

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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