

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

SENATE BILL 551

5 By: Senator J. Dotson
6 By: Representative Brooks
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE REFERENCES IN THE ARKANSAS CODE
10 TO "DIRECTOR OF THE DIVISION OF HIGHER EDUCATION" TO
11 THE "COMMISSIONER OF THE DIVISION OF HIGHER
12 EDUCATION"; TO AMEND THE MEANS BY WHICH THE DIRECTOR
13 OF THE DIVISION OF HIGHER EDUCATION IS APPOINTED; TO
14 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.
15
16

Subtitle

17
18 TO AMEND THE ARKANSAS CODE AS IT PERTAINS
19 TO REFERENCES TO THE DIRECTOR OF THE
20 DIVISION OF HIGHER EDUCATION; AND TO
21 DECLARE AN EMERGENCY.
22
23

24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
25

26 SECTION 1. Arkansas Code § 1-4-114(b)(1), concerning the person
27 designated or appointed by the Governor as Poet Laureate of the State of
28 Arkansas, is amended to read as follows:

29 (b)(1) The person designated or appointed by the Governor as Poet
30 Laureate of the State of Arkansas shall be a person whose name was selected
31 from a list of names submitted to the Governor upon recommendation of a
32 committee consisting of:

33 (A) Two (2) principal heads of English departments of
34 state-supported universities or colleges who are selected by the ~~Director~~
35 Commissioner of the Division of Higher Education; and

36 (B) Two (2) members of the Poets' Roundtable of Arkansas



1 who are selected by the President of the Poets' Roundtable of Arkansas.

2
3 SECTION 2. Arkansas Code § 6-1-404(a)(4), concerning the members of
4 the School Leadership Coordinating Council, is amended to read as follows:

5 (4) The ~~Director~~ Commissioner of the Division of Higher
6 Education;

7
8 SECTION 3. Arkansas Code § 6-5-1102(b), concerning the membership of
9 the Council on Postsecondary Education and Career Readiness, is amended to
10 read as follows:

11 (b) The council shall consist of eleven (11) members as follows:

12 (1) The Commissioner of Elementary and Secondary Education or
13 his or her designee;

14 (2) The ~~Director~~ Commissioner of the Division of Higher
15 Education or his or her designee;

16 (3) The Director of the Division of Career and Technical
17 Education or his or her designee;

18 (4) The Director of the Arkansas Economic Development Commission
19 or his or her designee;

20 (5) The Director of the Division of Workforce Services or his or
21 her designee;

22 (6) A president or chancellor of an Arkansas four-year
23 institution of higher education or his or her designee, appointed annually by
24 the ~~Director~~ Commissioner of the Division of Higher Education;

25 (7) The Executive Director of the Arkansas Association of
26 Educational Administrators or his or her designee;

27 (8) The Executive Director of Arkansas Community Colleges or his
28 or her designee;

29 (9) The Executive Director of the Arkansas Education Association
30 or his or her designee;

31 (10) The Executive Director of the Arkansas School Boards
32 Association or his or her designee; and

33 (11) The President of the Arkansas State Chamber of Commerce and
34 the Associated Industries of Arkansas or his or her designee.

35
36 SECTION 4. Arkansas Code § 6-11-208(a)(1), concerning the membership

1 of the Regional Educational Career Alternative School System for Adjudicated
2 Youth multiagency task force, is amended to read as follows:

3 (a)(1) A multiagency task force, staffed and supported by the Division
4 of Career and Technical Education, is established and shall consist of five
5 (5) members, including:

6 (A) The Commissioner of Elementary and Secondary Education
7 or his or her designee;

8 (B) The Director of the Division of Career and Technical
9 Education or his or her designee;

10 (C) The ~~Director~~ Commissioner of the Division of Higher
11 Education or his or her designee;

12 (D) The Secretary of the Department of Human Services or
13 his or her designee; and

14 (E) The Director of the Division of Workforce Services or
15 his or her designee.

16
17 SECTION 5. Arkansas Code § 6-15-2501(c)(3), concerning the appointment
18 of a liaison to the Office of Education Renewal Zones, is amended to read as
19 follows:

20 (3) The ~~Director~~ Commissioner of the Division of Higher
21 Education shall assign one (1) individual from the staff of the Division of
22 Higher Education to serve as a liaison to the office.

23
24 SECTION 6. Arkansas Code § 6-16-127(d), concerning the receipt of
25 donations, grants, and appropriations by the Division of Higher Education
26 under the Arkansas Foreign Language Teacher Training Program, is amended to
27 read as follows:

28 (d)(1) The awards granted under the provisions of this section and §
29 6-16-128 may be funded by donations, grants, or legislative appropriation.

30 (2) All donations, grants, and appropriations received shall be
31 accounted for by the Division of Higher Education.

32 (3) The ~~Director~~ Commissioner of the Division of Higher
33 Education may solicit and receive donations and grants for the purpose of
34 making awards.

35 (4) The provisions of this section and § 6-16-128 shall be
36 contingent on the appropriation and funding necessary to allow the Division

1 of Higher Education to carry out the duties assigned it in this section and §
2 6-16-128.

3

4 SECTION 7. Arkansas Code § 6-42-303(b)(3)(A), concerning the ex
5 officio nonvoting members serving on the Board of Visitors for the Arkansas
6 School for Mathematics, Sciences, and the Arts, is amended to read as
7 follows:

8 (3)(A) In addition to appointed members of the Board of Visitors
9 for the Arkansas School for Mathematics, Sciences, and the Arts, nine (9) ex
10 officio nonvoting members shall also serve on the Board of Visitors for the
11 Arkansas School for Mathematics, Sciences, and the Arts as follows:

12 (i) The Commissioner of Elementary and Secondary
13 Education;

14 (ii) The ~~Director~~ Commissioner of the Division of
15 Higher Education;

16 (iii) The Director of the Arkansas Economic
17 Development Commission or his or her designee;

18 (iv) The Director of the Division of Arkansas
19 Heritage;

20 (v) The president of the parent association of the
21 school;

22 (vi) The president of the student government of the
23 school;

24 (vii) The president of the faculty and staff
25 Governing Council of the Arkansas School for Mathematics, Sciences, and the
26 Arts;

27 (viii) The Chair of the Association for Alumni and
28 Friends of ASMSA, or his or her designee; and

29 (ix) The Chair of the ASMSA Foundation Fund Board of
30 Ambassadors, or his or her designee.

31

32 SECTION 8. Arkansas Code § 6-50-702(6), concerning the definition of
33 "governing council" under the Arkansas Existing Workforce Training Act of
34 1995, is amended to read as follows:

35 (6) "Governing council" means the Director of the Arkansas
36 Economic Development Commission, the ~~Director~~ Commissioner of the Division of

1 Higher Education, and the Director of the Office of Skills Development, or
2 their designees;

3
4 SECTION 9. Arkansas Code § 6-51-213(c)(1), concerning the
5 administration of certain federal and state vocational education laws, is
6 amended to read as follows:

7 (c)(1) The ~~Director~~ Commissioner of the Division of Higher Education,
8 by and with the advice and consent of the Arkansas Higher Education
9 Coordinating Board, may designate assistants as may be necessary to carry out
10 properly the provisions of this subchapter.

11
12 SECTION 10. Arkansas Code § 6-51-605(a)(2), concerning nonvoting, ex
13 officio members of the State Board of Private Career Education, is amended to
14 read as follows:

15 (2) The ~~Director~~ Commissioner of the Division of Higher
16 Education and the Director of the Division of Career and Technical Education
17 or their designees shall serve as nonvoting, ex officio members of the board.

18
19 SECTION 11. Arkansas Code § 6-51-605(b)(1), concerning the election of
20 officers to the State Board of Private Career Education, is amended to read
21 as follows:

22 (b)(1) The board may elect the necessary officers, acting by and
23 through the ~~Director~~ Commissioner of the Division of Higher Education.

24
25 SECTION 12. Arkansas Code § 6-51-607(f), concerning the use of funds
26 in the Private Career School Student Protection Trust Fund, is amended to
27 read as follows:

28 (f) Any amounts in the Private Career School Student Protection Trust
29 Fund above two hundred thousand dollars (\$200,000) may be used with the
30 approval of the ~~Director~~ Commissioner of the Division of Higher Education to:

31 (1) Fund educational seminars and other forms of educational
32 projects for the use and benefit of licensed school administrators, faculty,
33 staff, or admissions representatives;

34 (2) Provide for travel expenses and registration fees to send
35 staff or board members to accrediting meetings, seminars, or meetings
36 relating to the school sector;

1 (3) Provide staff assistance; or

2 (4)(A) Fund student scholarships as provided for by the Higher
3 Education Grants Fund Account.

4 (B) Priority of funding scholarships under subdivision
5 (f)(4)(A) of this section shall be given to the funding of veterinary
6 medicine student loans at the College of Veterinary Medicine of Mississippi
7 State University.

8

9 SECTION 13. Arkansas Code § 6-51-609(c)(2)(A), concerning the
10 endorsement of an admissions representative’s license, is amended to read as
11 follows:

12 (2)(A) The license shall be endorsed by the ~~Director~~
13 Commissioner of the Division of Higher Education.

14

15 SECTION 14. Arkansas Code § 6-51-615(b), concerning the denial of an
16 admissions representative’s license, is amended to read as follows:

17 (b) The ~~Director~~ Commissioner of the Division of Higher Education,
18 upon receipt of information considered dependable which indicates fraud,
19 misrepresentation, or unethical practices on the part of an applicant, may
20 deny issuance of a license applied for or may suspend immediately a license
21 already issued pending a review by the Division of Higher Education.

22

23 SECTION 15. Arkansas Code § 6-51-618(d), concerning a school’s appeal
24 regarding penalties imposed on a school that violates the law as it pertains
25 to private resident and correspondence schools, is amended to read as
26 follows:

27 (d) Any school dissatisfied with the penalties imposed may seek
28 judicial review, provided the school files notice of appeal in Pulaski County
29 Circuit Court within fifteen (15) calendar days immediately following the
30 date of notification of this action by the ~~Director~~ Commissioner of the
31 Division of Higher Education.

32

33 SECTION 16. Arkansas Code § 6-60-303(d)(1), concerning the
34 appropriation transfer procedures for tuition revenue that would have been
35 generated by charging an out-of-state tuition rate instead of an approved in-
36 state or out-of-district tuition rate, is amended to read as follows:

1 (1) The ~~Director~~ Commissioner of the Division of Higher Education
2 shall determine the difference between the amount of tuition revenue ~~which~~
3 that would have been generated by charging the Arkansas Higher Education
4 Coordinating Board-approved out-of-state tuition rate to the students as
5 compared to the approved in-state or out-of-district rate.

6
7 SECTION 17. Arkansas Code § 6-61-129(d)(1), concerning the meeting of
8 individuals to review applications for the creation of a center of
9 excellence, is amended to read as follows:

10 (d)(1) Two (2) representatives of the division as designated by the
11 ~~Director~~ Commissioner of the Division of Higher Education, and one (1)
12 representative of the Arkansas Economic Development Commission shall meet as
13 needed to review applications jointly.

14
15 SECTION 18. Arkansas Code § 6-61-504 is amended to read as follows:
16 6-61-504. Division of Community Junior Colleges created.

17 The ~~Director~~ Commissioner of the Division of Higher Education shall
18 establish a separate Division of Community Junior Colleges within the
19 Division of Higher Education.

20
21 SECTION 19. Arkansas Code § 6-61-803 is amended to read as follows:
22 6-61-803. Arkansas Research Development Program created -

23 Administration.
24 There is created a program to be known as the “Arkansas Research
25 Development Program”, which shall be administered by the ~~Director~~
26 Commissioner of the Division of Higher Education.

27
28 SECTION 20. Arkansas Code § 6-61-808(b)(1), concerning the review of
29 applications for funds under the Arkansas Research Development Act, is
30 amended to read as follows:

31 (b)(1) The ~~Director~~ Commissioner of the Division of Higher Education
32 shall review the applications and shall approve applications in the amount he
33 or she determines appropriate, after seeking the advice of the Legislative
34 Council.

35
36 SECTION 21. Arkansas Code § 6-61-902(c), concerning the work conducted

1 by the Office of Accountability within the Division of Higher Education, is
2 amended to read as follows:

3 (c) Under the direction of the ~~Director~~ Commissioner of the Division
4 of Higher Education, the staff of the office shall work cooperatively with
5 and provide any necessary assistance to the House Committee on Education and
6 the Senate Committee on Education.

7
8 SECTION 22. Arkansas Code § 6-61-1403(a), concerning the
9 recommendation for additions or alterations to the common course number
10 system, is amended to read as follows:

11 (a) The ~~Director~~ Commissioner of the Division of Higher Education
12 shall recommend to the Arkansas Higher Education Coordinating Board any
13 additions or alterations to the common course numbering system.

14
15 SECTION 23. Arkansas Code § 6-62-105(c)(1), concerning the
16 authorization of state-supported institutions to borrow funds from a private
17 financial institution, is amended to read as follows:

18 (c)(1) Notwithstanding subsections (a) and (b) of this section or §
19 19-4-705, the Chief Fiscal Officer of the State and the ~~Director~~ Commissioner
20 of the Division of Higher Education may authorize a state-supported
21 institution of higher education to borrow funds from a private financial
22 institution provided that the board of trustees certifies that borrowing
23 funds from a private financial institution:

24 (A) Is required to continue essential operations of the
25 state-supported institution of higher education into the following fiscal
26 year; and

27 (B) Will be repaid not later than one hundred twenty (120)
28 days after the start of the following fiscal year.

29
30 SECTION 24. Arkansas Code § 6-63-307(a), concerning salary
31 restrictions for employees of state institutions of higher education, is
32 amended to read as follows:

33 (a) An employee drawing a salary or other form of compensation from an
34 institution of higher education shall not be paid an additional salary or
35 receive additional compensation other than reimbursement for actual expenses
36 from that institution or from any other agency or institution of higher

1 education except upon written certification to and approval by the ~~Director~~
2 Commissioner of the Division of Higher Education and by the head of each
3 agency or institution that the work performed by the employee for the other
4 agency or institution of higher education does not interfere with the proper
5 and required performance of the employee's primary duties and that the
6 combined salary payments from both agencies or institutions of higher
7 education will not exceed the larger maximum annual salary of the line item
8 position authorized for either agency from which the employee is to be paid.

9
10 SECTION 25. Arkansas Code § 6-67-114(b), concerning the biennial
11 report to the General Assembly submitted by the Board of Trustees of the
12 University of Central Arkansas, is amended to read as follows:

13 (b) The report shall be incorporated in the report of the ~~Director~~
14 Commissioner of the Division of Higher Education and shall set forth the
15 financial and scholastic condition of the University of Central Arkansas,
16 furnish such suggestions as in the board's judgment are necessary for the
17 improvement of the university, and shall make any further recommendations
18 that may seem wise and expedient to the board.

19
20 SECTION 26. Arkansas Code § 6-84-104(b), concerning the cotrustees of
21 the Arkansas Brighter Future Fund Plan Trust, is amended to read as follows:

22 (b) The cotrustees of the trust shall be the ~~Director~~ Commissioner of
23 the Division of Higher Education, the Executive Director of the Arkansas
24 Teacher Retirement System, and the Treasurer of State.

25
26 SECTION 27. Arkansas Code § 6-84-105(a), concerning the administration
27 of the Section 529 Plan Review Committee under the Arkansas Brighter Future
28 Fund Plan Trust, is amended to read as follows:

29 (a) This chapter shall be administered by the Section 529 Plan Review
30 Committee, which shall be composed of:

31 (1) The ~~Director~~ Commissioner of the Division of Higher
32 Education;

33 (2) The Executive Director of the Arkansas Teacher Retirement
34 System; and

35 (3) The Treasurer of State.
36

1 SECTION 28. Arkansas Code § 6-85-205(e), concerning the review and
2 evaluation of the Arkansas Academic Challenge Scholarship Program, is amended
3 to read as follows:

4 (e) The ~~Director~~ Commissioner of the Division of Higher Education
5 shall review and evaluate the operation of the program with regard to
6 eligibility criteria and size of the scholarship award to ensure that the
7 program's operation meets the intent of this subchapter.

8
9 SECTION 29. Arkansas Code § 6-85-216(c), concerning the required
10 annual report to the Legislative Council concerning the Arkansas Academic
11 Challenge Scholarship Program, is amended to read as follows:

12 (c) The division shall use the information provided under this section
13 to conduct the research and analysis needed to support the annual report of
14 the ~~Director~~ Commissioner of the Division of Higher Education to the
15 Legislative Council under § 6-85-205.

16
17 SECTION 30. Arkansas Code § 6-85-219(a)(2), concerning information
18 included in the annual report to the Legislative Council concerning the
19 Arkansas Academic Challenge Scholarship Program, is amended to read as
20 follows:

21 (2) The information provided shall include without limitation:

22 (A) Current year expenditures for scholarships and grants
23 under the Arkansas Academic Challenge Scholarship Program;

24 (B) Projected obligations for succeeding years from each
25 scholarship or grant funding source;

26 (C) Fund balances for the:

27 (i) Higher Education Grants Fund Account; and

28 (ii) Trust accounts maintained by the ~~Director~~
29 Commissioner of the Division of Higher Education to hold the net proceeds
30 from the state lottery;

31 (D) An evaluation of whether the net proceeds from the
32 state lottery available for the program supplement and do not supplant
33 nonlottery state educational resources; and

34 (E) Other information that the Legislative Council or the
35 General Assembly requests.

36

1 SECTION 31. Arkansas Code § 15-3-104(c), concerning the membership of
2 the Board of Directors of the Division of Science and Technology of the
3 Arkansas Economic Development Commission, is amended to read as follows:

4 (c) The board shall consist of the ~~Director~~ Commissioner of the
5 Division of Higher Education or the ~~Director~~ Commissioner of the Division of
6 Higher Education's designee and thirteen (13) directors who shall be
7 appointed by the Governor, subject to confirmation by the Senate, as follows:

8 (1) Three (3) directors shall be engineers or scientists
9 recognized for their scientific or technological research efforts;

10 (2) Two (2) directors shall be appointed as representatives of
11 academic institutions who have an extended extensive involvement in science
12 and technology research;

13 (3) Five (5) directors shall be representatives of the private
14 sector of the state, who shall be persons with knowledge or experience in the
15 fields of agriculture, forestry, finance, economic development, or science
16 and technology; and

17 (4) Three (3) directors shall be appointed as representatives of
18 the private sector of the state, who shall be persons with knowledge or
19 experience in the field of manufacturing.

20
21 SECTION 32. Arkansas Code § 19-4-1604(c), concerning approval by the
22 Director of the Division of Higher Education for a person to be paid a salary
23 or compensation from an institution of higher education other than the
24 institution of higher education that employs the person, is amended to read
25 as follows:

26 (c) A person drawing a salary or other compensation from a state
27 agency or institution of higher education shall not be paid a salary or
28 compensation from another institution of higher education except upon the
29 written certification to and approval by the ~~Director~~ Commissioner of the
30 Division of Higher Education that the:

31 (1) Work performed for the other state agency or institution of
32 higher education does not interfere with the proper and required performance
33 of the person's duties; and

34 (2) Combined salary payments from the state agency and
35 institution of higher education do not exceed the larger maximum annual
36 salary of the line-item position authorized for either the agency or

1 institution of higher education from which the employee is being paid.

2
 3 SECTION 33. Arkansas Code § 19-5-501(b)(1)(E) and (F), concerning
 4 temporary loans made to institutions of higher education, is amended to read
 5 as follows:

6 (E) Temporary loans may be made to the institutions of
 7 higher education for operational purposes. In making these loans, the
 8 following procedures shall be applicable. The institutions of higher
 9 education shall submit requests for loans to both the ~~Director~~ Commissioner
 10 of the Division of Higher Education and the Chief Fiscal Officer of the State
 11 setting forth the need for the loan. The requests shall include at least the
 12 following:

13 (i) The current total cash balance of all accounts
 14 of the requesting institution's cash funds;

15 (ii) The reasons why the cash fund balances and
 16 their general revenue fund balances are insufficient to meet current
 17 obligations;

18 (iii) The anticipated duration of the loan; and

19 (iv) A proposed repayment schedule.

20 (F) The Chief Fiscal Officer of the State and the ~~Director~~
 21 Commissioner of the Division of Higher Education shall review the request for
 22 the loan. The ~~Director~~ Commissioner of the Division of Higher Education
 23 shall recommend, in writing, the approval or disapproval of the loan and the
 24 reasons for the recommendation to the Chief Fiscal Officer of the State. The
 25 Chief Fiscal Officer of the State shall review the institution's request, the
 26 funds available in the Budget Stabilization Trust Fund, and the
 27 recommendation of the ~~Director~~ Commissioner of the Division of Higher
 28 Education. The Chief Fiscal Officer of the State may request such additional
 29 information as is deemed necessary to make a determination as to whether the
 30 request should be approved. If the Chief Fiscal Officer of the State
 31 determines that the request is proper and necessary for the operation of the
 32 institution and that sufficient funds are available, the Chief Fiscal Officer
 33 of the State shall approve the request and establish a repayment schedule for
 34 the loan. If the Chief Fiscal Officer of the State determines that the loan
 35 is not necessary or required, or that funds are not available, the Chief
 36 Fiscal Officer of the State shall deny the request. The Chief Fiscal Officer

1 of the State shall communicate in writing to the institution and to the
2 ~~Director~~ Commissioner of the Division of Higher Education the reasons for
3 disapproval of the requested loan. All loans made to the institutions of
4 higher education under the provisions of this section shall be repaid in full
5 by June 30 of the fiscal year in which the loan was made. In the event an
6 agency or program is established by the General Assembly which is to be
7 supported solely from other than general revenues or federal funds, the Chief
8 Fiscal Officer of the State may make a temporary loan from the Budget
9 Stabilization Trust Fund to the agency or program to the extent necessary for
10 carrying out the intent of the enabling legislation. The amount of the loan
11 shall be determined by the Chief Fiscal Officer of the State, and the loans
12 shall be repaid in full by June 30 of the fiscal year in which the loan was
13 made;

14
15 SECTION 34. Arkansas Code § 19-5-1018(d), concerning the disbursement
16 of funds accrued to the Higher Education Building Maintenance Fund, is
17 amended to read as follows:

18 (d) Those funds accruing to the Higher Education Building Maintenance
19 Fund under the provisions of this section shall be disbursed by the ~~Director~~
20 Commissioner of the Division of Higher Education in accordance with the
21 recommendations of the Arkansas Higher Education Coordinating Board, but only
22 after the board shall determine the projects and priorities for which the
23 funds shall be used, and after the board shall have sought the advice of the
24 Legislative Council with respect to them.

25
26 SECTION 35. Arkansas Code § 19-5-1076(d)(1), concerning the
27 determination of a difference in tuition revenue under the Higher Education
28 Tuition Adjustment Fund, is amended to read as follows:

29 (d)(1) The ~~Director~~ Commissioner of the Division of Higher Education
30 shall determine the difference between the amount of tuition revenue which
31 would have been generated by charging the Arkansas Higher Education
32 Coordinating Board-approved out-of-state tuition rate to said students as
33 compared to approved in-state or out-of-district rates.

34
35 SECTION 36. Arkansas Code § 19-11-1004(c)(3), concerning the receipt
36 of additional compensation by an employee of an institution of higher

1 education, is amended to read as follows:

2 (3) An employee of an institution of higher education performing
3 professional or consulting services to a state agency may receive additional
4 compensation if:

5 (A) The institution of higher education requests and
6 receives written approval from the ~~Director~~ Commissioner of the Division of
7 Higher Education concerning the amount of additional compensation to be paid
8 to any employee; and

9 (B) The total salary payments received from the employee's
10 regular salaried position and amounts received for services performed under a
11 professional services contract do not exceed one hundred twenty-five percent
12 (125%) of the maximum annual salary authorized by law for the employee's
13 position with the institution of higher education.

14

15 SECTION 37. Arkansas Code § 19-12-117(a)(3), concerning the membership
16 of the Director of the Division of Higher Education on the Arkansas Tobacco
17 Settlement Commission, is amended to read as follows:

18 (3) The ~~Director~~ Commissioner of the Division of Higher
19 Education or his or her designee;

20

21 SECTION 38. Arkansas Code § 20-45-302(c)(7), concerning the membership
22 of a representative from higher education on the Arkansas Suicide Prevention
23 Council, is amended to read as follows:

24 (7) A representative from higher education, to be designated by
25 the ~~Director~~ Commissioner of the Division of Higher Education;

26

27 SECTION 39. The introductory language of Arkansas Code § 21-5-
28 223(b)(1), concerning the authorization of the payment of funds on a regular
29 payroll schedule as severance pay, is amended to read as follows:

30 (b)(1) If the head of an institution of higher education determines
31 that it is necessary to implement the state workforce reduction policy due to
32 institution organization structure change, budgetary reductions, abolishment
33 of positions or duties, loss of functional responsibility by the institution,
34 or the loss of federal funding, grants, or other special funds, the head of
35 the institution, upon approval by the ~~Director~~ Commissioner of the Division
36 of Higher Education, may authorize the payment of funds on a regular payroll

1 schedule as severance pay to full-time, part-time, and job sharing classified
 2 employees in regular positions affected by the workforce reduction on the
 3 basis of the following pro rata lump sum for completed years of service,
 4 including any formally implemented probationary period:

5
 6 SECTION 40. Arkansas Code § 21-5-1402(9), concerning the definition of
 7 "job sharing" under the Higher Education Uniform Classification and
 8 Compensation Act, is amended to read as follows:

9 (9)(A)(i) "Job sharing" means a form of employment in which the
 10 hours of work of two (2) or more persons are arranged in such a way as to
 11 cover one (1) regular full-time position.

12 (ii) The division may authorize job sharing for any
 13 regular full-time position.

14 (B) The ~~Director~~ Commissioner of the Division of Higher
 15 Education or his or her designee shall promulgate necessary rules to carry
 16 out this subdivision (9);

17
 18 SECTION 41. Arkansas Code § 21-5-1405(a)(6)(C), concerning the
 19 procedure to allow the head of an institution of higher education to review
 20 the qualifications of applicants whose education and experience do not meet
 21 or exceed that required by the class specification, is amended to read as
 22 follows:

23 (C) The procedure under subdivision (a)(6)(A) of this
 24 section shall require the final approval of the ~~Director~~ Commissioner of the
 25 Division of Higher Education, with the review of the Legislative Council or,
 26 if the General Assembly is in session, the Joint Budget Committee;

27
 28 SECTION 42. Arkansas Code § 21-5-1409(c)(1), concerning the procedure
 29 for the increase of the maximum annual salary for an institution of higher
 30 education employee under the Higher Education Uniform Classification and
 31 Compensation Act, is amended to read as follows:

32 (c)(1) In addition to a compensation increase under subsection (b) of
 33 this section, the maximum annual salary for which an employee covered by this
 34 subchapter is eligible may be increased:

35 (A) By a percentage up to two percent (2%) with written
 36 approval by the ~~Director~~ Commissioner of the Division of Higher Education; or

1 (B) More than two percent (2%) only with written approval
2 of the Director of the Division of Higher Education after review by the
3 Legislative Council or, if the General Assembly is in session, the Joint
4 Budget Committee.

5
6 SECTION 43. Arkansas Code § 21-5-1410(c)(1), concerning a request by
7 an institution of higher education for a special rate of pay for a specific
8 classification or position under the Higher Education Uniform Classification
9 and Compensation Act, is amended to read as follows:

10 (c)(1) An institution may request a special rate of pay for a specific
11 classification or position due to prevailing market rates of pay up to the
12 midpoint pay level of the appropriate grade of a classification on the
13 appropriate pay table for the assigned grade with the written approval of the
14 ~~Director~~ Commissioner of the Division of Higher Education.

15
16 SECTION 44. Arkansas Code § 21-5-1411(c)(3)(B), concerning approval of
17 a shift schedule, classifications, positions, and the percentage of a shift
18 differential under the Higher Education Uniform Classification and
19 Compensation Act, is amended to read as follows:

20 (B) The shift schedule, classifications, positions, and
21 the percentage of shift differential for which the class titles are eligible
22 shall be submitted to the division for approval by the ~~Director~~ Commissioner
23 of the Division of Higher Education.

24
25 SECTION 45. Arkansas Code § 21-5-1412(c)(2)(B), concerning the
26 certification of hazardous duty differential under the Higher Education
27 Uniform Classification and Compensation Act, is amended to read as follows:

28 (B) The positions shall be certified by the institution as
29 having been assigned to a work environment that poses an increased risk of
30 personal injury and shall be submitted as part of the plan for payment of a
31 hazardous duty differential to the division for approval by the ~~Director~~
32 Commissioner of the Division of Higher Education after review and approval of
33 the Legislative Council or, if the General Assembly is in session, the Joint
34 Budget Committee.

35
36 SECTION 46. Arkansas Code § 21-5-1413(a)(1), concerning the request by

1 an institution of higher education regarding a salary administration grid
2 under the Higher Education Uniform Classification and Compensation Act, is
3 amended to read as follows:

4 (a)(1) An institution of higher education may request that a
5 salary administration grid be approved for specific classifications of
6 positions assigned to the pay plan as established in § 21-5-1410 if the:

7 (A) Institution has documented the need for a salary
8 administration grid for specified positions or classifications;

9 (B) Terms and conditions of a salary administration grid
10 proposed by the institution address the needs of the targeted positions;

11 (C) Cost of implementing and maintaining a salary
12 administration grid is within the institution’s existing appropriation and
13 the implementation does not use funds specifically set aside for other
14 programs within the institution; and

15 (D) Salary administration grid has been approved by the
16 ~~Director~~ Commissioner of the Division of Higher Education after review by the
17 Legislative Council or, if the General Assembly is in session, the Joint
18 Budget Committee.

19

20 SECTION 47. Arkansas Code § 21-5-1416(b), concerning the publishing of
21 policies and procedures for the administration of career service recognition
22 payments under the Higher Education Uniform Classification and Compensation
23 Act, is amended to read as follows:

24 (b) The Division of Higher Education shall establish and publish
25 policies and procedures for the administration of career service recognition
26 payments to employees of institutions upon a determination by the ~~Director~~
27 Commissioner of the Division of Higher Education that the respective
28 institution has sufficient funds available for that purpose.

29

30 SECTION 48. Arkansas Code § 23-115-801(c)(1), concerning the
31 certification to the Office of the Arkansas Lottery of net proceed amounts
32 from the state lottery that are needed to fund scholarships under the
33 Arkansas Scholarship Lottery Act, is amended to read as follows:

34 (c)(1) The ~~Director~~ Commissioner of the Division of Higher Education
35 shall certify to the office the amount of net proceeds from the state lottery
36 needed to fund the scholarships awarded to recipients under the following

1 scholarship programs for each semester of an academic year based on the
2 contents of the Lottery Scholarship Trust Account at the end of the
3 immediately preceding fiscal year:

4 (A) The Arkansas Academic Challenge Scholarship Program, §
5 6-85-201 et seq.;

6 (B) The Arkansas Workforce Challenge Scholarship Program,
7 § 6-85-301 et seq.;

8 (C) The Arkansas Concurrent Challenge Scholarship Program,
9 § 6-85-401 et seq.; and

10 (D) Any other scholarship funded with net proceeds from
11 the state lottery.

12
13 SECTION 49. Arkansas Code § 24-7-801(4), concerning the definition of
14 "division employees" as it pertains to alternate retirement plans for state
15 colleges, is amended to read as follows:

16 (4) "Division employees" means the ~~Director~~ Commissioner of the
17 Division of Higher Education and the professional education employees of the
18 division;

19
20 SECTION 50. Arkansas Code § 24-7-804(c), concerning the administration
21 of an alternate retirement plan, is amended to read as follows:

22 (c) The board of any college which elects to establish and maintain an
23 alternate retirement plan and the ~~Director~~ Commissioner of the Division of
24 Higher Education, if it elects to establish and maintain a plan, shall have
25 authority to administer the plan and to perform or authorize the performance
26 of all such functions as may be reasonably appropriate in its administration.

27
28 SECTION 51. Arkansas Code § 24-7-805(c), concerning agents for service
29 of process as it pertains to alternate retirement plans, is amended to read
30 as follows:

31 (c) In any action brought by a staff member or division employee on a
32 policy or contract, any official of the college or the ~~Director~~ Commissioner
33 of the Division of Higher Education shall be deemed to be the agent of the
34 nonprofit company only for the purpose of service of process on the contract
35 or policy, and for no other purpose.

1 SECTION 52. Arkansas Code § 24-7-807(5)(A), concerning the election of
 2 a Division of Higher Education employee who transferred from another state
 3 department or division to participate in an alternate retirement plan, is
 4 amended to read as follows:

5 (5)(A)(i) Any Division of Higher Education employee who
 6 transferred from another state department or division covered by a state-
 7 supported retirement system may elect to participate in an alternate
 8 retirement plan.

9 (ii) The employee shall file written notice of his
 10 or her election with the ~~Director~~ Commissioner of the Division of Higher
 11 Education.
 12

13 SECTION 53. Arkansas Code § 24-7-907(4)(B), concerning the provision
 14 of notice by an individual who is a staff member at a vocational-technical
 15 school to participate in an alternate retirement plan, is amended to read as
 16 follows:

17 (B) The notice of election shall be in writing on a form
 18 established by the Department of Career Education and filed with both the
 19 ~~Director~~ Commissioner of the Division of Higher Education and the retirement
 20 system.
 21

22 SECTION 54. Arkansas Code § 25-7-101 is amended to read as follows:

23 25-7-101. Creation – ~~Director~~ Commissioner – Organization – Personnel.

24 (a) There is created a Division of Higher Education.

25 (b)(1) The executive head of the Division of Higher Education shall be
 26 the ~~Director~~ Commissioner of the Division of Higher Education.

27 (2) The ~~director~~ commissioner shall be appointed, ~~in~~
 28 ~~consultation with the Arkansas Higher Education Coordinating Board,~~ by the
 29 Governor and shall serve at the pleasure of the Governor.

30 (3) The ~~director~~ commissioner shall report to the Secretary of
 31 the Department of Education.

32 (c) The Division of Higher Education shall consist of the Arkansas
 33 Higher Education Coordinating Board and any other divisions ~~which~~ that may be
 34 created by law and placed under the Division of Higher Education.

35 (d)(1) The ~~director~~ commissioner, with the advice and consent of the
 36 Governor, and the Secretary of the Department of Education, shall appoint the

1 heads of the respective divisions.

2 (2)(A) All of the personnel of the Division of Higher Education
 3 shall be employed by and serve at the pleasure of the ~~director~~ commissioner.
 4 ~~Provided,~~

5 (B) ~~However,~~ nothing in this section shall be ~~so~~ construed
 6 as ~~to reduce~~ reducing any right ~~which~~ that an employee shall have under any
 7 civil service or merit system.

8 (e)(1) Each division of the Division of Higher Education shall be
 9 under the direction, control, and supervision of the ~~director~~ commissioner.

10 (2) The ~~director~~ commissioner may delegate his or her functions,
 11 powers, and duties to various divisions of the Division of Higher Education
 12 as he or she ~~shall deem~~ deems desirable or necessary for the effective and
 13 efficient operation of the Division of Higher Education.

14 (f) The ~~several~~ institutions of higher education in this state shall
 15 ~~be requested to~~ cooperate with the Division of Higher Education in an effort
 16 to coordinate their programs.

17
 18 SECTION 55. Arkansas Code § 25-10-144(b), concerning the purposes of
 19 the Governor’s Advisory Commission on National Service and Volunteerism, is
 20 amended to read as follows:

21 (b) The purposes of the Governor’s Advisory Commission on National
 22 Service and Volunteerism are to:

23 (1) Assist the community engagement program and staff of the
 24 office of the ~~Director~~ Commissioner of the Division of Higher Education in
 25 setting goals, establishing priority activities, performing an advocacy role,
 26 and assisting in funding and resource development and publicity and
 27 recognition and awards programs; and

28 (2) Serve as the Arkansas Service Commission for the Edward M.
 29 Kennedy Serve America Act, as governed by 42 U.S.C. § 12638.

30
 31 SECTION 56. Arkansas Code § 25-30-101(b)(2)(B), concerning the
 32 membership of the Director of the Division of Higher Education as a nonvoting
 33 member serving on the Career Education and Workforce Development Board, is
 34 amended to read as follows:

35 (B) The ~~Director~~ Commissioner of the Division of Higher
 36 Education;

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SECTION 57. Arkansas Code § 26-51-1104(b), concerning the approval of a qualified research expenditure as it pertains to donations or sales of equipment to educational institutions, is amended to read as follows:

(b) To claim the credit granted by § 26-51-1102, the taxpayer shall show that the Director of the Arkansas Economic Development Commission and the ~~Director~~ Commissioner of the Division of Higher Education have approved the qualified research expenditure as a part of a qualified research program.

SECTION 58. Arkansas Code § 26-51-1105 is amended to read as follows:
26-51-1105. Rules.

The Secretary of the Department of Finance and Administration, the ~~Director~~ Commissioner of the Division of Higher Education, the Director of the Division of Career and Technical Education, the Secretary of the Department of Education, and the Director of the Arkansas Economic Development Commission shall jointly promulgate rules to carry out the purposes of this subchapter.

SECTION 59. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that it is important for the Governor to be able to expeditiously appoint an individual to serve as administrative head of the Division of Higher Education; that the Division of Higher Education ensures that state-supported institutions of higher education offer efficient and quality education to citizens of this state and other states; and that this act is immediately necessary to ensure the administrative head of the Division of Higher Education is appointed in an efficient manner for purposes of overseeing state-supported higher education in 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: 4/12/23**