**South Carolina General Assembly**

120th Session, 2013-2014

**H. 5109**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Sellers

Document Path: l:\council\bills\bbm\9022htc14.docx

Introduced in the House on April 10, 2014

Currently residing in the House Committee on **Ways and Means**

Summary: Contingency Reserve Fund

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/10/2014 House Introduced and read first time

4/10/2014 House Referred to Committee on **Ways and Means**

**VERSIONS OF THIS BILL**

[4/10/2014](file:///p:\pprever\2013-14\5109_20140410.docx)

**A** **BILL**

TO AMEND SECTION 11‑11‑220, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CONTINGENCY RESERVE FUND, SO AS TO REESTABLISH THIS FUND AS THE SPECIAL PURPOSES REVENUE FUND (SPRF), TO PROVIDE THAT THERE MUST BE CREDITED TO SPRF ALL YEAR‑END SURPLUS STATE GENERAL FUND REVENUES NOT OTHERWISE REQUIRED TO REPLENISH THE GENERAL RESERVE FUND, REVENUES DERIVED FROM ELIMINATING VARIOUS SALES TAX EXEMPTIONS AND SAVINGS ACHIEVED FROM THE IMPLEMENTATION OF STATE GOVERNMENT RESTRUCTURING, AND TO PROVIDE THAT SPRF REVENUES MUST BE APPROPRIATED OR USED AS REVENUE OFFSETS IN THE ANNUAL GENERAL APPROPRIATIONS ACT WITH ONE‑THIRD EACH FOR ROAD MAINTENANCE AND CONSTRUCTION, A STATE INDIVIDUAL INCOME TAX CREDIT, AND FOR ADDITIONAL FUNDING FOR SCHOOL BASE STUDENT COSTS; AND TO AMEND SECTION 12‑36‑2120, RELATING TO SALES TAX EXEMPTIONS, SO AS TO DELETE EXEMPTIONS CURRENTLY ALLOWED FOR TECHNICAL EQUIPMENT SOLD TO TELEVISION AND RADIO STATIONS AND CABLE TELEVISION SYSTEMS, MOTION PICTURE FILM SOLD OR RENTED TO MOVIE THEATERS, SOUTH CAROLINA EDUCATION LOTTERY TICKETS, THE EXEMPT PORTION OF PORTABLE TOILET RENTAL PROCEEDS, AND AMUSEMENT PARK RIDES INSTALLED IN QUALIFIED AMUSEMENT AND THEME PARKS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 11‑11‑220 of the 1976 Code is amended to read:

“Section 11‑11‑220. (A) There is created in the state treasury a fund separate and distinct from the general fund of the State, the Capital Reserve Fund, and all other funds entitled the Special Purposes Reserve Fund (SPRF) ~~Contingency Reserve Fund. All general fund revenues accumulated in a fiscal year in excess of general appropriations and supplemental appropriations must be credited to this fund. Revenues credited to this fund in a fiscal year may be appropriated by the General Assembly. Upon determination by the Comptroller General as to the amount to be deposited in the Contingency Reserve Fund, the Comptroller General shall notify the Board of Economic Advisors and the board shall recognize that amount as surplus funds.~~

~~(B) If the balance in the general reserve fund established pursuant to Section 36, Article III of the Constitution of this State and Section 11‑11‑310 is less than the required balance, there must be appropriated to it all amounts in the Contingency Reserve Fund up to the total necessary to replenish the general reserve fund. This amount does not replace or supplant the minimum replenishment amount otherwise required to be made to the general reserve fund.~~

There must be credited to (SPRF):

(1) year‑end surplus general fund revenues from both recurring and nonrecurring sources accrued in the most recently completed state fiscal year, the first such revenues being those attributable to fiscal year 2013‑2014;

(2) notwithstanding any other provision of law providing for the use of state sales and use tax revenues, sales and use tax revenues in the current fiscal year, as estimated by the Board of Economic Advisors, attributable to the deletion of sales and use tax exemptions formerly included in items (26), (31), (35), (60), (62), and (73) of Section 12‑36‑2120;

(3) savings realized through the implementation of state government restructuring.

(B) Revenues credited to SPRF carry forward in SPRF and earnings on the SPRF must be credited to it. Beginning with appropriations for the 2015‑2016 Fiscal Year, SPRF revenues must be appropriated or used as revenue offsets by the General Assembly in the annual general appropriations act as follows:

(1) one‑third for road construction and maintenance credit;

(2) one‑third for an individual state income tax credit the provisions of which must be included in Part IB of the annual general appropriations act and the amount of and eligibility for the credit determined by SPRF revenues available for offset; and

(3) one‑third to the State Department of Education for distribution to school districts using the Education Finance Act (EFA) formula.

(C) If the balance in the General Reserve Fund established pursuant to Section 36, Article III of the Constitution of this State and Section 11‑11‑310, is less than the required balance, surplus general fund revenues otherwise required to be credited to SPRF instead must be transferred to the General Reserve Fund up to the total amount to replenish that fund. This transfer does not replace or supplement the minimum replenishment amount otherwise required to be made to the General Reserve Fund.”

SECTION 2. A. Section 12‑36‑2120 of the 1976 Code is amended by deleting items (26), (35), (60), (62), and (73) which read:

“(26) all supplies, technical equipment, machinery, and electricity sold to radio and television stations, and cable television systems, for use in producing, broadcasting, or distributing programs. For the purpose of this exemption, radio stations, television stations, and cable television systems are deemed to be manufacturers;

(35) motion picture film sold or rented to or by theaters;

(60) a lottery ticket sold pursuant to Chapter 150, Title 59;

(62) seventy percent of the gross proceeds of the rental or lease of portable toilets;

(73) an amusement park ride and any parts, machinery, and equipment used to assemble, operate, and make up an amusement park ride or performance venue facility located in a qualifying amusement park or theme park and any related or required machinery, equipment, and fixtures located in the same qualifying amusement park or theme park.

(a) To qualify for the exemption, the taxpayer shall meet the investment and job requirements provided in subitem (b)(i) over a five‑year period beginning on the date of the taxpayer’s first use of this exemption. The taxpayer shall notify the Department of Revenue of its intent to qualify and use this exemption and upon receipt of the notification, the department shall issue an appropriate exemption certificate to the taxpayer to be used for qualifying purposes under this item. Within six months after the fifth anniversary of the taxpayer’s first use of this exemption, the taxpayer shall notify the department, in writing, that it has or has not met the investment and job requirements of this item. If the taxpayer fails to meet the investment and job requirements, the taxpayer shall pay to the State the amount of the tax that would have been paid but for this exemption. The running of the periods of limitations for assessment of taxes provided in Section 12‑54‑85 is suspended for this time period beginning with the taxpayer’s first use of this exemption and ending with notice to the department that the taxpayer has or has not met the investment and job requirements of this item.

(b) For purposes of this item:

(i) ‘Qualifying amusement park or theme park’ means a park that is constructed and operated by a taxpayer who makes a capital investment of at least two hundred fifty million dollars at a single site and creates at least two hundred fifty full‑time jobs and five hundred part‑time or seasonal jobs.

(ii) ‘Related or required machinery, equipment, and fixtures’ means an ancillary apparatus used for or in conjunction with an amusement park ride or performance venue facility, or both, including, but not limited to, any foundation, safety fencing and equipment, ticketing, monitoring device, computer equipment, lighting, music equipment, stage, queue area, housing for a ride, electrical equipment, power transformers, and signage.

(iii) ‘Performance venue facility’ means a facility for a live performance, nonlive performance, including any animatronics and computer‑generated performance, and firework, laser, or other pyrotechnic show.

(iv) ‘Taxpayer’ means a single taxpayer or, collectively, a group of one or more affiliated taxpayers. An ‘affiliated taxpayer’ means a person or entity related to the taxpayer that is subject to common operating control and that is operated as part of the same system or enterprise. The taxpayer is not required to own a majority of the voting stock of the affiliate;”

B. Section 12‑36‑60 of the 1976 Code is amended to read:

“Section 12‑36‑60. ‘Tangible personal property’ means personal property which may be seen, weighed, measured, felt, touched, or which is in any other manner perceptible to the senses. It also includes services and intangibles, including communications, laundry and related services, furnishing of accommodations and sales of electricity, the sale or use of which is subject to tax under this chapter and does not include stocks, notes, bonds, mortgages, or other evidences of debt. Tangible personal property does not include the transmission of computer database information by a cooperative service when the database information has been assembled by and for the exclusive use of the members of the cooperative service. Tangible personal property includes a lottery ticket sold by a lottery retailer pursuant to Chapter 150, Title 59.”

C. Notwithstanding the general effective date of this act, the provisions of this section take effect July 1, 2014.

SECTION 3. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑