to read as follows:

18 (c) For the purpose of and after meeting the requirements of subsection
19 (d) of this section, the Chief Fiscal Officer of the State may from time to
20 time transfer on his or her books and those of the Treasurer of State and the
21 Auditor of State funds from the Restricted Reserve Fund to one (1) or more
22 general revenue operating funds or fund accounts, the Miscellaneous Agencies
23 Fund Account, the Arkansas Department of Transportation for state matching
24 funds, ~~and~~ the State Central Services Fund, the Development and Enhancement
25 Fund, and any fund, fund account, or appropriations authorized by the General
26 Assembly upon prior approval of the greater of three-fifths (3/5) of the
27 quorum present or a majority of the membership of the Legislative Council or,
28 if the General Assembly is in session, the Joint Budget Committee.

29 (d)(1) If at any time during the fiscal year a department, state
30 agency, board, commission, state institution of higher education, or
31 constitutional officer determines that it is necessary to perform its duties
32 or is in the best interest of the citizens of the State of Arkansas to
33 request a transfer from the Restricted Reserve Fund, that entity shall submit
34 a detailed request in writing to the Chief Fiscal Officer of the State
35 stating:

- (A) The need and purpose of the transfer;

1 (B) Efforts to find efficiencies and savings prior to making
2 the request;

3 (C) Current year-to-date budget and expenditures by line
4 item; and

5 (D) A detailed line item budget reflecting proposed
6 expenditures in the amount requested.

7 (2) The Chief Fiscal Officer of the State may request additional
8 information to make a determination and may then approve, modify, or deny the
9 request.

10 (3) Upon the determination by the Chief Fiscal Officer of the
11 State that a transfer is necessary, the Chief Fiscal Officer of the State
12 shall submit the entity's request and his or her recommendation for approval
13 as required in subsection (c) of this section.
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15 SECTION 5. DO NOT CODIFY. Conditions and Audit. (a) Transfer of funds
16 from the "Restricted Reserve Fund" shall be made only after the Chief Fiscal
17 Officer of the State has determined that all criteria or pre-conditions
18 established in the appropriation act to receive the transfer have been met
19 and that a Method of Finance has been filed with the Office of Accounting in
20 the Department of Finance and Administration, if required.

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

24 (c) Any recipient of the funds appropriated herein are also subject to
25 an audit by the Arkansas Legislative Audit of the Legislative Joint Auditing
26 Committee in order to determine that the use of the funds was in compliance
27 with the intent and appropriated purposes of the General Assembly.
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29 SECTION 6. DO NOT CODIFY. Funding Authority. (a) Any enactment of the 93rd
30 General Assembly in either regular, fiscal or extraordinary session
31 appropriating, transferring or allocating funds to the "Restricted Reserve
32 Fund" may be deemed to be payable from the "Restricted Reserve Fund".

33 (b) Appropriations which are not enumerated in this Act may be
34 financed from monies accruing to the "Restricted Reserve Fund" to fund
35 appropriations authorized by the General Assembly and as set out in law.
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