

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

# A Bill

SENATE BILL 378

5 By: Senator K. Hammer  
6 By: Representative Gazaway  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND ARKANSAS LAW CONCERNING UNANTICIPATED  
10 DISCRETIONARY FEDERAL FUNDS RELATED TO A STATEWIDE  
11 STATE OF DISASTER EMERGENCY RELATED TO PUBLIC HEALTH;  
12 TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.  
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## Subtitle

16 TO AMEND ARKANSAS LAW CONCERNING  
17 UNANTICIPATED DISCRETIONARY FEDERAL FUNDS  
18 RELATED TO A STATEWIDE STATE OF DISASTER  
19 EMERGENCY RELATED TO PUBLIC HEALTH; AND  
20 TO DECLARE AN EMERGENCY.  
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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 intent. The General Assembly  
26 finds that:

27 (1) The Tenth Amendment to the United States Constitution vests  
28 in the states the rights and powers not delegated to the United States;

29 (2) The Tenth Amendment to the United States Constitution is  
30 generally interpreted to permit states to establish and enforce laws  
31 protecting the health, safety, and welfare of the public;

32 (3) When the State of Arkansas experiences emergency situations  
33 on a statewide basis, it is critical to the public welfare that the state  
34 provide an organized and measured response; and

35 (4) This act establishes a process for emergencies in this state  
36 that provides for legislative input in the distribution and use of



1 unanticipated discretionary federal funds for the purposes of emergency  
2 management or disaster relief to ensure that the state's response to large-  
3 scale emergencies is appropriate and well-designed to serve the needs of the  
4 state's citizens during the emergency.

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6 SECTION 2. Arkansas Code Title 12, Chapter 75, Subchapter 1, is  
7 amended to add an additional section to read as follows:

8 12-75-134. Unanticipated discretionary federal funds related to  
9 statewide state of disaster emergency related to public health.

10 (a)(1) The General Assembly finds that determining the maximum amount  
11 of an appropriation, the purpose for the expenditure of appropriations, and  
12 funding for a state agency, state department, or state institution each  
13 fiscal year is the prerogative of the General Assembly.

14 (2) Determinations under subdivision (a)(1) of this section are  
15 typically accomplished by delineating the maximums and purposes in the  
16 appropriation act for a state agency, including without limitation  
17 authorizing appropriations for each fund and fund account.

18 (3) It is both necessary and appropriate that the General  
19 Assembly maintain oversight by requiring review and approval of the  
20 Legislative Council, or the Joint Budget Committee if the General Assembly is  
21 in regular, fiscal, or extraordinary session, as provided by this section.

22 (b) As used in this section, "statewide state of disaster emergency  
23 related to public health" means a state of disaster emergency declared by the  
24 Governor under this chapter related to public health if a disaster related to  
25 public health, including without limitation an infectious, contagious, and  
26 communicable disease, includes:

27 (A) At least nineteen (19) counties of the state, either  
28 at one (1) time or in the aggregate, if the states of disaster emergency are  
29 related to the same disaster related to public health; or

30 (B) A total number of persons in counties under a state of  
31 disaster emergency related to public health equal to or greater than twenty-  
32 five percent (25%) of the population of the State of Arkansas according to  
33 the most recent federal decennial census, either at one (1) time or in the  
34 aggregate, if the states of disaster emergency are related to the same  
35 disaster related to public health.

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1       (c) If the State of Arkansas receives unanticipated discretionary  
2 federal funds from the United States Government for the purposes of emergency  
3 management or disaster relief related to a statewide state of disaster  
4 emergency related to public health, the Legislative Council, or the Joint  
5 Budget Committee if the General Assembly is in regular, fiscal, or  
6 extraordinary session, may request that the Chief Fiscal Officer of the State  
7 submit a detailed plan for the distribution and use of the unanticipated  
8 discretionary federal funds before actual expenditures or obligations related  
9 to the unanticipated discretionary federal funds are incurred.

10       (d) A request to the Chief Fiscal Officer of the State under  
11 subsection (c) of this section shall only be made if approved by a majority  
12 vote of a quorum present of the:

13               (1) Legislative Council; or

14               (2) Joint Budget Committee if the General Assembly is in  
15 regular, fiscal, or extraordinary session.

16       (e)(1) Upon submitting a request under subsection (c) of this section  
17 and receiving a detailed plan for the distribution and use of the  
18 unanticipated discretionary federal funds, the Legislative Council, or the  
19 Joint Budget Committee if the General Assembly is in regular, fiscal, or  
20 extraordinary session, shall review the detailed plan for the distribution  
21 and use of the unanticipated discretionary federal funds within thirty (30)  
22 calendar days of the submission of the detailed plan.

23               (2) The unanticipated discretionary federal funds shall not be  
24 distributed, expended, or otherwise obligated unless the detailed plan is  
25 approved by the Legislative Council, or the Joint Budget Committee if the  
26 General Assembly is in regular, fiscal, or extraordinary session.

27               (3) If the Legislative Council, or the Joint Budget Committee if  
28 the General Assembly is in regular, fiscal, or extraordinary session, does  
29 not review the detailed plan submitted under subsection (c) of this section  
30 within thirty (30) calendar days of its submission, the Legislative Council  
31 or Joint Budget Committee shall be considered to have approved the detailed  
32 plan for the distribution and use of the unanticipated discretionary federal  
33 funds.

34       (e) This section is supplemental to other laws applicable to the  
35 expenditure of unanticipated discretionary federal funds received by the  
36 state and does not repeal or supersede other required actions under Arkansas

1 law.

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3 SECTION 3. SEVERABILITY. If any provision of this act or the  
4 application of this act to any person or circumstance is held invalid, the  
5 invalidity shall not affect other provisions or applications of this act that  
6 can be given effect without the invalid provision or application, and to this  
7 end, the provisions of this act are declared severable.

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9 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the  
10 General Assembly of the State of Arkansas that unanticipated discretionary  
11 federal funds related to a statewide state of disaster emergency related to  
12 public health have a critical impact on the public peace, health, and safety  
13 by playing a crucial rule in assisting the state to navigate emergency  
14 situations; that determining that unanticipated discretionary federal funds  
15 are spent in the most effective and efficient manner ensures that funds will  
16 have their maximum impact on emergency situations; and that this act is  
17 immediately necessary to allow the state to be able to better respond to  
18 emergency situations and ensure the protection of the health, safety, and  
19 welfare of the citizens of the State of Arkansas. Therefore, an emergency is  
20 declared to exist, and this act being immediately necessary for the  
21 preservation of the public peace, health, and safety shall become effective  
22 on:

23 (1) The date of its approval by the Governor;

24 (2) If the bill is neither approved nor vetoed by the Governor,  
25 the expiration of the period of time during which the Governor may veto the  
26 bill; or

27 (3) If the bill is vetoed by the Governor and the veto is  
28 overridden, the date the last house overrides the veto.

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**APPROVED: 3/24/21**

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