

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

SENATE BILL 378

By: Senator K. Hammer
By: Representative Gazaway

For An Act To Be Entitled

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

Subtitle

TO AMEND ARKANSAS LAW CONCERNING
UNANTICIPATED DISCRETIONARY FEDERAL FUNDS
RELATED TO A STATEWIDE STATE OF DISASTER
EMERGENCY RELATED TO PUBLIC HEALTH; AND
TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Legislative intent. The General Assembly finds that:

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

(1) Legislative Council; or

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

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

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

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

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

law.

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

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

- (1) The date of its approval by the Governor;
- (2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or
- (3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

APPROVED: 3/24/21