

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 1962 of the Regular Session

1 State of Arkansas  
2 85th General Assembly  
3 Regular Session, 2005  
4

As Engrossed: H4/1/05

**A Bill**

HOUSE BILL 2617

5 By: Representative Bond  
6  
7

**For An Act To Be Entitled**

9 AN ACT TO MAKE VARIOUS CORRECTIONS TO THE  
10 ARKANSAS CODE OF 1987 ANNOTATED; AND FOR OTHER  
11 PURPOSES.  
12

**Subtitle**

14 AN ACT TO MAKE VARIOUS CORRECTIONS TO  
15 THE ARKANSAS CODE OF 1987 ANNOTATED.  
16  
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
19

20 SECTION 1. Arkansas Code § 2-1-202(a) is amended to read as follows to  
21 correct a discrepancy in the number of members on the Arkansas Young and  
22 Beginning Farmer Advisory Board:

23 (a) The Arkansas Young and Beginning Farmer Advisory Board shall  
24 consist of ~~twenty-two (22) members~~ members appointed under § 2-1-203 who are  
25 residents and electors of this state.  
26

27 SECTION 2. Arkansas Code § 2-3-106(b)(1) is amended to read as follows  
28 to delete obsolete references to chancery courts:

29 (b)(1) Upon receiving notice under subsection (a) of this section, or  
30 otherwise in his or her discretion, the Attorney General shall institute an  
31 action in the ~~Circuit Court or Chancery Court of Pulaski County~~ Pulaski  
32 County Circuit Court or in the circuit ~~or chancery~~ court of any county in  
33 which any portion of the agricultural land acquired or held in violation of §  
34 2-3-103 is located.  
35



1 SECTION 3. Arkansas Code § 4-57-106 is repealed due to its having been  
2 held repealed by implication in Henslee v. Madison Guar. Sav. & Loan Ass'n,  
3 297 Ark. 183, 760 S.W.2d 842 (1989):

4 ~~4-57-106. Usurious bonds, bills, conveyances, etc., void.~~  
5 ~~All bonds, bills, notes, assurances, conveyances, and all other contracts or~~  
6 ~~securities whatever, whereupon there is reserved, taken, or secured, or~~  
7 ~~agreed to be taken or reserved, any greater sum or greater value for the loan~~  
8 ~~or forbearance of any money, goods, things in action, or any other valuable~~  
9 ~~thing than is prescribed in §§ 4-57-102, 4-57-104, and 4-57-105 shall be~~  
10 ~~void.~~

11  
12 SECTION 4. Arkansas Code § 4-57-107 is repealed due to its having been  
13 held repealed by implication in Henslee v. Madison Guar. Sav. & Loan Ass'n,  
14 297 Ark. 183, 760 S.W.2d 842 (1989):

15 ~~4-57-107. Usurious contracts, liens, and conveyances.~~

16 ~~(a)(1) Every lien created or arising by mortgage, deed of trust, or~~  
17 ~~otherwise on real or personal property to secure the payment of a contract~~  
18 ~~for a greater rate of interest than the applicable rate of interest~~  
19 ~~prescribed by Arkansas Constitution, Article 19, § 13, either directly or~~  
20 ~~indirectly, and every conveyance made in furtherance of any such lien, is~~  
21 ~~void.~~

22 ~~(2) Every usurious lien or conveyance may be cancelled and~~  
23 ~~annulled at the suit of the maker of the usurious contract, or his or her~~  
24 ~~vendees, assigns, or creditors.~~

25 ~~(b)(1) The maker of a usurious contract may by suit in equity against~~  
26 ~~all parties asserting rights under the usurious contract have the contract~~  
27 ~~and any mortgage, pledge, or other lien, or conveyance executed to secure the~~  
28 ~~performance of the usurious contract annulled and cancelled, and any~~  
29 ~~property, real or personal, embraced within the terms of the lien or~~  
30 ~~conveyance, delivered up if in possession of any of the defendants in the~~  
31 ~~action and, if the property is in the possession of the plaintiff, provision~~  
32 ~~shall be made in the decree in the case removing the cloud of the usurious~~  
33 ~~lien and conveyances made in furtherance thereof from the title to the~~  
34 ~~property.~~

35 ~~(2) Any person who may have acquired the title to, or an~~  
36 ~~interest in, or lien upon the property by purchase from the makers of the~~

1 ~~usurious contract, or by assignment or by sale under judicial process,~~  
2 ~~mortgage, or otherwise, either before or after the making of the usurious~~  
3 ~~contract, may bring his or her suit in equity against the parties to the~~  
4 ~~usurious contract and anyone claiming title to the property by virtue of the~~  
5 ~~usurious contract, or may intervene in any suit brought to enforce the lien,~~  
6 ~~or to obtain possession of the property under any title growing out of the~~  
7 ~~usurious contract, and shall by proper decree have the mortgage, pledge, or~~  
8 ~~other lien, or conveyance made in furtherance thereof, cancelled and annulled~~  
9 ~~insofar as the mortgage, pledge, or other lien, or conveyance made in~~  
10 ~~furtherance thereof, is in conflict with the rights of the plaintiff in the~~  
11 ~~action.~~

12 ~~(3) Any creditor whose debtor has given a lien by mortgage,~~  
13 ~~pledge, or otherwise on real or personal property subject to execution to~~  
14 ~~secure the payment of a usurious contract may bring his or her suit in equity~~  
15 ~~against the parties to the usurious contract and recover judgment for his or~~  
16 ~~her debt against the debtor, and a decree cancelling and annulling the~~  
17 ~~usurious lien, and directing the sale of the property to satisfy the~~  
18 ~~plaintiff's judgment and costs, and any surplus that may remain after~~  
19 ~~satisfying the plaintiff's judgment shall be paid to the debtor.~~

20 ~~(c) Neither the maker of a usurious contract nor his or her vendees,~~  
21 ~~assigns, or creditors, or any other person who may have or claim an interest~~  
22 ~~in any property embraced within the terms of the usurious contract, shall be~~  
23 ~~required to tender or pay any part of the usurious debt or interest as a~~  
24 ~~condition of having the contract, and any conveyance, mortgage, pledge, or~~  
25 ~~other lien given to secure its payments or executed in furtherance thereof,~~  
26 ~~enjoined, cancelled, and annulled, and any rule of law, equity, or practice~~  
27 ~~to the contrary is abrogated.~~

28  
29 SECTION 5. Arkansas Code § 5-14-112 is amended to read as follows to  
30 conform to Code style:

31 (a) A person commits indecent exposure if, ~~with the purpose to arouse~~  
32 ~~or gratify the sexual desire of the person or of any other person, he or she~~  
33 ~~exposes his or her sex organs with the purpose to arouse or gratify his or~~  
34 ~~her sexual desire or the sexual desire of any other person:~~

35 (1) In a public place or in public view; or

36 (2) Under circumstances in which ~~the person~~ he or she knows the

1 conduct is likely to cause affront or alarm.

2 (b)(1) Indecent exposure is a Class A misdemeanor.

3 (2)(A) If the indecent exposure is committed against a person  
4 under the age of fifteen (15) years, a second or subsequent offense of  
5 indecent exposure against a person under the age of fifteen (15) years shall  
6 be a Class D felony.

7 (B) Subdivision (b)(2)(A) of this section shall not apply  
8 if the actor is under the age of eighteen (18) years at the time of the  
9 offense.

10

11 SECTION 6. Arkansas Code § 5-42-201 is amended to read as follows:  
12 5-42-201. Citation.

13 This subchapter shall be known ~~and~~ as the "Arkansas Criminal Use of  
14 Property ~~and/or~~ or Laundering Criminal Proceeds Act".

15

16 SECTION 7. Arkansas Code § 5-42-202 is amended to read as follows:  
17 5-42-202. General legislative findings, declarations, and intent.

18 (a) The General Assembly ~~of the State of Arkansas~~ finds that the State  
19 of Arkansas is experiencing an increase in crime committed by criminal gangs,  
20 organizations, or enterprises. These criminal gangs, organizations, or  
21 enterprises support themselves by engaging in criminal activity for profit,  
22 most commonly through the distribution of controlled substances and by theft  
23 of property.

24 (b) The General Assembly ~~of the State of Arkansas~~ further finds that  
25 with increasing frequency criminals are using sophisticated means of  
26 concealing criminal proceeds and in most cases moving criminal proceeds out  
27 of Arkansas. In order to reap the rewards of their criminal conduct,  
28 criminals must conceal the source of the criminal proceeds and the identity  
29 of the individuals who work to obtain the criminal proceeds. They convert the  
30 criminal proceeds to property or assets that appear to have come from a  
31 legitimate source. Often they must maintain the property or assets in  
32 another person's name. This also helps them to avoid detection,  
33 identification, and seizure. While individual criminals launder their  
34 criminal proceeds, this is particularly common among members and associates  
35 of criminal gangs, organizations, and enterprises. There is strong evidence  
36 that this increased sophistication is due largely to contact with other

1 criminal gangs, organizations, or enterprises from other states.

2 (c) The General Assembly ~~of the State of Arkansas~~ further finds that  
3 we cannot afford to allow millions of dollars in untaxed criminal proceeds to  
4 be taken from the state's economy each year.

5 (d) The intent of the General Assembly ~~of the State of Arkansas~~ is to  
6 enact penalties that will ~~deter and punish the criminal use of property~~  
7 ~~and/or the laundering of criminal proceeds, and facilitate the investigation~~  
8 ~~thereof.:~~

9 (1) Deter and punish the criminal use of property or the  
10 laundering of criminal proceeds; and

11 (2) Facilitate the investigation of the criminal use of property  
12 or the laundering of criminal proceeds.

13  
14 SECTION 8. Arkansas Code § 5-42-204 is amended to read as follows:

15 5-42-204. Criminal use of property ~~and/or~~ or laundering criminal  
16 proceeds.

17 (a) A person commits the offense of criminal use of property ~~and/or~~ or  
18 laundering criminal proceeds when he or she knowingly:

19 (1) Conducts, or attempts to conduct, a transaction involving  
20 criminal proceeds which were derived from any predicate criminal offense, or  
21 which were represented to be criminal proceeds from any predicate criminal  
22 offense, with the intent to:

23 (A) Conceal the location, source, ownership, or control of  
24 the criminal proceeds; ~~or~~

25 (B) Avoid a reporting requirement under state or federal  
26 law; or

27 (C) Acquire any interest in the criminal proceeds; or

28 (2) Uses, or makes available for use, any property in which he  
29 or she has any ownership or lawful possessory interest to facilitate a  
30 predicate criminal offense.

31 (b) Any person who is guilty of criminal use of property ~~and/or~~ or  
32 laundering criminal proceeds commits a Class C felony.

33 (c)(1) Upon conviction, the prosecuting attorney may institute a civil  
34 action against any person who violates this section to obtain a judgment  
35 against all persons who violate this section, jointly and severally, for  
36 damages in an amount equal to property, funds, or monetary instruments

1 involved in the violations as well as the proceeds acquired by all persons  
2 involved in the enterprise or by reason of conduct in furtherance of the  
3 violation, together with costs incurred for resources and personnel used in  
4 the investigation and prosecution of both criminal and civil proceedings.

5 (2) The standard of proof in actions brought under this ~~section~~  
6 subsection is preponderance of the evidence.

7 (3) The procedures for forfeiture and distribution in the asset  
8 forfeiture law, § 5-64-505, shall apply.

9 (4) Defendants in civil actions brought under this subsection  
10 shall be entitled to trial by jury.

11 (d)(1) An attorney who represents a criminal defendant or person ~~whom~~  
12 who he or she reasonably believes may become a criminal defendant may not be  
13 prosecuted for receiving payment for services rendered to a person whom he or  
14 she represents in a criminal proceeding or in dealing with matters that might  
15 reasonably become the subject of a criminal proceeding.

16 (2) Should a court deny a motion to dismiss, a licensed attorney  
17 may maintain this as a defense at trial.

18 (3) ~~Furthermore, no~~ No such payments may be seized from the  
19 attorney if they were received for services rendered pursuant to prosecution  
20 under this section, unless a court of competent jurisdiction determines after  
21 a hearing that seizure of ~~said~~ the property is necessary for prosecution of  
22 any criminal matter and is not protected by any applicable privilege.

23  
24 SECTION 9. In order to correct an error, Arkansas Code § 6-13-  
25 1603(a)(2)(A) is amended to read as follows:

26 (2)(A) Any school district on the consolidation list choosing to  
27 voluntarily administratively consolidate or annex shall submit a petition for  
28 approval to the State Board of Education by April 1 immediately following  
29 publication of the list and shall set forth the terms of the administrative  
30 consolidation or annexation agreement in the ~~plan~~ petition.

31  
32 SECTION 10. In order to correct an error, Arkansas Code § 6-15-2101(c)  
33 is amended to read as follows:

34 (c) The annual report shall designate two (2) category levels for each  
35 school, one (1) for the school's improvement gains, tracked longitudinally  
36 and using value-added calculations on the criterion-referenced test as

1 defined in § 6-15-404(g)(1), in the latest available test results, known as  
2 the annual improvement category level, and one (1) based on performance from  
3 the prior year on the criterion-referenced test, as defined in § 6-15-  
4 404(g)(1), and end-of-course examinations, hereafter referred to as annual  
5 performance pursuant to § 6-15-2103. If the criterion-referenced test is not  
6 in compliance with § 6-15-404(g)(1), then the department shall rely on other  
7 assessments as defined in § 6-15-404(g)(1) ~~test~~ for the calculation of the  
8 improvement level.

9  
10 SECTION 11. In order to officially name the office, Arkansas Code § 6-  
11 17-310(a)(1) is amended to read as follows:

12 (a)(1) There is established within the Department of Education ~~an~~  
13 ~~office for the purpose of teacher recruitment~~ the Office for the Purpose of  
14 Teacher Recruitment for ensuring that the children of our state are taught by  
15 highly qualified professionals.

16  
17 SECTION 12. In order to clarify what department is meant, Arkansas  
18 Code § 6-17-811(c) is amended to read as follows:

19 (c) The ~~department~~ Department of Education shall:

20 (1) Monitor the implementation of the incentive program  
21 established by this section; and

22 (2) Collect data to be used to evaluate the incentive program's  
23 effectiveness.

24  
25 SECTION 13. In order to clarify the subdivisions, Arkansas Code § 6-  
26 25-103(a)(1)(C)-(E) are amended as follows:

27 (C) Provide learning opportunities related to new  
28 technologies, use, and production of a variety of media formats; and

29 (D)(i) Provide instruction in the use of the library media  
30 ~~center; and~~ center.

31 ~~(E)~~ (ii) Elementary class sessions for a library  
32 media specialist shall be limited as provided under subdivision (b)(1) of  
33 this section;

34  
35 SECTION 14. In order to update the subdivision, Arkansas Code § 6-51-  
36 213(c)(3) is amended to read as follows:

1           (3) The records of the director as far as they pertain to the  
2 provisions of this act shall be kept in his or her office ~~in the Capitol of~~  
3 ~~the state.~~

4  
5           SECTION 15. In order to correct an error, Arkansas Code § 6-51-614(a)  
6 is amended to read as follows:

7           (a) The State Board of Private Career Education, acting by and through  
8 the director, shall have the authority to refuse to issue a school license,  
9 to place on probation, or to revoke a school license theretofore issued.

10  
11           SECTION 16. In order to update the subdivision, Arkansas Code § 6-82-  
12 401(4) is amended to read as follows:

13           (4) "~~Division~~ Department" means the Department of Workforce  
14 Education;

15  
16           SECTION 17. Arkansas Code § 8-6-504 is amended in part to repeal  
17 temporary language the effectiveness of which has expired:

18           8-6-504. *Illegal Dump Eradication and Corrective Action Program.*

19           ~~(a)(1) Effective July 1, 1997, and annually thereafter, and in~~  
20 ~~accordance with provisions set forth in § 8-6-1001 et seq., the Arkansas~~  
21 ~~Department of Environmental Quality shall ensure that an apportionment not to~~  
22 ~~exceed one million dollars (\$1,000,000) per fiscal year of the Landfill Post-~~  
23 ~~Closure Trust Fund shall be allocated from the moneys deposited in the fund~~  
24 ~~to be utilized by the department to administer and enforce the Illegal Dump~~  
25 ~~Eradication and Corrective Action Program, pursuant to the provisions of this~~  
26 ~~subchapter.~~

27           ~~(2)(A) The program Illegal Dump Eradication and Corrective~~  
28 ~~Action Program shall be administered by the department Arkansas Department of~~  
29 ~~Environmental Quality.~~

30           ~~(B) The moneys earmarked for the program shall be used by~~  
31 ~~the department to fund specific abatement projects or cleanup actions and~~  
32 ~~activities and shall also be used by the department for administrative~~  
33 ~~activities, which shall include, but not be limited to, illegal dumping and~~  
34 ~~dumps education, enforcement actions, and the administration of the program,~~  
35 ~~pursuant to this subchapter.~~

36           ~~(b) The allocation of funding shall be used if the Director of the~~



~~1 Arkansas Department of Environmental Quality determines that the illegal dump  
2 owner or operator cannot be located or the director determines that an  
3 emergency exists necessitating immediate corrective action.~~

~~4 (c) The allocation of funding shall not be used to compensate third  
5 parties for damages to property caused by the contamination for the illegal  
6 dumping of solid waste.~~

~~7 (d) The apportionment authorized by this subsection shall terminate  
8 five (5) years from March 31, 1997, and the program shall receive no funds  
9 from the fund beyond that date.~~

10  
11 SECTION 18. Arkansas Code § 8-6-1002(a) is amended to read as follows  
12 to remove from the subsection temporary language the effectiveness of which  
13 has expired:

14 (a)(1) There is established on the books of the Treasurer of State,  
15 the Auditor of State, and the Chief Fiscal Officer of the State a trust fund  
16 to be known as the "Landfill Post-Closure Trust Fund".

17 (2) In addition to all moneys appropriated by the General  
18 Assembly to the fund, there shall be deposited in the fund all landfill  
19 disposal fees collected pursuant to this subchapter and any moneys received  
20 by the state as a gift or donation to the fund or any federal moneys  
21 designated to enter the fund and all interest earned upon moneys deposited in  
22 the fund.

23 (3) Moneys received into the fund may also be used by the  
24 Arkansas Department of Environmental Quality for administrative purposes at a  
25 level not to exceed three hundred thousand dollars (\$300,000) annually with  
26 an annual escalator not to exceed three percent (3%). In the event the total  
27 amount in the fund equals or exceeds twenty-five million dollars  
28 (\$25,000,000), no additional moneys shall be collected pursuant to this  
29 subchapter until the total amount in the fund equals or is less than fifteen  
30 million dollars (\$15,000,000), at which time the collection of moneys shall  
31 resume.

~~32 (4)(A)(i) Effective July 1, 1997, and annually thereafter, an  
33 apportionment of the moneys in the fund, not to exceed one million dollars  
34 (\$1,000,000) per fiscal year, shall be allocated from the moneys deposited  
35 into the fund to be utilized by the department to administer and enforce the  
36 Illegal Dump Eradication and Corrective Action Program in accordance with~~

1 ~~conditions set forth in § 8-6-501 et seq.~~

2 ~~(ii) No more than fifteen percent (15%) of this~~  
3 ~~allocation may be used for administrative purposes by the department pursuant~~  
4 ~~to the activities related to the program for the first fiscal year of the~~  
5 ~~program and ten percent (10%) annually thereafter.~~

6 ~~(iii) Further, the program shall also include any~~  
7 ~~moneys received by the state as a gift or donation to the program and any~~  
8 ~~federal government moneys designated to enter the program.~~

9 ~~(B) The apportionment authorized by this subsection shall~~  
10 ~~terminate five (5) years from March 31, 1997, and the program shall receive~~  
11 ~~no funds from the fund beyond that date.~~

12 ~~(5)(A) Effective July 1, 1999, and annually thereafter, an~~  
13 ~~apportionment of the interest earned on moneys in the fund, not to exceed~~  
14 ~~five hundred thousand dollars (\$500,000) per fiscal year, shall be allocated~~  
15 ~~from the moneys deposited into the fund to be utilized by the department for~~  
16 ~~instituting a management organization utilizing the principles of the~~  
17 ~~National Environmental Performance Partnership System advocated by the~~  
18 ~~Environmental Protection Agency which integrates environmental indicators,~~  
19 ~~management information, and performance based budgeting and accounting to~~  
20 ~~measure agency performance.~~

21 ~~(B) The apportionment authorized by this subsection shall~~  
22 ~~terminate five (5) years from July 1, 1999, and the agency shall use no funds~~  
23 ~~from the Landfill Post-Closure Trust Fund for the purpose of instituting a~~  
24 ~~performance partnership management organization beyond that date.~~

25  
26 SECTION 19. Arkansas Code § 9-14-107 is amended to read as follows:

27 9-14-107. Change in payor income warranting modification.

28 (a)(1) A change in gross income of the payor in an amount equal to or  
29 more than twenty percent (20%) or more than one hundred dollars (\$100) per  
30 month shall constitute a material change of circumstances sufficient to  
31 petition the court for modification of child support according to the family  
32 support chart after appropriate deductions.

33 ~~(2)(A)(i) Any time a court orders child support, the court shall~~  
34 ~~order the noncustodial parent to provide the custodial parent and, when~~  
35 ~~applicable, the Office of Child Support Enforcement of the Revenue Division~~  
36 ~~of the Department of Finance and Administration with proof of income for the~~

1 ~~previous calendar year, and whenever requested in writing by certified mail,~~  
2 ~~but not more than once a year, by the custodial parent.~~

3 (2)(A)(i) Any time a court orders child support, the court shall  
4 order the noncustodial parent to provide proof of income for the previous  
5 calendar year to:

6 (a)(1) The custodial parent.

7 (2) The court shall also order the  
8 noncustodial parent to provide proof of income for a previous calendar year  
9 whenever requested in writing by certified mail by the custodial parent, but  
10 not more than one (1) time a year; and

11 (b) The Office of Child Support Enforcement of  
12 the Revenue Division of the Department of Finance and Administration, when  
13 applicable.

14 (ii) Whenever a custodial parent requests in writing  
15 that the noncustodial parent provide proof of income, the noncustodial parent  
16 shall respond by certified mail within fifteen (15) days.

17 (B) If the noncustodial parent fails to provide proof of  
18 income as directed by the court or fails to respond to a written request for  
19 proof of income, the noncustodial parent may be subject to contempt of court.

20 (C) If a custodial parent or the office has to petition  
21 the court to obtain the information, the custodial parent or the office may  
22 be entitled to recover costs and a reasonable attorney's fee.

23 (D) Once notified of an increase, the office shall file a  
24 motion within thirty (30) days for modification of child support.

25 (E)(i) All income information received by the office shall  
26 be used only as permitted and required by law.

27 (ii) All income information received by the  
28 custodial parent shall be treated confidentially and used for child support  
29 purposes only.

30 (b)(1) A change in the noncustodial parent's health insurance status  
31 as defined in subdivision (b)(2) of this section shall constitute a material  
32 change of circumstances sufficient to petition the court for modification of  
33 child support according to the guidelines for child support and the family  
34 support chart.

35 (2)(A) For purposes of this section, ~~the term~~ "health insurance  
36 status" means that the noncustodial parent can obtain health insurance

1 through his or her employer or other group health insurance.

2 (B) Health insurance shall be considered reasonable in  
3 cost if it is ~~employment-related~~ employment related or is other group health  
4 insurance, regardless of the service delivery mechanism.

5 (3) In no event shall eligibility for or receipt of medicaid be  
6 considered adequate provision for the child's health care needs in a child  
7 support award.

8 (c) An inconsistency between the existent child support award and the  
9 amount of child support that results from application of the family support  
10 chart shall constitute a material change of circumstances sufficient to  
11 petition the court for modification of child support according to the family  
12 support chart after appropriate deductions unless:

13 (1) The inconsistency does not meet a reasonable quantitative  
14 standard established by the ~~state~~ State of Arkansas in accordance with  
15 subsection (a) of this section; or

16 (2) The inconsistency is due to the fact that the amount of the  
17 current child support award resulted from a rebuttal of the guideline amount  
18 and there has not been a change of circumstances that resulted in the  
19 rebuttal of the guideline amount.

20 (d) Any modification of a child support order that is based on a  
21 change in gross income of the noncustodial parent shall be effective as of  
22 the date of filing a motion for increase or decrease in child support, unless  
23 otherwise ordered by the court.

24 (e) When a person is ordered by a court of record to pay for the  
25 support of his or her children, the court, at the time an order of support is  
26 made or any time thereafter, upon a showing of good cause, may order periodic  
27 drafts of his or her accounts at a financial institution to deduct moneys due  
28 or payable for child support in amounts the court may find to be necessary to  
29 comply with its order for the support of the children.

30  
31 SECTION 20. Arkansas Code § 9-27-336(c) is amended to read as follows  
32 to reflect the repeal of § 9-27-336(e) in 2003:

33 9-27-336:

34 (a) A juvenile who is alleged to be or who has been adjudicated either  
35 dependent-neglected or a member of a family in need of services shall not be  
36 placed or detained in a secure detention facility, in a facility utilized for

1 the detention of alleged or adjudicated delinquent juveniles, or in a  
2 facility utilized for the detention of adults held for, charged with, or  
3 convicted of a crime except:

4 (1)(A) A juvenile may be held in a juvenile detention facility  
5 when he or she has been away from home for more than twenty-four (24) hours  
6 and when the parent, guardian, or other person contacted lives beyond a  
7 fifty-mile driving distance or out of state.

8 (B) The juvenile may be held in custody in a juvenile  
9 detention facility for purposes of identification, processing, or arranging  
10 for release or transfer to an alternative facility. The holding shall be  
11 limited to the minimum time necessary to complete these actions and shall not  
12 occur in any facility utilized for incarceration of adults.

13 (C) A juvenile held under this subdivision (a)(1) shall be  
14 separated from detained juveniles charged or held for delinquency. A juvenile  
15 may not be held under this subdivision (a)(1) for more than six (6) hours if  
16 the parent, guardian, or other person contacted lives in the state or twenty-  
17 four (24) hours, excluding weekends and holidays, if the parent, guardian, or  
18 other person contacted lives out of state.

19 (2)(A) An adjudicated family in need of services juvenile may be  
20 held in a juvenile detention facility when the court finds that the juvenile  
21 violated a valid court order.

22 (B) For the purposes of this subdivision (a)(2), a valid  
23 court order shall include any order of a circuit court regarding a juvenile  
24 who has been brought before the court and made subject to a court order. The  
25 juvenile who is the subject of the order shall receive full due process  
26 rights.

27 (C) A juvenile held under this subdivision (a)(2) shall be  
28 separated from detained juveniles charged or held for delinquency. The  
29 holding shall not occur in any facility utilized for incarceration of adults.

30 (b) ~~Except pursuant to subsection (e) of this section, a~~ A juvenile  
31 shall not be placed or confined in a jail or lock-up used for the detention  
32 of adults except under the following circumstances:

33 (1) A juvenile who has been formally transferred from the  
34 juvenile division of circuit court to the criminal division of circuit court  
35 and against whom felony charges have been filed or a juvenile whom the  
36 prosecuting attorney has the discretion to charge in circuit court and to

1 prosecute as an adult and against whom the circuit court's jurisdiction has  
2 been invoked by the filing of felony charges may be held in an adult jail or  
3 lock-up;

4 (2) A juvenile alleged to have committed a delinquent act may be  
5 held in an adult jail or lock-up for up to six (6) hours for purposes of  
6 identification, processing, or arranging for release or transfer to an  
7 alternative facility provided he or she is separated by sight and sound from  
8 adults who are pretrial detainees or convicted persons. A holding for those  
9 purposes shall be limited to the minimum time necessary and shall not include  
10 travel time for transporting the juvenile to the alternative facility; or

11 (3)(A) A juvenile alleged to have committed a delinquent act who  
12 is awaiting an initial appearance before a judge may be held in an adult jail  
13 or lock-up for up to twenty-four (24) hours, excluding weekends and holidays,  
14 provided the following conditions exist:

15 (i) The alleged act would be a misdemeanor or a  
16 felony if committed by an adult or is a violation of § 5-73-119; and

17 (ii) The geographical area having jurisdiction over  
18 the juvenile is outside a metropolitan statistical area pursuant to the  
19 current designation of the United States Bureau of the Census; and

20 (iii) No acceptable alternative placement for the  
21 juvenile exists; and

22 (iv) The juvenile is separated by sight and sound  
23 from adults who are pretrial detainees or convicted persons.

24 (B)(i) A juvenile awaiting an initial appearance and being  
25 held in an adult jail or lock-up pursuant to the twenty-four-hour exception,  
26 as provided in subdivision (b)(3)(A) of this section, may be held for an  
27 additional period not to exceed twenty-four (24) hours, provided that the  
28 following conditions exist:

29 (a) The conditions of distance to be traveled  
30 or the lack of highway, road, or other ground transportation do not allow for  
31 court appearances within twenty-four (24) hours; and

32 (b) All the conditions in subdivision  
33 (b)(3)(A) of this section exist.

34 (ii) Criteria will be adopted by the Governor or his  
35 or her designee to establish what distance, highway or road conditions, or  
36 ground transportation limitations will provide a basis for holding a juvenile

1 in an adult jail or lock-up under this exception.

2 (c) ~~Except as provided in subsection (e) of this section, Provided~~  
3 that the facilities are designed and used in accordance with federal and  
4 state guidelines and restrictions, nothing in this subchapter is intended to  
5 prohibit the use of juvenile detention facilities that are attached to or  
6 adjacent to adult jails or lock-ups ~~provided the facilities are designed and~~  
7 ~~used in accordance with federal and state guidelines and restrictions.~~

8 (d) A detention facility shall not release a serious offender for a  
9 less serious offender except by order of the judge who committed the more  
10 serious offender.

11  
12 SECTION 21. In order to conform the text to the changed definition in  
13 Arkansas Code § 11-14-102, § 11-14-107(b) is amended to read as follows:

14 (b) A covered employer may not discharge, discipline, refuse to hire,  
15 discriminate against, or request or require rehabilitation of an employee or  
16 job applicant on the sole basis of a positive test result that has not been  
17 verified by a confirmation test and by a ~~drug testing review officer~~ medical  
18 review officer.

19  
20 SECTION 22. In order to conform the text to the changed definition in  
21 Arkansas Code § 11-14-102, § 11-14-109(b) is amended to read as follows:

22 (b) Covered employers, laboratories, ~~drug testing review officers~~  
23 medical review officers, employee assistance programs, drug or alcohol  
24 rehabilitation programs, and their agents who receive or have access to  
25 information concerning drug or alcohol test results shall keep all  
26 information confidential. Release of such information under any other  
27 circumstance is authorized solely pursuant to a written consent form signed  
28 voluntarily by the person tested, unless ~~such~~ the release is compelled by a  
29 hearing officer or a court of competent jurisdiction pursuant to an appeal  
30 taken under this section relevant to a legal claim asserted by the employee  
31 or is deemed appropriate by a professional or occupational licensing board in  
32 a related disciplinary proceeding. ~~The~~ At a minimum, the consent form must  
33 contain, ~~at a minimum:~~

34 (1) The name of the person who is authorized to obtain the  
35 information;

36 (2) The purpose of the disclosure;

- 1 (3) The precise information to be disclosed;  
2 (4) The duration of the consent; and  
3 (5) The signature of the person authorizing release of the  
4 information.

5

6 SECTION 23. Arkansas Code § 12-8-123 is amended to read as follows to  
7 correct a reference to a repealed federal law:

8 The Director of the Department of Arkansas State Police is designated  
9 as the agent of the State of Arkansas for accepting surplus or excess United  
10 States Department of Defense property for its own use or for the purpose of  
11 distributing the property to city and county law enforcement agencies that  
12 have been designated by the office of the Department of Defense Coordinator  
13 for Drug Enforcement Policy and Support of the ~~United States Department of~~  
14 ~~Defense~~ to receive property for counter-narcotics operations under the  
15 provisions of ~~Section 1208 of Pub. L. No. 101-189 [repealed] of fiscal year~~  
16 ~~1990-1991 of the National Defense Authorization Act~~ 10 U.S.C. § 2576a, as it  
17 existed on January 1, 2005.

18

19 SECTION 24. Arkansas Code § 12-8-304 is amended to read as follows to  
20 make certain stylistic changes and to delete a reference to a repealed code  
21 section:

22 (a)(1) This subchapter shall be liberally construed to accomplish the  
23 intent and purposes ~~thereof~~ of this subchapter and shall be the sole  
24 authority required for the accomplishment of ~~such~~ these purposes.

25 ~~(2) To this end, it shall not be necessary to comply with~~  
26 ~~general provisions of other laws dealing with public commodities and public~~  
27 ~~facilities and their acquisition, construction, leasing, encumbering, or~~  
28 ~~disposition if~~ If the Arkansas State Police Commission shall comply with §§  
29 25-4-107 and 25-4-108 before acquiring any communications equipment  
30 authorized under this subchapter and if the commission submits any invitation  
31 or request for bids, quotes, or proposals, and the procedures to be used in  
32 evaluating them to the State Procurement Director for review and written  
33 approval prior to any obligation being incurred by the commission or the  
34 Department of Arkansas State Police as the obligation relates to any  
35 acquisition authorized and defined by this subchapter it shall not be  
36 necessary to comply with general provisions of other laws dealing with public



1 commodities and public facilities and their acquisition, construction,  
2 leasing, encumbering, or disposition.

3 (b) The enumeration of any object, purpose, power, manner, method, and  
4 thing in this subchapter shall not be deemed to exclude like or similar  
5 objects, purposes, powers, manners, methods, or things.

6 (c) ~~This subchapter shall be the complete and sole authority for the~~  
7 ~~accomplishment of the purposes hereof.~~ To the extent that there is a conflict  
8 between the provisions of this subchapter and §§ 12-8-101 – 12-8-107, 12-8-  
9 110 – 12-8-112, 12-8-114 – 12-8-116, 12-8-118, 12-8-119, 12-8-201 – 12-8-205,  
10 ~~12-8-209 [repealed]~~, 12-8-213, and 12-12-103, the provisions of this  
11 subchapter shall govern.

12  
13 SECTION 25. Arkansas Code § 12-8-305(a)(3) is amended to read as  
14 follows to delete a reference to a repealed code section:

15 (a)(3) Provide for the payment of the cost of acquisition from any  
16 legally available source or sources, including, without limitation, the  
17 revenues authorized by § 12-8-307, funds appropriated and made available  
18 under §§ 12-8-101 – 12-8-107, 12-8-110 – 12-8-112, 12-8-114 – 12-8-116, 12-8-  
19 118, 12-8-119, 12-8-201 - 12-8-205, ~~12-8-209 [repealed]~~, 12-8-213, and 12-12-  
20 103, and funds, if any, appropriated for the communications equipment;

21  
22 SECTION 26. Arkansas Code § 12-8-306 is amended to read as follows to  
23 delete a reference to an abolished committee:

24 The Arkansas State Police Commission shall submit any contract,  
25 agreement, or proposal, as authorized by this subchapter, to the ~~Arkansas~~  
26 ~~Communications Study Committee~~ and to the Legislative Council prior to any  
27 obligation being incurred by the commission for ~~their~~ the Legislative  
28 Council's advice and counsel.

29  
30 SECTION 27. Arkansas Code § 12-8-404(b) is amended to read as follows  
31 to clarify an ambiguity concerning an order issued pursuant to the section:

32 (b) Any violation of the sanction ordered under subdivision (a)(2)(A)  
33 of this section by any police officer shall constitute a Class A misdemeanor  
34 for each citation or summons issued or misdemeanor arrest made in violation  
35 of the ~~director's~~ prosecuting attorney's order.

36

1 SECTION 28. Arkansas Code § 12-9-403 is amended to read as follows to  
2 make certain stylistic changes and to delete obsolete language:

3 (a) No person shall be appointed as a police traffic radar operator or  
4 police traffic radar instructor until the minimum standards for training  
5 requirements have been completed.

6 ~~(b) All police traffic radar operators shall have one (1) year from~~  
7 ~~March 22, 1983, to have completed the required training or to have previously~~  
8 ~~met the training requirements or the training equivalent as determined by the~~  
9 ~~Arkansas Commission on Law Enforcement Standards and Training.~~

10 ~~(e)(b)~~ The training requirements for police traffic radar operators or  
11 police traffic radar instructors shall be established by the ~~commission~~  
12 Arkansas Commission on Law Enforcement Standards and Training.

13 ~~(d)(c)~~ The commission may issue a certificate evidencing satisfactory  
14 completion of the requirements of this subchapter when evidence is submitted  
15 by the law enforcement agency director, chief, or sheriff that the police  
16 traffic radar operator has met the training requirements.

17 ~~(e)(d)~~ Nothing in this section shall be construed to preclude any law  
18 enforcement agency from establishing qualifications and standards for  
19 appointing and training of police traffic radar operators and police traffic  
20 radar instructors that exceed those set by this subchapter or by the  
21 commission.

22 ~~(f)(e)~~ Any police traffic radar operator or police traffic radar  
23 instructor failing to meet the training requirements as set forth in this  
24 subchapter shall lose his or her authority to operate traffic radar for  
25 enforcement purposes.

26 ~~(g)(f)~~ An officer ~~must have completed~~ shall complete the commission-  
27 required training for officer certification before being eligible for  
28 certification as a police traffic radar operator.

29 ~~(h)(g)~~ Only full-time, part-time I, and part-time II officers, as  
30 defined by commission regulation, will be eligible for certification as  
31 police traffic radar operators.

32  
33 SECTION 29. Arkansas Code § 12-9-503 is amended to read as follows to  
34 make certain stylistic changes, clarify ambiguities concerning terms of  
35 members of the Criminal Justice Institute Advisory Board for Law Enforcement  
36 Management Training and Education, and to delete language concerning the

1 National Center for Rural Law Enforcement Advisory Board which is to be  
2 included in a new section to the Arkansas Code:

3 (a)~~(1)~~ There is established the Criminal Justice Institute Advisory  
4 Board for Law Enforcement Management Training and Education.

5 ~~(2)~~(b)(1) The board shall have sixteen (16) members.

6 ~~(3)~~(2)(A)(i) The board shall consist of the following  
7 representatives:

8 (a) Two (2) representatives from the Arkansas  
9 Municipal Police Association;

10 (b) Two (2) representatives from the Arkansas  
11 Association of Chiefs of Police;

12 (c) Two (2) representatives from the Arkansas  
13 Sheriffs' Association; and

14 (d) Two (2) faculty members or administrators  
15 from institutions of higher education.

16 (ii) The preceding eight (8) members of the board  
17 shall be appointed by the Governor.

18 (iii) Terms of the eight (8) ~~association and~~  
19 ~~institution representatives~~ members appointed pursuant to subdivision  
20 (b)(2)(A)(ii) shall be four (4) years in length.

21 (B) Other members of the board shall be:

22 (i) The Special Agent in Charge of the Arkansas  
23 office of the Federal Bureau of Investigation or his or her designee;

24 (ii) The Executive Director of the Arkansas  
25 Sheriffs' Association;

26 (iii) The Executive Director of the Arkansas  
27 Association of Chiefs of Police;

28 (iv) The Executive Director of the Arkansas  
29 Municipal Police Association;

30 (v) The Director of the Criminal Justice Institute;

31 (vi) The Director of Legislative and Governmental  
32 Affairs of the Arkansas State Police Association;

33 (vii) A citizen at large nominated by the Director  
34 of the Criminal Justice Institute; and

35 (viii) The President of the University of Arkansas  
36 or his or her designee.

1 (C)(i) Terms ~~of office~~ of the members serving pursuant to  
 2 subdivision (b)(2)(B) shall be five (5) years in length, and the terms shall  
 3 be staggered so that, insofar as is possible, an equal number of members  
 4 shall rotate each year.

5 (ii) However, terms of members who serve by virtue  
 6 of the office they hold shall run so long as the member holds ~~such~~ the  
 7 office.

8 ~~(b)(1) There is established the National Center for Rural Law~~  
 9 ~~Enforcement Advisory Board to address policy issues, provide guidance, and~~  
 10 ~~further develop national initiatives.~~

11 ~~(2) The members of the board shall be appointed by the Director~~  
 12 ~~of the Criminal Justice Institute and approved by the President of the~~  
 13 ~~University of Arkansas and shall include:~~

14 ~~(A) The President of the University of Arkansas or his or~~  
 15 ~~her designee;~~

16 ~~(B) The Director of the Criminal Justice Institute;~~

17 ~~(C) A member of the House of Representatives;~~

18 ~~(D) A member of the Senate;~~

19 ~~(E) Two (2) executives with law enforcement experience;~~

20 ~~(F) A national level executive with law enforcement~~  
 21 ~~experience;~~

22 ~~(G) A prominent academician; and~~

23 ~~(H) A nationally prominent citizen.~~

24  
 25 SECTION 30. Arkansas Code Title 12, Chapter 9, Subchapter 5 is amended  
 26 to add the following new section concerning the National Center for Rural Law  
 27 Enforcement Advisory Board previously created within Arkansas Code § 12-9-  
 28 503:

29 12-9-508. National Center for Rural Law Enforcement Advisory Board.

30 (a) There is established the National Center for Rural Law Enforcement  
 31 Advisory Board to address policy issues, provide guidance, and further  
 32 develop national initiatives.

33 (b) The members of the board shall be appointed by the Director of the  
 34 Criminal Justice Institute and approved by the President of the University of  
 35 Arkansas and shall include:

36 (1) The President of the University of Arkansas or his or her

- 1 designee;  
 2 (2) The Director of the Criminal Justice Institute;  
 3 (3) A member of the House of Representatives;  
 4 (4) A member of the Senate;  
 5 (5) Two (2) executives with law enforcement experience;  
 6 (6) A national-level executive with law enforcement experience;  
 7 (7) A prominent academician; and  
 8 (8) A nationally prominent citizen.

9  
 10 SECTION 31. Arkansas Code § 12-10-312 is amended to read as follows to  
 11 add clarifying language:

12 The telephone number 911 is restricted to emergency calls which may  
 13 result in dispatch of the appropriate response for fire suppression and  
 14 rescue, emergency medical services or ambulance, hazardous material  
 15 incidents, disaster or major emergency occurrences, and law enforcement  
 16 activities.

17  
 18 SECTION 32. Arkansas Code § 12-10-316(b) is amended to read as follows  
 19 to make certain stylistic changes and to add clarifying language concerning  
 20 access to files within the centralized state depository of information:

21 (b)(1) The 911 public safety communication centers are restricted in  
 22 that they are authorized access to ~~these files~~ in the centralized state  
 23 depository of information only for the purpose of providing ~~the~~ information  
 24 to:

25 ~~and~~ (A) End users as authorized by state law; and  
 26 (B) Authorized recipients of the contents of those files,  
 27 in the absence of serving as an information service agency, ~~to authorized~~  
 28 ~~recipients of the contents of these information systems~~ those files,  
 29 ~~the center~~

30 (2) The 911 public safety communication centers will shall not  
 31 ~~be authorized~~ have access to files available through the Arkansas Crime  
 32 Information Center.

33  
 34 SECTION 33. Arkansas Code § 12-12-602(a) is amended to read as follows  
 35 to make certain stylistic changes and to add clarifying language concerning  
 36 the reporting of knife or gunshot wounds:

1 (a) All physicians, surgeons, hospitals, ~~whether public or private,~~  
2 ~~and all druggists,~~ or other ~~persons~~ persons or entities that ~~might be called~~  
3 ~~upon to render~~ render first aid treatment shall report to the office of the  
4 sheriff of the county all cases of knife or gunshot wounds treated by them or  
5 received in the hospital, ~~which~~ when the wounds appear to have been  
6 intentionally inflicted, ~~to the office of the sheriff of the county or to one~~  
7 ~~of his or her regular commissioned deputies.~~

8  
9 SECTION 34. Arkansas Code § 12-12-906(a)(2)(B)(ii) is amended to read  
10 as follows to clarify and correct a reference to federal law:

11 (a)(2)(B)(ii) Nonresident workers or students who enter the state for  
12 fourteen (14) or more consecutive days to work or study or who enter the  
13 state for an aggregate of thirty (30) days or more a year are required to  
14 register in compliance with ~~64 Fed. Reg. 585 2nd as it existed on March 1,~~  
15 ~~2003~~ 42 U.S.C. § 14071 et seq. and 64 Fed. Reg. 572 et seq., as they existed  
16 on March 1, 2003.

17  
18 SECTION 35. Arkansas Code § 12-12-913(h) is amended to read as follows  
19 to clarify an ambiguity concerning the meaning of the subsection:

20 (h) Nothing in this section shall prevent law enforcement officers  
21 from notifying members of the public about persons who may pose a danger to  
22 the public for reasons that are not enumerated in this subchapter.

23  
24 SECTION 36. Arkansas Code § 12-12-917(b)(4)(A) is amended to read as  
25 follows to clarify the ambiguous phrase "in the community":

26 (b)(4)(A) Sex offenders currently in the ~~community~~ state who have not  
27 been assessed and classified shall be identified by the ~~Arkansas Crime~~  
28 ~~Information Center~~ center.

29  
30 SECTION 37. Arkansas Code § 12-12-917(b)(4)(B)(ii)(b) is amended to  
31 read as follows to clarify the immunity granted by the subdivision:

32 (b)(4)(B)(ii)(b) A sex offender shall have immunity for ~~Statements~~  
33 statements made by a ~~sex offender~~ him or her in the course of assessment with  
34 respect to prior conduct ~~shall be deemed to have been given use immunity~~  
35 under the immunity provisions of § 16-43-601 et seq.

36

1 SECTION 38. Arkansas Code § 12-12-921(a)(1)(A) is amended to read as  
2 follows to clarify the qualifications of the defense attorney member of the  
3 Sex Offender Assessment Committee:

4 (a)(1)(A) One (1) member who is a criminal defense attorney;  
5

6 SECTION 39. Arkansas Code § 12-12-922 is amended to read as follows to  
7 make certain stylistic changes and to delete obsolete language:

8 (a)(1) The alternative procedure under this section may be used for  
9 sexually violent predator evaluations if information that was not available  
10 to the court at the time of trial emerges in the course of a sex offender  
11 evaluation ~~that was not available to the court at the time of trial emerges~~  
12 ~~in the course of a sex offender evaluation.~~

13 (2)(A) ~~After the effective date of this section, examiners~~  
14 Examiners qualified by the Sex Offender Assessment Committee shall include in  
15 the assessment of any sex offender convicted of a sex offense a review as to  
16 whether the frequency, repetition over time, severity of trauma to the  
17 victim, or established pattern of predatory behaviors suggests that the sex  
18 offender suffers from a mental abnormality or personality disorder that makes  
19 the sex offender likely to engage in future predatory sexual offenses.

20 (B) If a mental abnormality or personality disorder is  
21 suspected, a licensed psychologist or psychiatrist qualified by the committee  
22 shall conduct further assessment to determine the presence or absence of a  
23 mental abnormality or personality disorder.

24 (C) The report of the assessment shall be presented to the  
25 committee, which shall make the determination of a mental abnormality or  
26 personality disorder according to protocols established by the committee and  
27 published in the committee guidelines.

28 (b)(1)(A) A sex offender may challenge an assigned risk level by  
29 requesting an administrative review.

30 (B) As part of that request, the sex offender ~~is~~ shall be  
31 afforded the opportunity to receive copies of all documents generated by the  
32 examiners, a listing by document name and source of all documents that may be  
33 available from other agencies having custody of those documents, and a copy  
34 of the tape of the interview.

35  
36 SECTION 40. Arkansas Code § 12-12-1001 is amended to read as follows

1 to add a new subdivision concerning the definition of "arrest tracking  
2 number" which now appears in § 12-12-1007(e):

3 (2) "Arrest tracking number" means a unique number, assigned to  
4 an arrestee at the time of each arrest, which is used to link that arrest to  
5 the final disposition of that charge;

6 ~~(2)(3)~~ "Central repository" means the Arkansas Crime Information  
7 Center, which is authorized to collect, maintain, and disseminate criminal  
8 history information;

9  
10 SECTION 41. Arkansas Code § 12-12-1007(e) is amended to read as  
11 follows to delete language concerning the definition of "arrest tracking  
12 number" which will be added as a new definition within § 12-12-1001:

13 ~~(e)(1) As used in this section, "arrest tracking number" means a~~  
14 ~~unique number, assigned to an arrestee at the time of each arrest, which is~~  
15 ~~used to link that arrest to the final disposition of that charge.~~

16 ~~(2)(1)~~ It shall be the duty of law enforcement officials,  
17 prosecuting attorneys, court clerks, and judges to report the arrest tracking  
18 number of each defendant in accordance with procedures established by the  
19 center.

20 ~~(3)(A)(2)(A)~~ The arrest tracking number shall be filed with the  
21 court clerk at the time an indictment, information, or charge is filed.

22 (B) In cases ~~where~~ in which the defendant has not been  
23 arrested at the time of an indictment, information, or charge, the arrest  
24 tracking number shall be filed with the court clerk immediately after there  
25 is an arrest.

26 ~~(4)(3)~~ The arrest tracking number shall be in the court's case  
27 file before a trial commences or a judgment is entered.

28  
29 SECTION 42. Arkansas Code § 12-12-1012 is amended to read as follows  
30 to make certain stylistic changes and to delete obsolete language concerning  
31 the State Police Equipment Fund:

32 (a)(1)(A) A fee may be charged for providing criminal history  
33 information for noncriminal justice purposes.

34 (B) However, the fee for providing information may be  
35 waived at the request of a:

36 (i) ~~A local~~ Local school district, for providing



1 information concerning volunteers in public school programs; or

2 (ii) ~~A nonprofit~~ Nonprofit organization whose  
3 purpose is to serve juveniles, for providing information concerning  
4 volunteers to the nonprofit organization. This exemption shall not be  
5 applicable to child care facilities whose owners, operators, or employees are  
6 required under § 20-78-601 et seq. to apply to the Identification Bureau of  
7 the Department of Arkansas State Police for a criminal records check.

8 (2) The amount of ~~such~~ the fee will be determined jointly by the  
9 bureau and the central repository and shall not exceed twenty dollars  
10 (\$20.00).

11 (b)(1) ~~All fees shall be deposited immediately in the State Treasury~~  
12 ~~as special revenue to the credit of the State Police Equipment Fund, which~~  
13 There is created on the books of the Treasurer of State, the Auditor of  
14 State, and the Chief Fiscal Officer of the State a State Police Equipment  
15 Fund, there to be used for the acquisition of an automated fingerprint  
16 identification system.

17 (2) ~~Effective July 1, 1997, such fees shall then be~~ All fees  
18 collected pursuant to this section shall be deposited in the State Treasury  
19 as special revenue and credited:

20 fifty(A) Fifty percent (50%) to the Crime Information  
21 System Fund, there to be used for the continued operation and expansion of  
22 the automated criminal history system; and

23 fifty(B) Fifty percent (50%) to the State Police Equipment  
24 Fund, there to be used for the continued operation and expansion of the  
25 automated criminal history system and for the operation and expansion of the  
26 automated fingerprint identification system, subject to  
27 legislative appropriations. Any balance in the State Police Equipment Fund on  
28 June 30, 1997, may also be used for the operation and expansion of the  
29 automated fingerprint identification system.

30 (3)(A) Special revenues deposited in the Crime Information  
31 System Fund and the State Police Equipment Fund may be used for personal  
32 services and operating expenses as provided by law, and for conducting  
33 criminal background checks for noncriminal justice purposes, ~~and such.~~

34 (B) The ~~the~~ special revenues unused at the end of any  
35 fiscal year shall be carried forward.

36

1 SECTION 43. Arkansas Code § 12-12-1103(2) is amended to read as  
2 follows to clarify the definition of "administration of criminal justice":

3 (2)~~(A)~~ "Administration of criminal justice" means:

4 (A) Performing performing functions of investigation,  
5 apprehension, detention, prosecution, adjudication, correctional supervision,  
6 or rehabilitation of accused persons or criminal offenders;

7 (B) Performing criminal identification activities; and

8 (C) Collecting, maintaining, and disseminating justice  
9 information.

10 ~~(B) The administration of criminal justice also includes~~  
11 ~~criminal identification activities and the collection, maintenance, and~~  
12 ~~dissemination of criminal justice information;~~

13  
14 SECTION 44. Arkansas Code § 12-12-1202 is amended to read as follows  
15 to delete a reference to a repealed code section and to correct a reference  
16 to a state program:

17 (a) Victim notifications may be accomplished by means of the  
18 computerized victim notification system established under § 12-12-1201 if  
19 pursuant to:

20 (1) § 12-29-114, pertaining to escape;

21 (2) § 16-21-106, pertaining to assistance to victims and  
22 witnesses of crimes;

23 (3) § 16-93-204, pertaining to executive clemency;

24 (4) § 16-93-206, pertaining to transfer hearings;

25 (5) § 16-93-702, pertaining to parole; or

26 (6) ~~§ 16-93-707 [repealed], pertaining to future parole~~  
27 ~~hearings; or~~

28 ~~(7) § 16-97-102, pertaining to sentencing.~~

29 (b) The computerized victim notification system established under §  
30 12-12-1201 shall also include information about an inmate's custody status in  
31 regard to furloughs, work release, and community ~~punishment~~ correction  
32 programs.

33  
34 SECTION 45. Arkansas Code § 12-25-101(a) is amended to read as follows  
35 to add clarifying language:

36 (a) ~~In order to ensure public notice and safety no state agency,~~

1 ~~board, commission, or the governing body of any municipality or county shall~~  
2 ~~approve the location or construction of any community based residential~~  
3 ~~facility housing persons, juveniles or adults, adjudicated or convicted of~~  
4 ~~any sexual or violent offense or any other offense that would constitute a~~  
5 ~~Class C felony or higher, even if the facility otherwise conforms to~~  
6 ~~applicable zoning ordinances, nor shall any community based residential~~  
7 ~~facility housing persons, juveniles or adults, adjudicated or convicted of~~  
8 ~~any sexual or violent offense or any other criminal offense that would~~  
9 ~~constitute a Class C felony or higher be located or constructed within any~~  
10 ~~municipality or county of this state unless and until a public hearing is~~  
11 ~~conducted in the municipality or county of the proposed location of the~~  
12 ~~facility at least thirty (30) days prior to the owner, operator, or care~~  
13 ~~provider of the proposed facility contracting for the acquisition of any~~  
14 ~~property on which to locate the proposed facility or any existing structure~~  
15 ~~in which to locate the proposed facility.~~

16 (1) No state agency, board, commission, or the governing body of  
17 any municipality or county shall approve the location or construction of any  
18 community-based residential facility housing juveniles or adults adjudicated  
19 or convicted of any sexual or violent offense or any other offense that would  
20 constitute a Class C felony or higher, even if the facility otherwise  
21 conforms to applicable zoning ordinances, until a public hearing is conducted  
22 in the municipality or county of the proposed location of the facility at  
23 least thirty (30) days prior to the owner, operator, or care provider of the  
24 proposed facility contracting for the acquisition of any property on which to  
25 locate the proposed facility or any existing structure in which to locate the  
26 proposed facility.

27 (2) No community-based residential facility housing juveniles or  
28 adults adjudicated or convicted of any sexual or violent offense or any other  
29 criminal offense that would constitute a Class C felony or higher shall be  
30 located or constructed within any municipality or county of this state until  
31 a public hearing is conducted in the municipality or county of the proposed  
32 location of the facility at least thirty (30) days prior to the owner,  
33 operator, or care provider of the proposed facility contracting for the  
34 acquisition of any property on which to locate the proposed facility or any  
35 existing structure in which to locate the proposed facility.

36

1 SECTION 46. Arkansas Code § 12-27-120 is amended to read as follows to  
2 correct references to an abolished entity and to make certain stylistic  
3 changes:

4 (a) During their employment by the Department of Correction, All all  
5 employees of the State Penitentiary on March 1, 1968, shall, ~~during their~~  
6 ~~employment by the Department of Correction,~~ be eligible for benefits under  
7 and shall participate in the ~~Arkansas State Penitentiary Employees'~~  
8 ~~Retirement System [abolished]~~ Arkansas Public Employees' Retirement System.

9 (b) All employees of the department employed after March 1, 1968,  
10 shall be included in the membership of the Arkansas Public Employees'  
11 Retirement System and shall participate in the Arkansas Public Employees'  
12 Retirement System in accordance with the laws governing the Arkansas Public  
13 Employees' Retirement System.

14 (c) It is the intent of this section to: ~~continue to make available to~~

15 (1) Allow those employees of the penitentiary who have before  
16 participated in the Arkansas State Penitentiary Employees' Retirement System  
17 ~~opportunity to continue~~ to participate in and receive benefits from the  
18 ~~Arkansas State Penitentiary Employees' Retirement System~~ Arkansas Public  
19 Employees' Retirement System; ~~but and~~

20 (2) ~~to provide~~ Provide that all other employees of the  
21 department shall participate in and receive the benefits of the Arkansas  
22 Public Employees' Retirement System in the manner provided by law.

23  
24 SECTION 47. Arkansas Code § 12-27-140 is amended to read as follows to  
25 delete references to the Commission on Disparity in Sentencing which was  
26 never created:

27 (a)(1) On July 31 of each year, the Department of Community Correction  
28 shall submit an annual report to the Legislative Council ~~and the Commission~~  
29 ~~on Disparity in Sentencing~~ showing the number of persons sentenced or  
30 transferred to the department during the fiscal year for each criminal  
31 offense classification.

32 (2) Persons sentenced or transferred for multiple offenses shall  
33 be noted in the report.

34 (b) The report shall include a breakdown by race of all persons  
35 charged in each criminal offense classification.

36 (c) The department shall cooperate with and upon request make

1 presentations and provide various reports, to the extent the department's  
2 budget will allow, to the Legislative Council ~~and the commission~~ concerning  
3 department policy and criteria on discretionary offender programs and  
4 services.

5  
6 SECTION 48. Arkansas Code § 12-27-141 is amended to read as follows to  
7 delete references to the Commission on Disparity in Sentencing which was  
8 never created:

9 (a)(1) On July 31 of each year, the Department of Correction shall  
10 submit an annual report to the Legislative Council ~~and the Commission on~~  
11 ~~Disparity in Sentencing~~ showing the number of persons sentenced to the  
12 department during the fiscal year for each criminal offense classification.

13 (2) Persons sentenced for multiple offenses shall be noted in  
14 the report.

15 (b) The report shall include a breakdown by race of all persons  
16 sentenced in each criminal offense classification.

17 (c) The department shall cooperate with and upon request make  
18 presentations and provide various reports, to the extent the department's  
19 budget will allow, to the Legislative Council ~~and the commission~~ concerning  
20 department policy and criteria on discretionary offender programs and  
21 services.

22  
23 SECTION 49. Arkansas Code § 12-29-204 is amended to read as follows to  
24 delete language concerning "statutory good time" pursuant to a repealed act  
25 and a reference to Acts 1968 (1st Ex. Sess.), No. 50, § 14 which was  
26 repealed:

27 ~~Those inmates sentenced to the Department of Correction prior to April~~  
28 ~~2, 1971, shall be entitled to "statutory good time" as provided in Acts 1968~~  
29 ~~(1st Ex. Sess.), No. 50, § 14 [repealed], provided no~~ No inmate sentenced to  
30 the Department of Correction shall ever receive a reduction under this  
31 subchapter, or this subchapter and another subchapter jointly, of more than  
32 thirty (30) days for each month served.

33  
34 SECTION 50. Arkansas Code § 12-30-402 is amended to read as follows to  
35 correct a reference to a state fund:

36 ~~The Community Service Revolving Fund [abolished]~~ Community Correction

1 Revolving Fund is authorized to borrow from the Budget Stabilization Trust  
 2 Fund for the establishment of new work-release centers for the Department of  
 3 Correction. The loans shall be repaid by the end of the fiscal year in which  
 4 the loans are made.

5

6 SECTION 51. Title 12, Chapter 31, of the Arkansas Code Annotated of  
 7 1987 concerning the Corrections Resources Commission is repealed because the  
 8 commission was created for a two-year period that has expired and the chapter  
 9 is now obsolete:

10 ~~Chapter 31.~~

11 ~~Corrections Resources Commission.~~

12 ~~12-31-101. Creation.~~

13 ~~There is hereby created a commission to be known as the "Corrections~~  
 14 ~~Resources Commission".~~

15 ~~12-32-102. Members—Meetings—Report.~~

16 ~~(a) The Corrections Resources Commission shall consist of the~~  
 17 ~~following seventeen (17) members:~~

18 ~~(1) The President Pro Tempore of the Senate;~~

19 ~~(2) The Speaker of the House of Representatives;~~

20 ~~(3) The Director of the Department of Correction;~~

21 ~~(4) The Lieutenant Governor, or appointed designee;~~

22 ~~(5) The Attorney General, or appointed designee;~~

23 ~~(6) The Chair of the Post Prison Transfer Board;~~

24 ~~(7) The Director of the Arkansas Adult Probation Commission;~~

25 ~~(8) The Chief Justice of the Arkansas Supreme Court, or~~

26 ~~designated Associate Justice of the Arkansas Supreme Court;~~

27 ~~(9) Two (2) circuit judges to be appointed by the Governor;~~

28 ~~(10) One (1) prosecuting attorney to be appointed by the~~

29 ~~Governor;~~

30 ~~(11) One (1) public defender to be appointed by the Governor;~~

31 ~~(12) One (1) county judge to be appointed by the Governor;~~

32 ~~(13) One (1) county sheriff to be appointed by the Governor; and~~

33 ~~(14) Three (3) members of the general public to be appointed by~~

34 ~~the Governor.~~

35 ~~(b) All members shall serve for a term of two (2) years.~~

36 ~~(c) Members of the commission shall not be entitled to compensation~~

1 ~~for their services but may receive expense reimbursement in accordance with §~~  
2 ~~25-16-901 et seq.~~

3 ~~(d) The commission shall hold monthly meetings.~~

4 ~~(e) The Governor shall designate a chair of the commission from the~~  
5 ~~commission membership.~~

6 ~~(f) The commission is established for a two-year period and shall~~  
7 ~~report to the General Assembly concerning the feasibility of maintaining and~~  
8 ~~funding the commission beyond its initial period.~~

9  
10 ~~12-31-103. Duties.~~

11 ~~(a) The Corrections Resources Commission shall have the following~~  
12 ~~three (3) primary duties relating to the development of a more balanced~~  
13 ~~correctional system which operates within the limits of an established~~  
14 ~~institutional capacity, and emphasizes the appropriate function of community-~~  
15 ~~based punishment for certain low risk offenders.~~

16 ~~(1)(A) The commission shall develop guidelines for presentation~~  
17 ~~to the General Assembly for use by a sentencing court in determining the most~~  
18 ~~appropriate sanction to be imposed for all criminal offenses.~~

19 ~~(B) The guidelines shall include a determination whether~~  
20 ~~to impose probation, intensive supervision, residential confinement,~~  
21 ~~electronic monitoring, incarceration, or other available options.~~

22 ~~(C) Presumptive penalties shall be established based on~~  
23 ~~the severity of the crime in combination with key criminal history variables.~~

24 ~~(D) The sentencing policy proposed will be consistent with~~  
25 ~~the planned institutional capacity of the state.~~

26 ~~(E) In developing guidelines, the commission should be~~  
27 ~~guided by the following principles:~~

28 ~~(i) The primary purpose of a criminal sanction is to~~  
29 ~~punish the offender and enhance the public's protection;~~

30 ~~(ii) Punishment refers to a process through which~~  
31 ~~the offender makes restitution or pays back the victim or the community~~  
32 ~~monetarily or through work service or through incarceration;~~

33 ~~(iii) The offender's liberty is controlled until~~  
34 ~~restitution occurs;~~

35 ~~(iv) Determination of the sanctions should include~~  
36 ~~consideration of the seriousness of the offense, the criminal history of the~~

1 offender, and aggravating and mitigating circumstances;

2 (v) Guidelines are intended to coordinate and  
3 enhance, rather than diminish, judicial discretion;

4 (vi) Efficient use of correctional resources  
5 requires a balanced consideration of all available correction options at the  
6 point of sentencing;

7 (vii) A sentencing policy should be consistent with  
8 the limited availability of institutional capacity;

9 (2) The commission shall develop a proposed Community  
10 Corrections Act for presentation to the General Assembly, which will  
11 establish a formal state and local partnership in corrections through which  
12 the state will provide monetary incentives to local governments for the  
13 operation of local corrections programs which assist in alleviating prison  
14 crowding. The proposed act will authorize the establishment of local boards  
15 to control the operation of programs and statewide criteria to ensure maximum  
16 participation and compliance;

17 (3)(A) The commission may recommend revision of existing laws  
18 for presentation to the General Assembly which enable and define the  
19 organizations, structures, and authorities of the Department of Correction,  
20 the Post Prison Transfer Board, and the Adult Probation Commission, and their  
21 relationship to each other and other state correctional units.

22 (B) The commission is authorized to hold public hearings  
23 and to seek the assistance and services of any state or local criminal  
24 justice agency and to conduct, under contract with an outside organization, a  
25 professional independent review of Arkansas probation laws and policies.

26 (C) Based on the professional independent review, the  
27 commission will establish a policy to redefine the structure, function, and  
28 organizational position of Arkansas probation laws and policies in a manner  
29 designed to ensure the maximization of community based punishment and  
30 corrections options.

31 (b) Where appropriate, the commission shall give due consideration to  
32 the encouragement of rehabilitative programs for offenders.

33  
34 12-31-104. Authority to employ staff.

35 The commission may employ such staff and consultants as authorized by  
36 law and fix their compensation, duties, authority, and responsibilities.



1  
2 SECTION 52. Arkansas Code § 12-62-405(b) is amended to read as follows  
3 to clarify the coverage of the subsection:

4 (b) Any person seeking damages ~~therefor~~ from a physician, dentist,  
5 nurse, pharmacist, paramedical, or other supporting personnel, including  
6 medical and dental technicians, nursing assistants, and therapists, of the  
7 Arkansas National Guard shall seek the remedies provided against the United  
8 States by 28 U.S.C. § 1346(b), if the cause of action arose while the member  
9 of the Arkansas National Guard was in federal service, or by filing a claim  
10 against the State of Arkansas if the alleged acts were performed by ~~members~~  
11 ~~of the Arkansas National Guard~~ the member while on official state service.  
12

13 SECTION 53. Arkansas Code § 12-75-128(d) is amended to read as follows  
14 to clarify an ambiguous reference to "the pension law":

15 (d) The provisions of this section shall not affect the right of any  
16 person to receive benefits to which he or she would otherwise be entitled  
17 under this chapter, under the Workers' Compensation Law, § 11-9-101 et seq.,  
18 or under the ~~pension law~~ retirement system laws of Arkansas, nor the right of  
19 any such person to receive any benefits or compensation under any act of  
20 Congress.  
21

22 SECTION 54. Arkansas Code § 13-8-103(b)(2) is amended to read as  
23 follows to make certain stylistic changes:

24 (2) The Advisory Council of the Arkansas Arts Council shall ~~be~~  
25 ~~charged with the responsibility of developing and implementing~~ develop and  
26 implement a comprehensive statewide program for the support of the arts in  
27 Arkansas, pursuant to this subchapter.

28 (3) The Executive Director of the Arkansas Arts Council shall ~~be~~  
29 ~~charged with the duty of administering~~ administer the provisions of this  
30 subchapter and the rules, regulations, and orders established under this  
31 subchapter.  
32

33 SECTION 55. Arkansas Code § 15-1-102 is repealed because the section  
34 consists of temporary language the effectiveness of which has expired:

35 ~~15-1-102. Arkansas Rural Development Study Commission.~~

36 ~~(a) There is created an Arkansas Rural Development Study Commission to~~

1 ~~be composed of fifteen (15) members to be appointed by the Governor. In~~  
2 ~~making his or her appointments, the Governor shall assure that the four (4)~~  
3 ~~congressional districts, rural agencies, two (2) from the House of~~  
4 ~~Representatives and two (2) from the Senate, are represented on the~~  
5 ~~commission.~~

6 ~~(b) The commission shall study the feasibility and desirability of~~  
7 ~~forming a Rural Development Institute for Arkansas and shall investigate how~~  
8 ~~other states are focusing on rural development and coordinating efforts to~~  
9 ~~stem the loss of rural population.~~

10  
11 SECTION 56. Arkansas Code § 15-4-219(1)(A)(iii) is amended to read as  
12 follows to clarify the meaning of the subdivision:

13 (iii) What elements of ~~our~~ the department's  
14 incentive packages were used;

15  
16 SECTION 57. Arkansas Code Title 15, Chapter 4, Subchapter 11 is  
17 repealed because the original act upon which the effectiveness of the  
18 subchapter depended has expired and has not been reenacted:

19 ~~15-4-1101. Definition.~~

20 ~~For the purposes of this subchapter, the term "invested" shall include~~  
21 ~~expenditures made from the proceeds of bonds, including interim notes or~~  
22 ~~other evidence of indebtedness issued by a municipality, county, or an agency~~  
23 ~~or instrumentality of a municipality, county, or the State of Arkansas, if~~  
24 ~~the obligation to repay the bonds, including interest on the bonds, is a~~  
25 ~~legal binding obligation directly or indirectly of the taxpayer.~~

26  
27 ~~15-4-1102. Certification required.~~

28 ~~(a) To claim the benefits of this section, a taxpayer must obtain a~~  
29 ~~certification from the Director of the Department of Economic Development~~  
30 ~~certifying to the Revenue Division of the Department of Finance and~~  
31 ~~Administration that the taxpayer:~~

32 ~~(1) Operates a steel mill in Arkansas which began production~~  
33 ~~after February 16, 1987; and~~

34 ~~(2) Has invested, after February 16, 1987, in excess of one~~  
35 ~~hundred twenty million dollars (\$120,000,000) in the steel mill, which~~  
36 ~~investment expenditure is for one (1) of the following:~~

1                   (A) ~~Property purchased for use in the construction of a~~  
2 ~~building or buildings or any addition or improvement thereon to house the~~  
3 ~~steel mill;~~

4                   (B)(i) ~~Machinery and equipment to be located in or in~~  
5 ~~connection with the steel mill.~~

6                               (ii) ~~Motor vehicles of a type subject to~~  
7 ~~registration shall not be considered as machinery and equipment; or~~

8                   (C) ~~Project planning costs or construction labor costs,~~  
9 ~~including;~~

10                               (i) ~~On-site direct labor and supervision, whether~~  
11 ~~employed by a contractor or the project owner;~~

12                               (ii) ~~Architectural fees or engineering fees, or~~  
13 ~~both;~~

14                               (iii) ~~Right-of-way purchases;~~

15                               (iv) ~~Utility extensions;~~

16                               (v) ~~Site preparation;~~

17                               (vi) ~~Parking lots;~~

18                               (vii) ~~Disposal or containment systems;~~

19                               (viii) ~~Water and sewer treatment systems;~~

20                               (ix) ~~Rail spurs;~~

21                               (x) ~~Streets and roads;~~

22                               (xi) ~~Purchase of mineral rights;~~

23                               (xii) ~~Land;~~

24                               (xiii) ~~Buildings;~~

25                               (xiv) ~~Building renovation;~~

26                               (xv) ~~Production, processing, and testing equipment;~~

27                               (xvi) ~~Freight charges;~~

28                               (xvii) ~~Building demolition;~~

29                               (xviii) ~~Material handling equipment;~~

30                               (xix) ~~Drainage systems;~~

31                               (xx) ~~Water tanks and reservoirs;~~

32                               (xxi) ~~Storage facilities;~~

33                               (xxii) ~~Equipment rental;~~

34                               (xxiii) ~~Contractor's cost-plus fees;~~

35                               (xxiv) ~~Builders' risk insurance;~~

36                               (xxv) ~~Original spare parts;~~

1                   ~~(xxvi) — Job administrative expenses;~~  
2                   ~~(xxvii) — Office furnishings and equipment;~~  
3                   ~~(xxviii) — Rolling stock;~~  
4                   ~~(xxix) — Capitalized start-up costs as recognized by~~  
5 ~~generally accepted accounting principles; and~~  
6                   ~~(xxx) — Other costs related to the construction.~~

7           ~~(b) — "Production, processing, and testing equipment", as used in~~  
8 ~~subdivision (a)(2)(C) of this section, includes machinery and equipment~~  
9 ~~essential for the receiving, storing, processing, and testing of raw~~  
10 ~~materials and the production, storage, testing, and shipping of finished~~  
11 ~~products, including facilities for the production of steam, electricity,~~  
12 ~~chemicals, and other materials that are essential to the manufacturing~~  
13 ~~process but which are consumed in the manufacturing process and do not become~~  
14 ~~essential components of the finished product.~~

15  
16           ~~15-4-1103. Use of credit.~~

17           ~~Taxpayers qualified under § 15-4-1102 and entitled to the Arkansas~~  
18 ~~Enterprise Zone Act of 1983 income tax credit provided in subdivision 7(c) of~~  
19 ~~Act 813 of 1983, may use the credit in the taxable year in which the credit~~  
20 ~~arose. If the entire credit cannot be used in the year earned, the remainder~~  
21 ~~may be used in the succeeding nine (9) years or until the credit is~~  
22 ~~exhausted, whichever occurs first.~~

23  
24           ~~15-4-1104. Benefits of enterprise zone provisions.~~

25           ~~(a) — The provisions of the Arkansas Enterprise Zone Act of 1983 — are~~  
26 ~~adopted by this subchapter. Taxpayers qualified under § 15-4-1102 shall claim~~  
27 ~~the benefits provided by the Arkansas Enterprise Zone Act of 1983 under this~~  
28 ~~subchapter without regard for any amendment or repeal of the Arkansas~~  
29 ~~Enterprise Zone Act of 1983, provided the taxpayer's business otherwise meets~~  
30 ~~the requirements for claiming the benefits of the Arkansas Enterprise Zone~~  
31 ~~Act of 1983.~~

32           ~~(b) — A taxpayer who qualifies pursuant to the certification provisions~~  
33 ~~of § 26-52-902(c) shall be entitled to the benefits of this section and §§~~  
34 ~~26-52-902 and 26-52-903 only if the certification is issued by the Director~~  
35 ~~of the Department of Economic Development prior to July 1, 1989.~~

36

1 SECTION 58. Arkansas Code § 15-4-1605(1)(B) is amended to read as  
2 follows to clarify the wording of the subdivision:

3 (B)(i) Computer businesses primarily engaged in providing:  
4 (a) ~~computer~~ Computer programming services;  
5 (b) ~~the design~~ Design and development of  
6 prepackaged software;  
7 (c) ~~businesses engaged in digital~~ Digital  
8 content production and preservation;  
9 (d) ~~computer~~ Computer processing and data  
10 preparation services;  
11 (e) ~~information~~ Information retrieval  
12 services; and  
13 (f) ~~computer~~ Computer and data processing  
14 ~~consultants and developers~~ consulting and developing.

15 (ii) All businesses in ~~this~~ the group described in  
16 subdivision (1)(B)(i) of this section ~~must~~ shall:

17 (a) ~~employ~~ Employ twenty-five (25) or more net  
18 new full-time permanent employees;  
19 (b) ~~derive~~ Derive at least seventy-five  
20 percent (75%) of their revenue from out-of-state sales; and  
21 (c) ~~have~~ Have no retail sales to the general  
22 public;

23  
24 SECTION 59. Arkansas Code § 15-4-1605(1)(H) is amended to read as  
25 follows to replace an undefined term used in the subdivision with a term that  
26 is defined in the subchapter:

27 (H) A coal mining operation that employs twenty-five (25)  
28 or more net new full-time permanent ~~positions~~ employees;

29  
30 SECTION 60. Arkansas Code § 15-4-2205(g) is amended to read as follows  
31 to correct the wording of the subsection in light of an amendment to language  
32 in § 15-4-2204:

33 (g) ~~Expense reimbursement and per diem allowance~~ Compensation for the  
34 members of the executive committee shall be as provided in § 15-4-2204(e).

35  
36 SECTION 61. Arkansas Code § 15-4-2208(e) is amended to read as follows

1 to correct an engrossment error:

2 (e) The Governor may approve a request from any unit of general local  
3 government for designation as a local area if the board, after consultation  
4 with and agreement of the local chief elected officials, recommends to the  
5 Governor that the area should be so designated. ~~Arkansas labor federations,~~  
6 ~~or other representatives of employees if no employees are represented by~~  
7 ~~labor organizations;~~

8

9 SECTION 62. Arkansas Code § 15-4-2714(c)(2) is amended to read as  
10 follows to insert missing language essential to the meaning of the  
11 subdivision:

12 (2) It is the specific intent of this subchapter that the  
13 incentives provided by this subchapter and the incentives provided by prior  
14 laws are mutually exclusive.

15

16 SECTION 63. Arkansas Code § 15-5-1205(d) is amended to read as follows  
17 to properly name a fund referred to in other Code sections:

18 (d)(1) A debt service reserve fund There is established on the books  
19 of the authority a reserve fund to be known as the "Petroleum Storage Tank  
20 Trust Fund Revenue Bonds Reserve Fund".

21 (2) The ~~fund~~ Petroleum Storage Tank Trust Fund Revenue Bonds  
22 Reserve Fund shall be funded from the proceeds of the bonds and shall be held  
23 and used to ensure prompt payment of debt service on the bonds in such a  
24 manner and pursuant to such conditions as may be specified by the authority  
25 in the resolution or trust indenture authorizing or securing the bonds.

26

27 SECTION 64. Arkansas Code § 15-11-507(h) is repealed because the  
28 subsection consists of temporary language the effectiveness of which has  
29 expired:

30 ~~(h)(1)(A) For amusement or entertainment park tourism attraction~~  
31 ~~projects approved by the Director of the Department of Economic Development~~  
32 ~~between April 1, 1999, and September 1, 1999, the Director of the Department~~  
33 ~~of Economic Development is authorized to allow an exemption from the payment~~  
34 ~~of sales and use taxes on certain purchases of materials used in the~~  
35 ~~construction of a building or buildings for housing the tourism amusement or~~  
36 ~~entertainment park and machinery or equipment to be located in or in~~

1 ~~connection with the approved tourism attraction project.~~

2 ~~(B) In exchange for this exemption, the sales tax credit~~  
 3 ~~provided by this section shall be ratably reduced by the amount of sales and~~  
 4 ~~use taxes that are not collected due to the exemption granted under this~~  
 5 ~~subsection.~~

6 ~~(2) The sales tax exemption shall expire on July 1, 2001.~~

7 ~~(3)(A) The Chief Fiscal Officer of the State shall have an audit~~  
 8 ~~conducted to assure compliance with the exemption and sales tax credit~~  
 9 ~~exchange allowed in this subsection.~~

10 ~~(B) In the event it is found that the approved company~~  
 11 ~~receiving the benefits contained in this section has failed to comply with~~  
 12 ~~the conditions of this section, that company shall be disqualified from~~  
 13 ~~receiving any further benefits under this subsection and shall be liable for~~  
 14 ~~the payment of such sales and use taxes as may be due after the sales and use~~  
 15 ~~tax credits provided for in this section are disallowed, plus interest.~~

16  
 17 SECTION 65. Arkansas Code § 15-20-501 is amended to read as follows to  
 18 conform the section to Code style:

19 15-20-501. Definitions.

20 As used in this subchapter:

21 ~~(a)(1)~~ "Commission" means the Arkansas Natural Heritage  
 22 Commission;

23 ~~(b)(2)~~ "Director" means the Director of the Arkansas Natural  
 24 Heritage Commission or his or her appointed agents; and

25 ~~(e)(3)~~ "Natural area" means any real property held by the  
 26 commission in fee or less than fee interest, along with all appurtenances  
 27 thereto.

28  
 29 SECTION 66. Arkansas Code § 15-20-903(10) is amended to read as  
 30 follows to correct the wording of a definition:

31 (10)(A) "Poultry feeding operation" means any lot or facility  
 32 where two thousand five hundred (2,500) or more poultry are housed or  
 33 confined and fed or maintained on any one (1) day in the preceding twelve-  
 34 month period.

35 (B) Multiple poultry houses within a reasonable proximity  
 36 to one another under the control of one (1) owner shall be considered one (1)

1 facility; and

2

3 SECTION 67. Arkansas Code § 15-20-1103(15) is amended to read as  
4 follows to correct the wording of a definition:

5 (15)(A) "Poultry feeding operation" means any lot or facility  
6 where two thousand five hundred (2,500) or more poultry are housed or  
7 confined and fed or maintained on any one (1) day in the preceding twelve-  
8 month period.

9 (B) Multiple poultry houses within a reasonable proximity  
10 to one another under the control of one (1) owner shall be considered one (1)  
11 facility;

12

13 SECTION 68. Arkansas Code § 15-22-1313(a) is amended to read as  
14 follows to add language essential to the meaning of the subsection:

15 (a) Should any city, town, county, or political subdivision receiving  
16 general revenue turnback funds as defined in the Revenue Stabilization Law, §  
17 19-5-101 et seq., fail, neglect, or refuse to pay any installment of  
18 principal, interest, or financing fee for a period of more than ninety (90)  
19 days past the due date in accordance with the written instrument for the  
20 repayment of its bonds, notes, or other evidences of indebtedness purchased  
21 by the Arkansas Soil and Water Conservation Commission with proceeds of the  
22 commission's bonds issued under this subchapter, after notification to the  
23 city, town, county, or political subdivision, the commission may certify to  
24 the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of  
25 the State the:

26 (1) ~~the name~~ Name of the city, town, county, or political  
27 subdivision; and

28 (2) ~~the amount~~ Amount of deficiencies ninety (90) days or more  
29 past due.

30

31 SECTION 69. Arkansas Code § 15-23-316 is repealed because the section  
32 consists of temporary language the effectiveness of which has expired, and  
33 the Arkansas Code Revision Commission is directed to place the language of  
34 the former section in a note to § 15-20-305:

35 ~~15-23-316. Arkansas Natural Heritage Commission of the Department of~~  
36 ~~Arkansas Heritage membership.~~



1           ~~In addition to the members of the Arkansas Natural Heritage Commission~~  
2 ~~of the Department of Arkansas Heritage provided for in § 15-20-305, the~~  
3 ~~person serving as Chair of the Arkansas Natural and Scenic Rivers Commission~~  
4 ~~on August 2, 1997, shall be a voting member of the Arkansas Natural Heritage~~  
5 ~~Commission of the Department of Arkansas Heritage during the remainder of the~~  
6 ~~term for which he or she was appointed to serve on the Arkansas Natural and~~  
7 ~~Scenic Rivers Commission.~~

8  
9           SECTION 70. Arkansas Code § 15-23-317 is repealed because the section  
10 is obsolete, and the Arkansas Code Revision Commission is directed to place  
11 the language of the former section in a note to § 15-20-304:

12           ~~15-23-317. Transfer of powers, functions, and duties.~~

13           ~~All powers, functions, and duties of the Arkansas Natural and Scenic~~  
14 ~~Rivers Commission and all funds, equipment, and records of the Arkansas~~  
15 ~~Natural and Scenic Rivers Commission are transferred to the Arkansas Natural~~  
16 ~~Heritage Commission of the Department of Arkansas Heritage.~~

17  
18           SECTION 71. Arkansas Code § 15-31-113 is amended to read as follows to  
19 clarify the language of the section:

20           ~~15-31-113. Fines to State Forestry Fund~~ Legislative findings -

21 Purpose.

22           (a) The General Assembly finds:

23                   (1) The Arkansas Forestry Commission enforces laws pertaining to  
24 wildland fires, timber theft, and unlawful dumping on forest land;

25                   (2) Under current law, fines resulting from violations of the  
26 wildland fire laws are deposited with local school districts; and

27                   (3) The law is silent on where to deposit fines resulting from  
28 violations of the dumping and timber theft laws.

29           (b) The purpose of this section, § 15-31-114, and § 5-38-201 is to  
30 establish that fines generated by law enforcement activities of the  
31 commission be deposited into the State Forestry Fund.

32  
33           SECTION 72. Arkansas Code § 15-46-102 is repealed because the section  
34 is obsolete and has been declared unconstitutional in part:

35           ~~15-46-102. Bounty on wolves.~~

36           ~~(a) The county court of any county of this state is authorized to pay~~

1 a bounty for each wolf killed within the county when satisfactory proof has  
2 been made of the killing of the animals.

3 ~~(b) The State of Arkansas shall pay to any person killing a wolf a~~  
4 ~~bounty in the amount equal to the amount paid to the person by any county in~~  
5 ~~this state under subsection (a) of this section. Payment shall be made from~~  
6 ~~the Game Protection Fund of the Arkansas State Game and Fish Commission.~~  
7 ~~However, the bounty paid by the commission shall not exceed fifteen dollars~~  
8 ~~(\$15.00) for each old wolf and five dollars (\$5.00) for each wolf under six~~  
9 ~~(6) months of age.~~

10 ~~(c) Upon certification of the county judge certifying to the Secretary~~  
11 ~~of the Arkansas State Game and Fish Commission that a bounty has been paid~~  
12 ~~for the killing of the wolves to the persons killing the wolves, the~~  
13 ~~secretary of the commission shall approve the claim therefor and shall draw a~~  
14 ~~voucher for the amount approved. The Auditor of State shall issue a warrant~~  
15 ~~for the amount to the person killing the wolves, the claim to be paid to the~~  
16 ~~persons by the county courts not to exceed the amount set out in subsection~~  
17 ~~(b) of this section.~~

18 ~~(1) However, no claim for a bounty shall be allowed or paid~~  
19 ~~either by the state or county to a nonresident of this state.~~

20 ~~(2) No payment of a bounty as provided in this section shall be~~  
21 ~~paid by either the county or state to any persons employed by the federal~~  
22 ~~government or the State of Arkansas.~~

23  
24 SECTION 73. Arkansas Code § 17-25-503(a)(2)(A) is amended to read as  
25 follows to correct the wording of the subdivision:

26 (2)(A)(i) The Governor shall appoint five (5) persons who have  
27 at least five (5) years' experience in residential construction.

28 (ii) Two (2) of the five (5) residential  
29 construction members shall be appointed from a list of at least ten (10)  
30 names submitted by the statewide trade organization or organizations that  
31 represent the residential construction industry.

32 (iii) ~~At least one (1) of the five (5) residential~~  
33 ~~enstruction members shall reside in each congressional district~~ Of the five  
34 (5) residential construction members, one (1) member shall be appointed from  
35 each of the four (4) congressional districts, and the remaining member shall  
36 be appointed from the state at large.

1  
2 SECTION 74. Arkansas Code § 17-48-101 is amended to read as follows to  
3 repeal language in the section that conflicts with § 14-15-701, which was  
4 derived from a later act, and to conform the section to Code style:

5 17-48-101. Definitions.

6 ~~(a)~~ As used in this chapter, ~~unless the context otherwise requires:~~

7 (1) "Board" means the State Board of Registration for  
8 Professional Engineers and Land Surveyors;

9 (2)(A) "Land surveying" means any service comprising the:  
10 ~~(i) determination~~ Determination of the location of  
11 land boundaries and land boundary corners; and

12 ~~(ii) the preparation~~ Preparation of:

13 ~~(a) plats~~ Plats showing the shape and areas of  
14 tracts of land and their subdivision into smaller tracts;

15 ~~(b) the preparation of plats~~ Plats showing the  
16 location of streets, roads, and rights-of-way of tracts to give access to  
17 smaller tracts; and

18 ~~(c) the preparation of official~~ Official  
19 plats, or maps, of land thereof in this state.

20 (B) "Land surveying" shall not include the measure of  
21 acreage of timber, cotton, rice, or other agricultural crops; ~~and.~~

22 ~~(3) "Land surveyor" means any person engaged in the practice of~~  
23 ~~land surveying as defined in this section.~~

24 ~~(b)(C)~~ A person shall be construed to practice or offer to  
25 practice land surveying who:

26 ~~(i) engages~~ Engages in land surveying for others; or

27 ~~(ii) who by~~ By verbal claim, sign, letterhead, card,  
28 telephone listing, or in any other way represents himself or herself;

29 ~~(a) to~~ To be a land surveyor; or

30 ~~(b) who represents himself or herself as~~ As  
31 able to perform land surveying in this state; and

32 (3) "Land surveyor" means any person engaged in the practice of  
33 land surveying.

34 ~~(e) The provisions of this chapter shall not apply to the~~  
35 ~~constitutional office of county surveyor when acting in his or her official~~  
36 ~~capacity in the county in which he or she was elected.~~

1  
2 SECTION 75. Arkansas Code § 17-92-205(c)(1) is amended to read as  
3 follows to clarify the meaning of the subdivision:

4 (c)(1) ~~The board's inspectors or other designated agents, upon~~ Upon  
5 written authorization by the board, the board's inspectors or other  
6 designated agents shall have authority to conduct oversight activities  
7 authorized by law, including, but not limited to, audits, investigations,  
8 inspections, licensure, or disciplinary actions, civil, administrative, or  
9 criminal proceedings or actions, or other activities necessary for  
10 appropriate oversight of the regulated activities and may enter any store,  
11 business establishment, including any hospital pharmacy, or any other  
12 facility holding a license, permit, or other authority issued by the board  
13 where drugs, medicines, chemicals, pharmaceuticals, poisons, home medical  
14 equipment, or services or other objects, services, or activities regulated by  
15 the board are manufactured, sold, dispensed, or conducted to enforce this  
16 subchapter, the Uniform Controlled Substances Act, § 5-64-101 et seq., or the  
17 Food, Drug, and Cosmetic Act, § 20-56-201 et seq.

18  
19 SECTION 76. Arkansas Code § 17-95-107(d)(7) is amended to read as  
20 follows to remove from the subdivision temporary language the effectiveness  
21 of which has expired:

22 (7)(A) The board may charge credentialing organizations a  
23 reasonable fee for the use of the credentialing service as established by  
24 rule and regulation.

25 (B) The fee shall be set in consultation with the advisory  
26 committee and shall be set at such a rate as will reimburse the board, when  
27 added to the credentialing assessments collected from physicians, for the  
28 cost of maintaining the credentialing information system.

29 (C) The board's costs may not exceed the fees charged by  
30 private vendors with a comparable statewide credentialing service.

31 ~~(D) Each physician licensee of the board will pay a~~  
32 ~~credentialing fee of one hundred dollars (\$100) per year at the time of the~~  
33 ~~renewal of the license for the years 2000 and 2001.~~

34 ~~(E)(D) For the year 2002 and each year thereafter, the~~ The  
35 board may assess each physician licensee an amount not to exceed one hundred  
36 dollars (\$100) per year to offset the cost ~~for~~ of providing the credentialing

1 service.

2

3 SECTION 77. Arkansas Code § 18-60-603(c) is amended to read as follows  
4 to correct an obsolete reference to "chancery":

5 (c) Proof of the publication of the notice shall be made in the same  
6 manner as proof of publication of notices in other ~~chancery~~ circuit court  
7 causes.

8

9 SECTION 78. Arkansas Code § 19-4-402(1) is amended to read as follows  
10 to correct an obsolete reference to "chancery":

11 (1) Circuit ~~and chancery~~ judges;

12

13 SECTION 79. Arkansas Code § 19-4-801(1)(B) is amended to read as  
14 follows to correct an obsolete reference to chancery courts and judges:

15 (B) The term "state agency" shall not include the  
16 Governor, Secretary of State, Attorney General, Treasurer of State, Auditor  
17 of State, Commissioner of State Lands, the Supreme Court and its justices,  
18 the circuit courts and circuit judges, ~~the chancery courts and chancery~~  
19 ~~judges~~, prosecuting attorneys, the Arkansas State Game and Fish Commission,  
20 the Arkansas State Highway and Transportation Department, the General  
21 Assembly, and the respective staffs of these officers and agencies; and

22

23 SECTION 80. Arkansas Code § 19-5-304(2)(A) is amended to read as  
24 follows to delete a reference to a repealed code section:

25 (2)(A) Department of Workforce Education Fund Account. The  
26 Department of Workforce Education Fund Account shall be used to provide  
27 support for those programs placed under the direction of the Director of the  
28 Department of Workforce Education as authorized by §§ 6-11-101, 6-11-102, 25-  
29 6-101, 25-6-102, ~~25-6-103 [repealed]~~, and Acts 1981, No. 64, § 4, and any  
30 other laws imposing functions, powers, and duties upon the State Board of  
31 Workforce Education and Career Opportunities, including, but not necessarily  
32 limited to, the following:

33

(i) Vocational, technical, and adult education;

34

(ii) Adult basic education;

35

(iii) Manpower training;

36

(iv) Vocational standards;

1 (v) Industry training programs; and  
 2 (vi) Those functions, programs, and responsibilities  
 3 transferred to the Department of Workforce Education as authorized by these  
 4 statutes.

5  
 6 SECTION 81. Arkansas Code § 19-5-304(5)(A) is amended to read as  
 7 follows to delete a reference to a superseded act and to clarify the code  
 8 sections concerning the powers, functions, and duties of the Arkansas School  
 9 for the Blind:

10 (5)(A) School for the Blind Fund Account. The School for the  
 11 Blind Fund Account shall be used for the maintenance, operation, and  
 12 improvement required by the Arkansas School for the Blind in carrying out  
 13 those powers, functions, and duties as set out in ~~Acts 1879, No. 64, § 1~~  
 14 ~~{superseded}, or other duties imposed by law upon the Arkansas School for the~~  
 15 ~~Blind, which was transferred to the Department of Education by §§ 6-11-101,~~  
 16 ~~6-11-102, and 25-6-102~~ §§ 6-43-101 et seq. and 6-43-201 et seq.

17  
 18 SECTION 82. Arkansas Code § 19-5-304(7)(A) is amended to read as  
 19 follows to change a reference to a repealed subchapter to the subchapter  
 20 which now takes its place:

21 (7)(A) Rehabilitation Services Fund Account. The Rehabilitation  
 22 Services Fund Account shall be used for the maintenance, operation, and  
 23 improvement required by the Arkansas Rehabilitation Services of the  
 24 Department of Workforce Education in carrying out the powers, functions, and  
 25 duties, as set out in § 6-52-101 et seq., § 20-79-201 et seq., and ~~§ 25-6-201~~  
 26 ~~et seq., {repealed}~~ 25-30-201 et seq., and for the adult handicapped program  
 27 at the Arkansas Health Center.

28  
 29 SECTION 83. Arkansas Code § 19-5-1125(b)(1) is amended to read as  
 30 follows to clarify the ambiguous phrase "upon passage of an act":

31 (b)(1) ~~Upon passage of an act~~ Following the enactment of an act  
 32 authorizing the memorial or monument ~~by the General Assembly~~ and before  
 33 beginning construction, improvement, or placement, any group or organization  
 34 that sponsors and pays the cost of the construction, improvement, or  
 35 placement of a memorial or monument on the State Capitol grounds shall pay  
 36 into the fund a fee of ten percent (10%) of the cost of the construction,

1 improvement, or placement of the monument or memorial.

2  
3 SECTION 84. Arkansas Code § 19-5-1222(b) is amended to read as follows  
4 to make the subsection consistent with § 6-81-1401 where the creation of the  
5 Nursing Student Loan Revolving Fund is also codified:

6 (b) ~~The fund shall consist of the current assets of the fund, there to~~  
7 ~~be used as may be provided by law~~ The fund shall consist of funds  
8 appropriated for the Nursing Student Loan Program, federal funds, gifts,  
9 grants, bequests, devises, donations, and general revenues, there to be used  
10 by the Arkansas State Board of Nursing for making loans for nursing  
11 scholarships.

12  
13 SECTION 85. Arkansas Code § 19-5-1226(b)(3)(A)(7) is amended to read  
14 as follows to clarify the ambiguous phrase "at the time of the passage of  
15 this act":

16 (b)(3)(A) An amount not to exceed twenty-five million dollars  
17 (\$25,000,000) in the Federal Fiscal Relief Fund may be used to supplement  
18 general revenues if required to meet the current forecast of general revenues  
19 which is in effect ~~at the time of the passage of this act~~ on February 3,  
20 2004.

21  
22 SECTION 86. Arkansas Code § 19-6-491(b) is amended to read as follows  
23 to correct references to code sections and to include language from § 19-6-  
24 492 where the Domestic Peace Fund is also codified:

25 (b)(1)~~(A)~~ The moneys collected under ~~§ 16-14-110~~ § 16-20-407, as  
26 designated under ~~§ 16-14-110(b)(2)~~ § 16-20-407(b)(2), shall be deposited into  
27 the State Treasury to the credit of the fund as special revenue.

28 ~~(B)(2)~~ The moneys designated from § 26-52-107~~(b)(1)(C)~~ shall be  
29 deposited into the fund as special revenue.

30 ~~(2)(3)~~ The fund shall also consist of any:

31 (A) Moneys obtained from private grants or other sources  
32 that are designated to be credited to the fund; and

33 (B) ~~any other~~ Other revenues as may be authorized by law.

34  
35 SECTION 87. Arkansas Code § 19-6-492 is repealed because the Domestic  
36 Peace Fund is codified at 19-6-491 and the section is duplicative:

1           ~~19-6-492. Domestic Peace Fund—Moneys collected for additional~~  
2 ~~marriage license fee.~~

3           ~~(a) There is created on the books of the Treasurer of State, the~~  
4 ~~Auditor of State, and the Chief Fiscal Officer of the State a special revenue~~  
5 ~~fund to be known as the "Domestic Peace Fund".~~

6           ~~(b)(1) All moneys collected for the additional marriage license fee~~  
7 ~~levied to fund and to be used by the Arkansas Child Abuse/Rape/Domestic~~  
8 ~~Violence Commission as provided under § 9-4-101 et seq. shall be deposited~~  
9 ~~into the State Treasury to the credit of the fund as special revenue; and~~

10           ~~(2) The fund shall also consist of any other revenues as may be~~  
11 ~~authorized by law.~~

12           ~~(3) The fund shall also consist of any moneys obtained from~~  
13 ~~private grants or other sources that are designated to be credited to the~~  
14 ~~fund.~~

15           ~~(c) The fund shall be used exclusively by the commission as provided~~  
16 ~~under the Arkansas Domestic Peace Act, § 9-4-101 et seq.~~

17  
18           SECTION 88. Arkansas Code § 19-10-210(b)(2) is amended to read as  
19 follows to correct an obsolete reference to "chancery":

20           (2) To the extent practicable, the commission shall adopt the  
21 procedure used by the ~~Arkansas chancery~~ circuit courts, and its hearing shall  
22 be conducted in a judicial manner.

23  
24           SECTION 89. Arkansas Code § 19-10-212 is amended to read as follows to  
25 make the dollar amount recited in the section consistent with the most recent  
26 act affecting the section:

27           19-10-212. Reports of agency liability.

28           It is the intent of the General Assembly that when any state agency,  
29 board, commission, or institution of higher education admits liability to a  
30 claim filed with the Arkansas State Claims Commission and the claim involves  
31 a contract with a state agency, board, commission, or institution of higher  
32 education or the claim exceeds ~~seven thousand five hundred dollars (\$7,500)~~  
33 ten thousand dollars (\$10,000), that ~~such~~ the agency, board, commission, or  
34 institution of higher education file a written report thereof to the  
35 Litigation Reports Oversight Subcommittee of the ~~Arkansas~~ Legislative  
36 Council. ~~Such~~ The report shall include a concise statement of facts with an



1 explanation of the agency's liability. Provided further, ~~such~~ the report  
 2 shall be filed with the ~~Litigation Subcommittee~~ subcommittee within thirty  
 3 (30) days after the claim has been adjudicated by the Arkansas State Claims  
 4 Commission.

5  
 6 SECTION 90. In order to correct errors, § 20-35-102 is amended to read  
 7 as follows:

8 20-35-102. Definitions.

9 For purposes of this chapter, "genetic research study or studies" shall  
 10 mean those genetic research studies approved by an institutional review board  
 11 as defined in 21 C.F.R., ~~Act Part~~ Part 50, as it existed on January 1, 2001, or  
 12 conducted subject to the requirements of the federal common rule at 21  
 13 C.F.R., ~~Act Part~~ Part 50 and ~~Act Part~~ Part 56, and 45 C.F.R., ~~Act Part~~ Part 46, as existed  
 14 on January 1, 2001.

15  
 16 SECTION 91. Arkansas Code § 21-1-402(a)(1) is amended to read as  
 17 follows to delete a reference to an abolished council:

18 (a)(1) Subject to any restrictions or conditions prescribed by the  
 19 Arkansas Constitution and unless the person resigns prior to entering into  
 20 the employment, no person elected to a constitutional office ~~may~~, after being  
 21 elected to the constitutional office and during the term for which elected,  
 22 may enter into employment with:

23 (A) Any state agency;

24 (B) Any public school district of this state in a  
 25 noncertified position;

26 (C) Any vocational education school funded by the state;

27 or

28 (D) Any education service cooperative; ~~or,~~

29 ~~(E) The Cooperative Education Services Coordinating~~  
 30 ~~Council [abolished].~~

31  
 32 SECTION 92. Arkansas Code § 21-1-502 is amended to read as follows to  
 33 delete subsection (b), a substantive provision, from a definitions section:

34 ~~(a)~~ For purposes of this subchapter:

35 (1) "Elected public official" means the Governor, Lieutenant  
 36 Governor, Secretary of State, Treasurer of State, Auditor of State, Attorney

1 General, Commissioner of State Lands, member of the Senate, and member of the  
2 House of Representatives;

3 (2) "Public employee" means any person providing services for  
4 the State of Arkansas, counties, municipal corporations, or any other  
5 political subdivision of this state for which compensation is paid; and

6 (3) "Public employer" means the State of Arkansas and each  
7 political subdivision thereof, as defined in § 21-5-603(b).

8 ~~(b) A public employee shall not be prohibited from communicating with~~  
9 ~~an elected public official concerning matters related to the public~~  
10 ~~employee's job, except for matters exempted under § 25-19-105.~~

11

12 SECTION 93. Arkansas Code § 21-1-503 is amended to read as follows to  
13 add a new subsection (a) containing the language deleted from 21-1-502 by  
14 section 91 of this act:

15 (a) A public employee shall not be prohibited from communicating with  
16 an elected public official concerning matters related to the public  
17 employee's job, except for matters exempted under § 25-19-105.

18 ~~(a)(b)(1)~~ It shall be unlawful for any public employer to discipline,  
19 to threaten to discipline, to reprimand, either orally or in writing, ~~or~~ to  
20 place any notation in a public employee's personnel file disciplining or  
21 reprimanding the employee, or to otherwise ~~to~~ discriminate against a public  
22 employee because the public employee exercised the right to communicate with  
23 an elected public official as granted under this subchapter.

24 (2) A public employer shall not be prohibited from disciplining  
25 an employee who has intentionally made untrue allegations to an elected  
26 official concerning matters related to the public employee's job.

27 ~~(b)(c)~~ Any person willfully violating the provisions of this  
28 subchapter shall be deemed guilty of a Class A misdemeanor.

29 ~~(e) A public employer shall not be prohibited from disciplining an~~  
30 ~~employee who has intentionally made untrue allegations to an elected official~~  
31 ~~concerning matters related to the public employee's job.~~

32

33 SECTION 94. Arkansas Code § 21-1-609 is repealed because it is an  
34 obsolete section:

35 ~~21-1-609. Severability of subchapter.~~

36 ~~In the event any provision of this subchapter regarding the remedies or~~

1 ~~damages for public employees in §§ 21-1-604, 21-1-605, or 21-1-606 is held to~~  
 2 ~~be invalid, the invalidity shall not affect the other provisions of this~~  
 3 ~~subchapter which offer protection to public employees from adverse actions by~~  
 4 ~~public employers, and to this end the provisions of this subchapter are~~  
 5 ~~declared to be severable.~~

6  
 7 SECTION 95. Arkansas Code § 21-2-115(a) is amended to read as follows  
 8 to delete a reference to a repealed code section:

9 (a)(1) Any person in the armed forces of the United States who has  
 10 been granted leave of absence under §§ 21-4-301 — 21-4-304, ~~21-4-305~~  
 11 ~~{repealed}~~, and 21-4-306 — 21-4-313 may take and subscribe the official oath  
 12 of office required by the Arkansas Constitution and statutes of this state at  
 13 any time after his or her election and before he or she enters upon the  
 14 duties of his or her office, ~~before any.~~

15 (2) The oath may be administered by any officer of this state or  
 16 of any other state or of the United States or of any foreign country who is  
 17 authorized to administer oaths.

18  
 19 SECTION 96. Title 21, Chapter 3, Subchapter 1 of the Arkansas Code  
 20 Annotated of 1987 is amended to add a new section concerning selection  
 21 service registration of state employment applicants which is also codified at  
 22 § 6-80-104:

23 21-3-102. Selective Service registration.

24 (a) "Statement of selective service status" means a statement on an  
 25 application for employment with the State of Arkansas or for admission to any  
 26 public institution of higher education, sworn under penalty of perjury, that:

27 (1) The person filing the certificate is registered with the  
 28 Selective Service System in accordance with the Military Selective Service  
 29 Act; or

30 (2) The person filing the certificate is not required to  
 31 register with the Selective Service System because the person is:

32 (A) Under eighteen (18) years of age;

33 (B) In the armed forces of the United States on active  
 34 duty, other than in a reserve or national guard unit;

35 (C) An alien lawfully admitted to the United States as a  
 36 nonimmigrant under Section 101(A)(15) of the Immigration and Nationality Act,

1 8 U.S.C. § 1101, for so long as he or she continues to maintain a lawful  
2 nonimmigrant status in the United States;

3 (D) A permanent resident of the trust territory of the  
4 Pacific Islands or the Northern Mariana Islands; or

5 (E) Excused from registration for other reason provided by  
6 federal law and that reason is included in the certificate.

7 (b) No person who is required to register with the Selective Service  
8 System shall be eligible for employment by any agency of the State of  
9 Arkansas or for admission to any public institution of higher education  
10 unless the person has signed a statement of selective service status.

11  
12 SECTION 97. Arkansas Code § 21-4-502 is repealed because the section  
13 is obsolete:

14 ~~21-4-502. Lump sum payment for unused sick leave in 2000.~~

15 ~~(a)(1) State employees shall be entitled on March 1, 2001, to a lump~~  
16 ~~sum payment of twenty dollars (\$20.00) per day for each day of unused sick~~  
17 ~~leave which was accrued during calendar year 2000.~~

18 ~~(2)(A) All state agencies subject to this subchapter shall~~  
19 ~~report the average sick leave usage per employee for calendar year 1998 to~~  
20 ~~the Office of Personnel Management of the Division of Management Services of~~  
21 ~~the Department of Finance and Administration no later than thirty (30) days~~  
22 ~~after July 30, 1999, and shall report the average sick leave usage per~~  
23 ~~employee for calendar year 2000 to the Office of Personnel Management no~~  
24 ~~later than February 1, 2001.~~

25 ~~(B) The office shall calculate the average sick leave~~  
26 ~~usage per state employee during calendar year 2000 based on the best~~  
27 ~~available records and shall report this usage and the percentage of decrease~~  
28 ~~or increase in the average sick leave usage per state employee during~~  
29 ~~calendar year 2000 versus 1998 to the Governor and the House and Senate~~  
30 ~~Committees on State Agencies and Governmental Affairs no later than March 1,~~  
31 ~~2001.~~

32 ~~(C)(i) If the average usage for the calendar year 2000~~  
33 ~~decreases at least fifteen percent (15%) compared to calendar year 1998,~~  
34 ~~state employees shall be eligible on March 1, 2001, for a lump sum payment of~~  
35 ~~twenty dollars (\$20.00) per day for each day of unused sick leave which was~~  
36 ~~accrued during calendar year 2000.~~

1                   ~~(ii) If the average sick leave usage during calendar~~  
2 ~~year 2000 decreases by at least twelve percent (12%) but less than fifteen~~  
3 ~~percent (15%) compared to calendar year 1998, the Governor may authorize a~~  
4 ~~lump sum payment of twenty dollars (\$20.00) per day for each day of unused~~  
5 ~~sick leave accrued during calendar year 2000.~~

6                   ~~(iii) If the average sick leave usage did not~~  
7 ~~decrease by at least twelve percent (12%) during calendar year 2000 as~~  
8 ~~compared to calendar year 1998, the lump sum payment shall not be made for~~  
9 ~~that year.~~

10           ~~(b) Contributions of sick leave to an agency's catastrophic sick leave~~  
11 ~~program shall not reduce the lump sum payment provided by this section.~~

12  
13           SECTION 98. Arkansas Code § 21-5-207(a)(13) is repealed because the  
14 subdivision is obsolete:

15           ~~(13) To provide assistance to state agencies or institutions~~  
16 ~~covered by the merit system in the areas of recruitment, testing, and merit~~  
17 ~~placement of applicants under the rules and regulations established for the~~  
18 ~~merit system;~~

19           ~~(14)~~(13) To provide assistance to state agencies and  
20 institutions in identifying, developing, and maintaining training and  
21 resource programs; and

22           ~~(15)~~(14) To develop and implement, as needed, upon the review of  
23 the Legislative Council, rules and regulations to ensure a uniform system of  
24 personnel administration within state government.

25  
26           SECTION 99. Arkansas Code § 21-5-609(d)(2) is amended to read as  
27 follows to clarify the phrase "et cetera":

28           (2) The reimbursement of twenty-five dollars (\$25.00) or less  
29 for out-of-pocket expenses for incurred in response to an emergency situation  
30 ~~such as~~ gasoline, oil, uniforms, ~~and~~ required equipment, ~~et cetera~~ or  
31 similar expenses incurred in response to an emergency situation shall not be  
32 construed to be monetary compensation for the volunteer worker.

33  
34           SECTION 100. Arkansas Code § 21-5-703 is amended to read as follows to  
35 delete subsection (d) which is obsolete and to delete a reference in the  
36 section to subsection (d):

1 21-5-703. Procedures for filing claims.

2 (a) All claimants shall be subject to the same rules and regulations  
3 as are provided by the law governing procedure before the Arkansas State  
4 Claims Commission.

5 ~~(b) Except as provided in subsection (d) of this section, all~~ All  
6 claims asserted under this subchapter shall be filed within five (5) years of  
7 the following:

8 (1) The date of the covered public employee's death;

9 (2) The date of the incident causing the covered public  
10 employee's total and permanent disability; or

11 (3) The date the covered public employee permanently leaves the  
12 employment position covered by this subchapter.

13 (c) Unless § 6-82-504(e) is applicable, the commission shall award any  
14 scholarship benefit provided by the provisions of § 6-82-501 et seq. at the  
15 same time any death benefit or total and permanent disability benefit is  
16 awarded under this subchapter.

17 ~~(d) The surviving child of any Arkansas State Highway and~~  
18 ~~Transportation Department employee or law enforcement officer who died or~~  
19 ~~became totally disabled as described in § 6-82-503 prior to January 1, 1997,~~  
20 ~~is entitled to educational benefits under § 6-82-501, et seq., if:~~

21 ~~(1) The claim is filed prior to the child's twenty-first~~  
22 ~~birthday;~~

23 ~~(2) The child would have been entitled to the benefits had the~~  
24 ~~parent's death or disability occurred after August 1, 1997; and~~

25 ~~(3) The claim is filed within thirty (30) calendar days after~~  
26 ~~March 16, 1999.~~

27  
28 SECTION 101. Arkansas Code § 21-5-707(d) is amended to read as follows  
29 to clarify an ambiguity and make the subsection consistent with subsection  
30 (c) of the section:

31 (d) In order for a stepchild nineteen (19) years of age or older to be  
32 eligible to receive benefits under this subchapter:

33 (1) The stepchild must have been listed as a dependent on the  
34 covered public employee's federal and state income tax returns in each of the  
35 five (5) previous income years; and

36 (2) The stepchild must have received more than one-half (1/2) of

1 his or her financial support from the covered public employee in each of the  
2 five (5) previous income years.

3  
4 SECTION 102. Arkansas Code § 21-6-414 is repealed because the section  
5 is also codified at § 21-6-413 and it is duplicative:

6 ~~21-6-414. Probate and county matters—Uniform court costs.~~

7 ~~(a) Uniform court costs are established as follows:~~

8 ~~Dissolutions of incorporation~~

9	<del>.....</del>	<del>\$25.00</del>
10	<del>Articles of incorporation .....</del>	<del>25.00</del>
11		
12	<del>Amendments to articles of incorporation .....</del>	<del>25.00</del>
13		
14	<del>Filing last will and testament for safekeeping .....</del>	<del>5.00</del>
15		
16	<del>Authentication certificate .....</del>	<del>5.00</del>
17		
18	<del>Certify and seal document .....</del>	<del>5.00</del>
19		
20	<del>Marriage license .....</del>	<del>30.00</del>
21		
22	<del>Certified copy of marriage license .....</del>	<del>5.00</del>
23		
24	<del>Underage marriages—Petition and order .....</del>	<del>10.00</del>
25		
26	<del>Small estates .....</del>	<del>25.00</del>
27		
28	<del>Assumed names .....</del>	<del>25.00</del>
29		
30	<del>Limited partnerships .....</del>	<del>25.00</del>
31		
32	<del>Alcoholics and insane persons .....</del>	<del>25.00</del>
33		
34	<del>Clerk's tax deed .....</del>	<del>5.00</del>
35		
36	<del>Recording doctors' and nurses' credentials .....</del>	<del>5.00</del>

1

2     ~~Recording ministers' credentials .....5.00~~

3

4     ~~Filing affidavit of claim against an estate .....5.00~~

5

6     ~~Filing power of attorney .....10.00~~

7

8     ~~Filing and recording all accounts and settlements .....50.00~~

9

10    ~~Certified copies of all letters .....5.00~~

11

12    ~~Issuing subpoena or summons .....5.00~~

13

14         ~~Putting up advertisement of settlement of executors,~~

15

16    ~~administrators, and guardians .....5.00~~

17

18         ~~Preparing notices of settlements to be published in~~

19

20    ~~paper each month .....5.00~~

21

22    ~~Filing exceptions .....5.00~~

23         ~~(b) With respect to probate matters, this section applies to circuit~~

24    ~~clerks and any county clerk who serves as ex officio clerk of the probate~~

25    ~~division of the circuit court.~~

26         ~~(c) Any fee not specifically provided for in subsection (a) of this~~

27    ~~section shall be set by the circuit court if it is a probate matter or by the~~

28    ~~county judge if it is a county court matter.~~

29         ~~(d) The fee provisions provided for in this section shall be in lieu~~

30    ~~of any and all fees now established by law.~~

31         ~~(e)(1)(A) Fees collected under this section shall be paid into the~~

32    ~~county treasury to the credit of the fund to be known as the "county clerk's~~

33    ~~cost fund".~~

34                 ~~(B) With the exception of those funds referred to in~~

35    ~~subdivision (e)(2) of this section, all funds deposited into the county~~

36    ~~clerk's cost fund are general revenues of the county and may be used for any~~



1 ~~legitimate county purpose.~~

2 ~~(2)(A) At least thirty five percent (35%) of the moneys~~  
3 ~~collected annually shall be used to purchase, maintain, and operate an~~  
4 ~~automated records system.~~

5 ~~(B) The acquisition and update of software for the~~  
6 ~~automated records system shall be a permitted use of these funds.~~

7 ~~(C) Funds set aside for automation may be allowed to~~  
8 ~~accumulate from year to year or at the discretion of the clerk may be~~  
9 ~~transferred to the county general fund by a budgeted appropriated transfer.~~

10 ~~(3)(A) In those counties having combined offices of circuit~~  
11 ~~clerk and county clerk, the clerk shall elect to use the automation fund~~  
12 ~~authorized by this section or the automation fund allowed by the county~~  
13 ~~recorder's cost fund, § 21-6-306.~~

14 ~~(B) The clerk's election shall be made in writing and~~  
15 ~~filed in the office of the circuit clerk.~~

16 ~~(C) Under no circumstances shall the clerk be allowed to~~  
17 ~~utilize both the automation fund as authorized by § 21-6-306 and the county~~  
18 ~~clerk's cost fund as authorized in this subchapter.~~

19  
20 SECTION 103. Arkansas Code § 21-13-108(b) is amended to read as  
21 follows to clarify that volunteers in state service enjoy the protection of  
22 the state's sovereign immunity to the same extent as paid staff:

23 (b) Volunteers in state service ~~may~~ shall enjoy the protection of the  
24 state's sovereign immunity to the same extent as paid staff.

25  
26 SECTION 104. Arkansas Code § 21-14-107(b)(2) is amended to read as  
27 follows to clarify the requirements for a notary public's seal:

28 (2) The seal ~~should~~ shall include:

29 (A) The notary public's name exactly as he or she writes  
30 his or her official signature;

31 (B) The name of the county where the notary public's bond  
32 is filed;

33 (C) The words "notary public" and "Arkansas"; and

34 (D) The date upon which the notary public's notary  
35 expires.

36

1 SECTION 105. Arkansas Code § 23-18-531(c) is amended to read as  
2 follows to clarify the language of the subsection:

3 (c) In the event an authority purchases or acquires all or part of an  
4 existing generation facility from an entity other than another authority or a  
5 municipal electric utility and the entity paid taxes or made payments in lieu  
6 of taxes to a political subdivision of the state, the authority purchasing or  
7 acquiring the facility shall make payments in lieu of taxes at a rate no less  
8 than the rate at which the entity from which the facility is purchased or  
9 acquired ~~paid taxes, or made payments in lieu of taxes,~~ would have otherwise  
10 been obligated to ~~make payment~~ pay.

11  
12 SECTION 106. Arkansas Code § 23-52-104 is amended to read as follows  
13 to remove from the section language that was declared unconstitutional by the  
14 Arkansas Supreme Court:

15 23-52-104. Permissible check-casher fees.

16 (a) A check-casher may charge a reasonable fee to defray operational  
17 costs incurred in the check-cashing business, including without limitation:

18 (1) Investigating the checking account and copying required  
19 documents;

20 (2) Photographing the person signing the check;

21 (3) Securing check and customer records in a safe, ~~fire proof~~  
22 fireproof place;

23 (4) Maintaining records as required by this chapter;

24 (5) Maintaining required capital and liquidity; and

25 (6) Processing, documenting, and closing the check-cashing or  
26 deferred-deposit transactions.

27 ~~(b) The fee, when made and collected, shall not be deemed interest for~~  
28 ~~any purpose of law, and a check-cashing transaction, including one (1) with a~~  
29 ~~deferred presentment option, shall not be and shall not be deemed to be a~~  
30 ~~loan, loan contract, or a contract for the payment of interest~~  
31 ~~notwithstanding any disclosures required by this chapter.~~

32 ~~(c)(b) The fees authorized by this section shall not exceed the~~  
33 ~~following, unless~~ Unless otherwise authorized by this chapter, the fees  
34 authorized by this section shall not exceed the following:

35 (1) For the service of selling currency or check in exchange for  
36 checks, without regard to whether a deferred presentment option is involved:

1 (A) A fee not to exceed five percent (5%) of the face  
2 amount of the check, if ~~such the~~ check is the payment of any kind of state  
3 public assistance or federal social security benefit payable to the bearer of  
4 ~~such the~~ check or ~~such the~~ check is otherwise a check issued by a federal or  
5 state governmental entity;

6 (B) A fee not in excess of ten percent (10%) of the face  
7 amount of any personal check or money order; or

8 (C) A fee not in excess of six percent (6%) of the face  
9 amount of the check in the case of all other checks. Such a fee may be  
10 collected separately or by paying the customer an amount of money equal to  
11 the face amount of the check less the appropriate fee under this chapter;

12 (2) For a deferred presentment option which involves a personal  
13 check, an additional fee not to exceed ten dollars (\$10.00) may be charged by  
14 a check-casher; and

15 (3) In addition to the foregoing fees, a check-casher may charge  
16 a fee of no more than five dollars (\$5.00) to set up an initial customer  
17 account and issue an optional identification card for providing check-cashing  
18 services. A replacement optional identification card may be issued at a cost  
19 not to exceed five dollars (\$5.00).

20  
21 SECTION 107. Arkansas Code § 23-63-1606(c) is amended to read as  
22 follows to clarify the language of the subsection:

23 (c) A captive insurance company ~~may not have less than~~ shall have at  
24 least one (1) incorporator.

25  
26 SECTION 108. Arkansas Code § 23-75-111(a)(4) is amended to read as  
27 follows to clarify the wording of the subdivision:

28 (4)(A) Upon the commissioner's review of an application at any time ~~by~~  
29 ~~the commissioner of an application, if the applicant requests a hearing,~~ the  
30 commissioner shall hold a hearing, ~~if requested by the applicant~~ before  
31 issuing an order of disapproval. The applicant shall be  
32 given not less than ten (10) days' written notice of the hearing, ~~specifying~~  
33 The notice shall specify the matters to be considered at the hearing, ~~to the~~  
34 ~~corporation which makes the application, and if,~~

35 (B) If after the hearing provided by subdivision (a)(4)(A)  
36 of this section the commissioner finds that the application or a part thereof

1 does not meet the requirements of this code, ~~he or she~~ the commissioner shall  
2 issue an order specifying in what respects he or she finds that it so fails.  
3 Notice thereof shall immediately be served on the applicant, either  
4 personally or by mail. Within thirty (30) days ~~before~~ after the date of such  
5 a notice, the applicant may apply to the Pulaski County Circuit Court to show  
6 cause why the action of the commissioner should ~~not~~ be set aside and the  
7 application approved.

8

9 SECTION 109. Arkansas Code § 23-79-514 is removed from the Arkansas  
10 Code because the section consists of temporary language, and the Arkansas  
11 Code Revision Commission is directed to place the language of the former  
12 section in a note to Arkansas Code Title 23, Chapter 79, Subchapter 5:

13 ~~23-79-514. Study of pool by interim committees.~~

14 ~~The Senate Interim Committee on Insurance and Commerce and the House~~  
15 ~~Interim Committee on Insurance and Commerce shall conduct a study of the~~  
16 ~~Arkansas Comprehensive Health Insurance Pool for the purpose of determining~~  
17 ~~alternative permanent funding sources for the deficits incurred by the pool~~  
18 ~~in the future.~~

19

20 SECTION 110. Arkansas Code § 23-91-221 is amended to read as follows  
21 to update the language of the section:

22 23-91-221. Professional ethics.

23 The Insurance Commissioner shall report to the Attorney General for  
24 reference to the Arkansas Supreme Court any information which the  
25 commissioner considers to be of substance and of possible violation of the  
26 ~~Code of Professional Responsibility~~ Model Rules of Professional Conduct as  
27 adopted by the Arkansas Supreme Court.

28

29 SECTION 111. Arkansas Code 23-97-213(a) is amended to read as follows  
30 to clarify the wording of the subsection:

31 (a)(1) A long-term care insurance applicant, policyholder, or  
32 certificate holder shall have the right to return the policy or certificate  
33 within thirty (30) days of its delivery and to have the entire premium  
34 refunded if, after examination of the policy or certificate, the applicant,  
35 policyholder, or certificate holder is not satisfied for any reason.

36 (2)(A) Long-term care insurance policies and certificates shall

1 be accompanied by a notice prominently printed on the first page or attached  
2 thereto stating in substance that the applicant, policyholder, or certificate  
3 holder shall have the right to return the policy or certificate within thirty  
4 (30) days of its delivery and to have the entire premium refunded if, after  
5 examination of the policy or certificate, other than a certificate issued  
6 pursuant to a policy issued to a group defined in § 23-97-203(4)(A), the  
7 applicant, ~~or the policyholder, or certificate holder~~ is not satisfied for  
8 any reason.

9 (B) If an application for a qualified long-term care  
10 contract is denied, the issuer shall refund to the applicant any premium and  
11 any other fee submitted by the applicant within thirty (30) days of the  
12 denial.

13  
14 SECTION 112. Arkansas Code § 24-11-212(e) is amended to read as  
15 follows to clarify that the language of the subsection is to be understood as  
16 an imperative command:

17 (e) At the time that there are no longer any members covered by local  
18 police and fire pension and relief funds, any remainder of the future  
19 supplement funds ~~would~~ shall be transferred to the Arkansas Local Police and  
20 Fire Retirement System.

21  
22 SECTION 113. Arkansas Code § 25-36-104 is amended to read as follows  
23 to clarify the language of the section:

24 25-36-104. Data recording and tracking.

25 (a)(1)~~(A)~~ The State Procurement Director shall track data regarding  
26 minority participation in state contracts that exceed twenty-five thousand  
27 dollars (\$25,000).

28 ~~(B) The director shall promulgate rules.~~

29 (2) The data shall include, but not be limited to, information  
30 regarding:

31 (A) The dollar amount for each contract awarded to a  
32 minority-owned business;

33 (B) The total dollar amount spent on contracts by each  
34 state agency; and

35 (C) The number and percentage of minority-owned businesses  
36 awarded contracts by the agency.

1 (b) The director shall report the data required under subsection (a)  
2 of this section semiannually to the Governor and to the cochairs of the  
3 Legislative Council and to the Legislative Joint Auditing Committee and the  
4 Minority Business Advisory Council.

5 (c)(1) Each state agency shall include in its budget report to the  
6 Joint Budget Committee a listing of all contracts in amounts exceeding  
7 twenty-five thousand dollars (\$25,000) awarded to minority-owned businesses.

8 (2) The vice president or vice chancellor for finance of each  
9 state college and university shall include in his or her budget report to the  
10 Joint Budget Committee a listing of all contracts in amounts exceeding  
11 twenty-five thousand dollars (\$25,000) awarded to minority-owned businesses.

12 (d) The director shall promulgate rules and regulations necessary for  
13 the implementation of this chapter.

14  
15 SECTION 114. Arkansas Code § 26-18-1003(a)(1) is amended to read as  
16 follows to make the subdivision consistent with the requirements of 26-18-  
17 1002(i):

18 (a)(1) If the decision of the hearing officer under § 26-18-1002 is to  
19 affirm the closure of the business, the decision shall be submitted in  
20 writing and delivered by mail the United States Postal Service or by hand to  
21 the noncompliant taxpayer.

22  
23 SECTION 115. Arkansas Code § 26-57-1206(d) is amended to read as  
24 follows to clarify the phrases "e.g." and "etc.":

25 (d) Any sales made by the operator of a coin-operated vending device  
26 that are made without the use of a vending device, ~~e.g.,~~ for example, office  
27 coffee service, manual hot foods lines, catering events, ~~etc.,~~ and other  
28 similar sales, shall be subject to the state and local gross receipts or  
29 sales taxes levied pursuant to the provisions of the Arkansas Gross Receipts  
30 Act of 1941, § 26-52-101 et seq., any provision of ~~Chapters 74 and 75 of~~  
31 ~~Title 26~~ § 26-74-101 et seq., 26-75-101 et seq., or any other provision of the  
32 ~~Arkansas~~ Code that provides for the levy of a local sales tax.

33  
34 SECTION 116. Arkansas Code § 28-2-206(b)(4) is amended to read as  
35 follows to add essential language that was inadvertently omitted when § 28-2-  
36 206 was enacted:

1           (4) Held Upon the disclaimer of a preceding interest, a future  
2 interest held by a person other than the disclaimant takes effect as if the  
3 disclaimant had died or ceased to exist immediately before the time of  
4 distribution, but a future interest held by the disclaimant is not  
5 accelerated in possession or enjoyment.

6  
7           SECTION 117. Arkansas Code § 28-65-503(b) is amended to clarify the  
8 meaning of the subsection by adding a reference that appears throughout the  
9 rest of the section:

10           (b) In the event the moneys or other property of the minor or  
11 incompetent person accumulate to a total value of five hundred dollars (\$500)  
12 or more, the suitable person shall immediately report that fact to the  
13 circuit court.

14  
15           SECTION 118. Arkansas Code § 28-70-104(f) is amended to read as  
16 follows to add essential language that was inadvertently omitted when § 28-  
17 70-104 was enacted:

18           (f) Terms of a trust that limit the power of a trustee to make an  
19 adjustment between principal and income do not affect the application of this  
20 section unless it is clear from the terms of the trust that the terms are  
21 intended to deny the trustee the power of adjustment conferred by subsection  
22 (a).

23  
24           SECTION 119. The enactment and adoption of this act shall not repeal,  
25 expressly or impliedly, the acts passed at the regular session of the 85th  
26 General Assembly. All such acts shall have full effect and, so far as those  
27 acts intentionally vary from or conflict with any provision contained in this  
28 Act, those acts shall have the effect of subsequent acts and as amending or  
29 repealing the appropriate parts of the Arkansas Code of 1987.

30  
31           SECTION 120. *Uncodified Section 18 of Act 1022 of 2005 is amended to*  
32 *read as follows:*

33           Section 18. *EMERGENCY CLAUSE. It is found and determined by the*  
34 *General Assembly of the State of Arkansas that for the effective*  
35 *administration of this act and to avoid undue harm to the members and benefit*  
36 *recipients of the Arkansas District Judge Retirement System that this act*

1 should become effective ~~on July 1, 2005~~ immediately. Therefore, an emergency  
2 is declared to exist and this act being necessary for the preservation of the  
3 public peace, health, and safety shall become effective on:

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

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

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

10  
11 SECTION 121. Arkansas Code § 5-78-101 is repealed because the subject  
12 matter of the statute is more comprehensively covered by § 5-27-227:

13 ~~5-78-101. Possession, purchase, or use of cigarettes or other tobacco~~  
14 ~~products by minor.~~

15 ~~(a) It is unlawful for a person under eighteen (18) years of age,~~  
16 ~~unless acting as an agent of his or her employer within the scope of~~  
17 ~~employment, to possess, purchase, or use any cigarettes or other tobacco~~  
18 ~~products.~~

19 ~~(b) Persons under eighteen (18) years of age may be enlisted to assist~~  
20 ~~an authorized agent or representative of a state or local law enforcement~~  
21 ~~authority, the Arkansas Tobacco Control Board, the Department of Health, or~~  
22 ~~other state governmental agency in testing compliance with laws relating to~~  
23 ~~the prohibition of the sale of tobacco in any form or cigarette papers to~~  
24 ~~minors, provided:~~

25 ~~(1) The testing is conducted under the direction or supervision~~  
26 ~~of an authorized agent or representative of a state or local law enforcement~~  
27 ~~authority, the Arkansas Tobacco Control Board, the Department of Health, or~~  
28 ~~other governmental agency monitoring illegal sales of tobacco to minors; and~~

29 ~~(2) Written parental or legal guardian's consent has been~~  
30 ~~provided after the consenting parent or guardian has received from the~~  
31 ~~testing entity written information about the duties which such persons under~~  
32 ~~eighteen (18) years of age will be asked to perform and the methods and~~  
33 ~~procedures to be employed in carrying out such duties.~~

34  
35 SECTION 122. Arkansas Code § 23-81-304(d) as added to the section by  
36 Acts 2005, No. 506, § 42, is amended to correct a date to be consistent with



1 other dates in the 2005 act as follows:

2 (d) On and after July ~~1~~ 15, 2006, the minimum values as specified in  
3 §§ 23-81-305 - 23-81-308 and 23-81-310 of any paid-up annuity, cash  
4 surrender, or death benefits available under an annuity contract shall be  
5 based upon minimum nonforfeiture amounts as defined in subsections (e) and  
6 (f) of this section.

7 /s/ Bond

8

9

10 APPROVED: 04/11/2005

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