

1 State of Arkansas
2 91st General Assembly
3 First Extraordinary Session, 2017
4

Call Item 2

A Bill

SENATE BILL 1

5 By: Senator J. Dismang
6 By: Representative Gillam
7

For An Act To Be Entitled

9 AN ACT TO MAKE TECHNICAL CORRECTIONS TO ARKANSAS
10 CONSTITUTION, ARTICLE 19, § 30, TO INTEGRATE AND
11 INCORPORATE THE PROVISIONS OF ACTS 2017, NOS. 207,
12 312, AND 1108 INTO ARKANSAS CONSTITUTION, ARTICLE 19,
13 § 30; TO DECLARE AN EMERGENCY; AND FOR OTHER
14 PURPOSES.
15

Subtitle

16
17
18 TO INTEGRATE AND INCORPORATE THE
19 PROVISIONS OF ACTS 2017, NOS. 207, 312,
20 AND 1108 INTO ARKANSAS CONSTITUTION,
21 ARTICLE 19, § 30; AND TO DECLARE AN
22 EMERGENCY.
23

24
25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. LEGISLATIVE INTENT. (a) The General Assembly finds that:

28 (1) Arkansas Constitution, Article 19, § 30(d) empowers the
29 General Assembly to amend Arkansas Constitution, Article 19, § 30, so long as
30 the amendments are germane to the section and consistent with its policy and
31 purposes;

32 (2) Three (3) separate acts of the regular session of the
33 Ninety-First General Assembly, Acts 2017, Nos. 207, 312, and 1108, amended
34 Arkansas Constitution, Article 19, § 30;

35 (3) All of these acts were enacted independently of the others,
36 and the acts do not reflect the language added by the other amendatory acts;



1 (4) Arkansas Code § 1-2-207, which addresses codification upon
2 the passage of multiple acts amending the same subject matter, only
3 references amendments to the Arkansas Code and uncodified acts and does not
4 address the treatment of acts amending the Arkansas Constitution;

5 (5) The applicability of Arkansas Code § 1-2-303(d)(1),
6 concerning nonsubstantive technical corrections to provisions of the Arkansas
7 Code and acts of the General Assembly made under the direction of the
8 Arkansas Code Revision Commission, is equally uncertain;

9 (6) It is unclear whether the Arkansas Code Revision Commission
10 may exercise its authority under Arkansas Code §§ 1-2-207 and 1-2-303 and
11 make the customary technical corrections, such as changes to numbering and
12 formatting, that are made by the Arkansas Code Revision Commission to acts of
13 the General Assembly that amend the same section of law; and

14 (7) Without technical corrections to the conflicting language,
15 Arkansas Constitution, Article 19, § 30, will not read coherently and will be
16 difficult to interpret, utilize, and cite.

17 (b) The intent of this act is to:

18 (1) Supersede certain provisions of Acts 2017, Nos. 207, 312,
19 and 1108 that conflict with or substantively duplicate the provisions of this
20 act; and

21 (2) Enact certain provisions of Acts 2017, Nos. 207, 312, and
22 1108 in a format that integrates and incorporates certain provisions of the
23 three (3) acts by restating certain provisions in a coherent, cohesive, and
24 comprehensive manner.

25 (c) This act does not modify or supersede:

26 (1) Any emergency clause or effective date clause of Acts 2017,
27 Nos. 207, 312, and 1108; or

28 (2) Sections within Acts 2017, Nos. 207, 312, and 1108 that are
29 not within this act.

30
31 SECTION 2. Under the authority granted by Arkansas Constitution
32 Article 19, Section 30(d), Arkansas Constitution, Article 19, Section 30(b),
33 concerning definitions applicable to the section, is amended to integrate the
34 provisions of Acts 2017, Nos. 207, 312, and 1108, to read as follows:

35 (b) As used in this section:

36 (1)(A) “Administrative action” means a decision on, or proposal,

1 consideration, or making of a rule, regulation, ratemaking proceeding, or
2 policy action by a governmental body.

3 (B) "Administrative action" does not include ministerial
4 action;

5 (2)(A) "Gift" means ~~any payment~~;

6 (i) Any payment, entertainment, ~~advance, services~~
7 service, or anything of value, unless consideration of equal or greater value
8 has been given therefor; or

9 (ii) Any advance or loan.

10 (B) "Gift" does not include:

11 (i)(a) Informational material such as books,
12 reports, pamphlets, calendars, or periodicals informing a person elected or
13 appointed to an office under subsection (a) of this section regarding his or
14 her official duties.

15 (b) Payments for travel or reimbursement for
16 any expenses are not informational material;

17 (ii) Gifts that are not used and which, within
18 thirty (30) days after receipt, are returned to the donor;

19 (iii) Gifts from the spouse, child, parent,
20 grandparent, grandchild, brother, sister, parent-in-law, brother-in-law,
21 sister-in-law, nephew, niece, aunt, uncle, or first cousin of a person
22 elected or appointed to an office under subsection (a) of this section, or
23 the spouse of any of these persons, unless the person is acting as an agent
24 or intermediary for any person not covered by this subdivision

25 (b)(2)(B)(iii);

26 (iv) Anything of value that is readily available to
27 the general public at no cost;

28 (v)(a)(1) Food or drink available at a planned
29 activity to which a specific governmental body is invited, including without
30 limitation a governmental body to which a person elected or appointed to an
31 office under subsection (a) of this section is not a member.

32 (2) If a committee of the General
33 Assembly is invited to a planned activity under subdivision

34 (b)(2)(B)(v)(a)(1) of this section, only members of the committee of the
35 General Assembly may accept food or drink at the planned activity.

36 (b)(1) As used in this subdivision

1 (b)(2)(B)(v), "planned activity" means an event for which a written
2 invitation is distributed electronically or by other means by the lobbyist,
3 person acting on behalf of a lobbyist, or a person employing or contracting
4 with a lobbyist to the members of the specific governmental body at least
5 twenty-four (24) hours before the event.

6 (2) As used in this subdivision
7 (b)(2)(B)(v), "planned activity" does not include food or drink available at
8 a meeting of a specific governmental body for which the person elected or
9 appointed to an office under subsection (a) of this section is entitled to
10 receive per diem for attendance at the meeting.

11 (c) A lobbyist, a person acting on behalf of a
12 lobbyist, or a person employing or contracting with a lobbyist shall not
13 offer or pay for food or drink at more than one (1) planned activity in a
14 seven-day period;

15 (vi)(a) Payments by regional or national
16 organizations for travel to regional or national conferences at which the
17 State of Arkansas is requested to be represented by a person or persons
18 elected or appointed to an office under subsection (a) of this section.

19 (b) As used in this subdivision (b)(2)(B)(vi),
20 "travel" means transportation, lodging, and conference registration fees.

21 (c) This section does not prohibit the
22 acceptance of:

23 (1) Food, drink, informational
24 materials, or other items included in the conference registration fee; and

25 (2) Food and drink at events coordinated
26 through the regional or national conference and provided to persons
27 registered to attend the regional or national conference;

28 (vii) Campaign contributions;

29 (viii) Any devise or inheritance;

30 (ix) Salaries, benefits, services, fees,
31 commissions, expenses, or anything of value in connection with:

32 (a) The employment or occupation of a person
33 elected or appointed to an office under subsection (a) of this section or his
34 or her spouse so long as the salary, benefit, service, fee, commission,
35 expense, or anything of value is solely connected with the person's
36 employment or occupation and is unrelated to and does not arise from the

1 duties or responsibilities of the office to which the person has been elected
2 or appointed; or

3 (b) Service as an officer, director, or board
4 member of a corporation, a firm registered to do business in the state, or
5 other organization that files a state and federal tax return or is an
6 affiliate of an organization that files a state and federal tax return by a
7 person elected or appointed to an office under subsection (a) of this section
8 or his or her spouse so long as the salary, benefit, service, fee,
9 commission, expense, or anything of value is solely connected with the
10 person's service as an officer, director, or board member and is unrelated to
11 and does not arise from the duties or responsibilities of the office to which
12 the person has been elected or appointed; ~~and~~

13 (x) A personalized award, plaque, or trophy with a
14 value of one hundred fifty dollars (\$150) or less;

15 (xi)(a) The use of one (1) or more rooms or
16 facilities owned, operated, or otherwise utilized by a state agency or
17 political subdivision of the state for the purpose of conducting a meeting of
18 a specific governmental body.

19 (b) As used in this subdivision (b)(2)(B)(xi):

20 (1) "Rooms or facilities" includes
21 without limitation property belonging to a state agency or political
22 subdivision used in connection with a meeting of a specific governmental body
23 such as projectors, microphones, and computer equipment; and

24 (2) "State agency" means every
25 department, division, office, board, commission, and institution of this
26 state, including state-supported institutions of higher education;

27 (xii) Nonalcoholic beverages provided to attendees
28 at a meeting of a civic, social, or cultural organization or group;

29 (xiii) Food and nonalcoholic beverages provided to
30 participants in a bona fide panel, seminar, or speaking engagement at which
31 the audience is a civic, social, or cultural organization or group; and

32 (xiv) Anything of value provided by a recognized
33 political party when serving as the host of the following events to all
34 attendees as part of attendance at the event:

35 (a) The official swearing-in, inaugural, and
36 recognition events of constitutional officers and members of the General

1 Assembly; and

2 (b) An official event of a recognized
3 political party so long as all members of either house of the General
4 Assembly affiliated with the recognized political party are invited to the
5 official event;

6 (3) "Governmental body" or "governmental bodies" means an
7 office, department, commission, council, board, committee, legislative body,
8 agency, or other establishment of the executive, judicial, or legislative
9 branch of the state, municipality, county, school district, improvement
10 district, or any political district or subdivision thereof;

11 (4)(A) "Income" means any money or anything of value received or
12 to be received as a claim for future services, whether in the form of a
13 retainer, fee, salary, expense, allowance, forbearance, forgiveness,
14 interest, dividend, royalty, rent, or any other form of recompense or any
15 combination thereof.

16 (B) "Income" includes a payment made under obligation for
17 services or other value received;

18 (5) "Legislative action" means introduction, sponsorship,
19 consideration, debate, amendment, passage, defeat, approval, veto, or any
20 other official action or nonaction on any bill, ordinance, law, resolution,
21 amendment, nomination, appointment, report, or other matter pending or
22 proposed before a committee or house of the General Assembly, a quorum court,
23 or a city council or board of directors of a municipality;

24 (6) "Legislator" means a person who is a member of the General
25 Assembly, a quorum court of a county, or the city council or board of
26 directors of a municipality;

27 (7) "Lobbying" means communicating directly or soliciting others
28 to communicate with a public servant with the purpose of influencing
29 legislative action or administrative action;

30 (8)(A) "Lobbyist" means a person who:

31 ~~(A)(i)~~ Receives income or reimbursement in a combined
32 amount of four hundred dollars (\$400) or more in a calendar quarter for
33 lobbying one (1) or more governmental bodies;

34 ~~(B)(ii)~~ Expends four hundred dollars (\$400) or more in a
35 calendar quarter for lobbying one (1) or more governmental bodies, excluding
36 the cost of personal travel, lodging, meals, or dues; or

1 ~~(C)~~(iii) Expends four hundred dollars (\$400) or more in a
 2 calendar quarter, including postage, for the express purpose of soliciting
 3 others to communicate with a public servant to influence any legislative
 4 action or administrative action of one (1) or more governmental bodies unless
 5 the communication has been filed with the Secretary of State or the
 6 communication has been published in the news media. If the communication is
 7 filed with the Secretary of State, the filing shall include the approximate
 8 number of recipients.

9 (B) "Lobbyist" does not include a recognized political
 10 party;

11 (9)(A) "Person" means a business, individual, union,
 12 association, firm, committee, club, or other organization or group of
 13 persons.

14 (B) As used in subdivision (b)(9)(A) of this section,
 15 "business" includes without limitation a corporation, partnership, sole
 16 proprietorship, firm, enterprise, franchise, association, organization, self-
 17 employed individual, receivership, trust, or any legal entity through which
 18 business is conducted;

19 (10)(A) "Public appointee" means an individual who is appointed
 20 to a governmental body.

21 (B) "Public appointee" does not include an individual
 22 appointed to an elective office;

23 (11)(A) "Public employee" means an individual who is employed by
 24 a governmental body or who is appointed to serve a governmental body.

25 (B) "Public employee" does not include a public official
 26 or a public appointee;

27 (12) "Public official" means a legislator or any other person
 28 holding an elective office of any governmental body, whether elected or
 29 appointed to the office, and shall include such persons during the time
 30 period between the date they were elected and the date they took office; ~~and~~

31 (13) "Public servant" means all public officials, public
 32 employees, and public appointees;

33 (14)(A) "Recognized political party" means a political party
 34 that:

35 (i) At the last preceding general election polled
 36 for its candidate for Governor in the state or nominees for presidential

1 electors at least three percent (3%) of the entire vote cast for the office;
2 or

3 (ii) Has been formed by the petition process under §
4 7-7-205.

5 (B) When a recognized political party fails to obtain
6 three percent (3%) of the total votes cast in an election for the office of
7 Governor or nominees for presidential electors, it shall cease to be a
8 recognized political party; and

9 (15)(A) "Advance or loan" means a sum of money that is borrowed
10 with the expectation that it be paid back, regardless of whether interest is
11 charged.

12 (B) "Advance or loan" does not include an advance or loan
13 made in the ordinary course of business by a:

14 (i) Financial institution; or

15 (ii) Business that regularly and customarily extends
16 credit.

17
18 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
19 General Assembly of the State of Arkansas that this act is intended to avoid
20 difficulties in interpreting, utilizing, and citing Arkansas Constitution,
21 Article 19, § 30, created by the passage of Acts 2017, Nos. 207, 312, and
22 1108; that this act enacts certain provisions of those acts in a format that
23 integrates and incorporates them by restating certain provisions of the three
24 (3) acts in a coherent, cohesive, and comprehensive manner; and that to avoid
25 confusion in the law, this act should be effective on the same date as Acts
26 2017, Nos. 207 and 1108. Therefore, an emergency is declared to exist, and
27 this act being necessary for the preservation of the public peace, health,
28 and safety shall become effective on July 31, 2017.

29
30
31 **APPROVED: 05/04/2017**
32
33
34
35
36