

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.

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

8 **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

13 **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

36 SECTION 3. Arkansas Code § 4-57-106 is repealed due to its having been



1 held repealed by implication in Henslee v. Madison Guar. Sav. & Loan Ass'n,
2 297 Ark. 183, 760 S.W.2d 842 (1989):

3 ~~4-57-106. Usurious bonds, bills, conveyances, etc., void.~~
4 ~~All bonds, bills, notes, assurances, conveyances, and all other contracts or~~
5 ~~securities whatever, whereupon there is reserved, taken, or secured, or~~
6 ~~agreed to be taken or reserved, any greater sum or greater value for the loan~~
7 ~~or forbearance of any money, goods, things in action, or any other valuable~~
8 ~~thing than is prescribed in §§ 4-57-102, 4-57-104, and 4-57-105 shall be~~
9 ~~void.~~

10
11 SECTION 4. Arkansas Code § 4-57-107 is repealed due to its having been
12 held repealed by implication in Henslee v. Madison Guar. Sav. & Loan Ass'n,
13 297 Ark. 183, 760 S.W.2d 842 (1989):

14 ~~4-57-107. Usurious contracts, liens, and conveyances.~~

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

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

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

34 ~~(2) Any person who may have acquired the title to, or an~~
35 ~~interest in, or lien upon the property by purchase from the makers of the~~
36 ~~usurious contract, or by assignment or by sale under judicial process,~~

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

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

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

27
28 SECTION 5. Arkansas Code § 5-14-112 is amended to read as follows to
29 conform to Code style:

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

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

35 (2) Under circumstances in which ~~the person~~ he or she knows the
36 conduct is likely to cause affront or alarm.

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

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

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

9
10 SECTION 6. Arkansas Code § 5-42-201 is amended to read as follows:
11 5-42-201. Citation.

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

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

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

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

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

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

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

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

12
13 SECTION 8. Arkansas Code § 5-42-204 is amended to read as follows:

14 5-42-204. Criminal use of property ~~and/or~~ or laundering criminal
15 proceeds.

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

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

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

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

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

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

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

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

1 involved in the enterprise or by reason of conduct in furtherance of the
2 violation, together with costs incurred for resources and personnel used in
3 the investigation and prosecution of both criminal and civil proceedings.

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

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

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

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

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

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

22
23 SECTION 9. In order to correct an error, Arkansas Code § 6-13-
24 1603(a)(2)(A) is amended to read as follows:

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

30
31 SECTION 10. In order to correct an error, Arkansas Code § 6-15-2101(c)
32 is amended to read as follows:

33 (c) The annual report shall designate two (2) category levels for each
34 school, one (1) for the school's improvement gains, tracked longitudinally
35 and using value-added calculations on the criterion-referenced test as
36 defined in § 6-15-404(g)(1), in the latest available test results, known as

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

8
9 SECTION 11. In order to officially name the office, Arkansas Code § 6-
10 17-310(a)(1) is amended to read as follows:

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

15
16 SECTION 12. In order to clarify what department is meant, Arkansas
17 Code § 6-17-811(c) is amended to read as follows:

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

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

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

23
24 SECTION 13. In order to clarify the subdivisions, Arkansas Code § 6-
25 25-103(a)(1)(C)-(E) are amended as follows:

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

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

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

33
34 SECTION 14. In order to update the subdivision, Arkansas Code § 6-51-
35 213(c)(3) is amended to read as follows:

36 (3) The records of the director as far as they pertain to the

1 provisions of this act shall be kept in his or her office ~~in the Capitol of~~
2 ~~the state.~~

3
4 SECTION 15. In order to correct an error, Arkansas Code § 6-51-614(a)
5 is amended to read as follows:

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

9
10 SECTION 16. In order to update the subdivision, Arkansas Code § 6-82-
11 401(4) is amended to read as follows:

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

14
15 SECTION 17. Arkansas Code § 8-6-504 is amended in part to repeal
16 temporary language the effectiveness of which has expired:

17 8-6-504. *Illegal Dump Eradication and Corrective Action Program.*

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

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

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

35 ~~(b) The allocation of funding shall be used if the Director of the~~
36 ~~Arkansas Department of Environmental Quality determines that the illegal dump~~

1 ~~owner or operator cannot be located or the director determines that an~~
2 ~~emergency exists necessitating immediate corrective action.~~

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

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

9
10 SECTION 18. Arkansas Code § 8-6-1002(a) is amended to read as follows
11 to remove from the subsection temporary language the effectiveness of which
12 has expired:

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

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

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

31 ~~(4)(A)(i) Effective July 1, 1997, and annually thereafter, an~~
32 ~~apportionment of the moneys in the fund, not to exceed one million dollars~~
33 ~~(\$1,000,000) per fiscal year, shall be allocated from the moneys deposited~~
34 ~~into the fund to be utilized by the department to administer and enforce the~~
35 ~~Illegal Dump Eradication and Corrective Action Program in accordance with~~
36 ~~conditions set forth in § 8-6-501 et seq.~~

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

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

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

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

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

24
25 SECTION 19. Arkansas Code § 9-14-107 is amended to read as follows:

26 9-14-107. Change in payor income warranting modification.

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

32 ~~(2)(A)(i) Any time a court orders child support, the court shall~~
33 ~~order the noncustodial parent to provide the custodial parent and, when~~
34 ~~applicable, the Office of Child Support Enforcement of the Revenue Division~~
35 ~~of the Department of Finance and Administration with proof of income for the~~
36 ~~previous calendar year, and whenever requested in writing by certified mail,~~

1 ~~but not more than once a year, by the custodial parent.~~

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

5 (a)(1) The custodial parent.

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

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

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

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

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

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

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

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

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

34 (2)(A) For purposes of this section, ~~the term~~ "health insurance
35 status" means that the noncustodial parent can obtain health insurance
36 through his or her employer or other group health insurance.

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

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

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

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

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

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

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

29
30 SECTION 20. Arkansas Code § 9-27-336(c) is amended to read as follows
31 to reflect the repeal of § 9-27-336(e) in 2003:

32 9-27-336:

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

1 facility utilized for the detention of adults held for, charged with, or
2 convicted of a crime except:

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

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

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

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

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

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

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

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

1 been invoked by the filing of felony charges may be held in an adult jail or
2 lock-up;

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

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

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

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

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

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

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

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

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

33 (ii) Criteria will be adopted by the Governor or his
34 or her designee to establish what distance, highway or road conditions, or
35 ground transportation limitations will provide a basis for holding a juvenile
36 in an adult jail or lock-up under this exception.

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

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

10
11 SECTION 21. In order to conform the text to the changed definition in
12 Arkansas Code § 11-14-102, § 11-14-107(b) is amended to read as follows:

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

18
19 SECTION 22. In order to conform the text to the changed definition in
20 Arkansas Code § 11-14-102, § 11-14-109(b) is amended to read as follows:

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

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

35 (2) The purpose of the disclosure;

36 (3) The precise information to be disclosed;

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

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

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

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

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

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

1 leasing, encumbering, or disposition.

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

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

11

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

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

20

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

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

28

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

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

35

36 SECTION 28. Arkansas Code § 12-9-403 is amended to read as follows to

1 make certain stylistic changes and to delete obsolete language:

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

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

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

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

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

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

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

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

31

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

1 included in a new section to the Arkansas Code:

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

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

5 ~~(3)~~(2)(A)(i) The board shall consist of the following
6 representatives:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (C)(i) Terms ~~of office~~ of the members serving pursuant to

1 subdivision (b)(2)(B) shall be five (5) years in length, and the terms shall
 2 be staggered so that, insofar as is possible, an equal number of members
 3 shall rotate each year.

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

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

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

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

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

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

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

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

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

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

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

23
 24 SECTION 30. Arkansas Code Title 12, Chapter 9, Subchapter 5 is amended
 25 to add the following new section concerning the National Center for Rural Law
 26 Enforcement Advisory Board previously created within Arkansas Code § 12-9-
 27 503:

28 12-9-508. National Center for Rural Law Enforcement Advisory Board.

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

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

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

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

8
 9 SECTION 31. Arkansas Code § 12-10-312 is amended to read as follows to
 10 add clarifying language:

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

16
 17 SECTION 32. Arkansas Code § 12-10-316(b) is amended to read as follows
 18 to make certain stylistic changes and to add clarifying language concerning
 19 access to files within the centralized state depository of information:

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

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

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

32
 33 SECTION 33. Arkansas Code § 12-12-602(a) is amended to read as follows
 34 to make certain stylistic changes and to add clarifying language concerning
 35 the reporting of knife or gunshot wounds:

36 (a) All physicians, surgeons, hospitals, ~~whether public or private,~~

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

7
8 SECTION 34. Arkansas Code § 12-12-906(a)(2)(B)(ii) is amended to read
9 as follows to clarify and correct a reference to federal law:

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

16
17 SECTION 35. Arkansas Code § 12-12-913(h) is amended to read as follows
18 to clarify an ambiguity concerning the meaning of the subsection:

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

22
23 SECTION 36. Arkansas Code § 12-12-917(b)(4)(A) is amended to read as
24 follows to clarify the ambiguous phrase "in the community":

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

28
29 SECTION 37. Arkansas Code § 12-12-917(b)(4)(B)(ii)(b) is amended to
30 read as follows to clarify the immunity granted by the subdivision:

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

35
36 SECTION 38. Arkansas Code § 12-12-921(a)(1)(A) is amended to read as

1 follows to clarify the qualifications of the defense attorney member of the
2 Sex Offender Assessment Committee:

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

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

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

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

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

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

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

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

35 SECTION 40. Arkansas Code § 12-12-1001 is amended to read as follows
36 to add a new subdivision concerning the definition of "arrest tracking

1 number" which now appears in § 12-12-1007(e):

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

5 ~~(2)(3)~~ "Central repository" means the Arkansas Crime Information
6 Center, which is authorized to collect, maintain, and disseminate criminal
7 history information;

8
9 SECTION 41. Arkansas Code § 12-12-1007(e) is amended to read as
10 follows to delete language concerning the definition of "arrest tracking
11 number" which will be added as a new definition within § 12-12-1001:

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

15 ~~(2)(1)~~ It shall be the duty of law enforcement officials,
16 prosecuting attorneys, court clerks, and judges to report the arrest tracking
17 number of each defendant in accordance with procedures established by the
18 center.

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

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

25 ~~(4)(3)~~ The arrest tracking number shall be in the court's case
26 file before a trial commences or a judgment is entered.

27
28 SECTION 42. Arkansas Code § 12-12-1012 is amended to read as follows
29 to make certain stylistic changes and to delete obsolete language concerning
30 the State Police Equipment Fund:

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

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

35 (i) ~~A local~~ Local school district, for providing
36 information concerning volunteers in public school programs; or

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

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

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

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

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

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

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

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

35
36 SECTION 43. Arkansas Code § 12-12-1103(2) is amended to read as

1 follows to clarify the definition of "administration of criminal justice":

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

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

6 (B) Performing criminal identification activities; and

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

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

12

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

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

19 (1) § 12-29-114, pertaining to escape;

20 (2) § 16-21-106, pertaining to assistance to victims and
21 witnesses of crimes;

22 (3) § 16-93-204, pertaining to executive clemency;

23 (4) § 16-93-206, pertaining to transfer hearings;

24 (5) § 16-93-702, pertaining to parole; or

25 ~~(6) § 16-93-707 [repealed], pertaining to future parole~~
26 ~~hearings; or~~

27 ~~(7) § 16-97-102, pertaining to sentencing.~~

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

32

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

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

36 ~~board, commission, or the governing body of any municipality or county shall~~

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

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

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

35
36 SECTION 46. Arkansas Code § 12-27-120 is amended to read as follows to

1 correct references to an abolished entity and to make certain stylistic
2 changes:

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

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

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

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

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

22

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

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

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

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

35 (c) The department shall cooperate with and upon request make
36 presentations and provide various reports, to the extent the department's

1 budget will allow, to the Legislative Council ~~and the commission~~ concerning
2 department policy and criteria on discretionary offender programs and
3 services.

4
5 SECTION 48. Arkansas Code § 12-27-141 is amended to read as follows to
6 delete references to the Commission on Disparity in Sentencing which was
7 never created:

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

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

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

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

21
22 SECTION 49. Arkansas Code § 12-29-204 is amended to read as follows to
23 delete language concerning "statutory good time" pursuant to a repealed act
24 and a reference to Acts 1968 (1st Ex. Sess.), No. 50, § 14 which was
25 repealed:

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

32
33 SECTION 50. Arkansas Code § 12-30-402 is amended to read as follows to
34 correct a reference to a state fund:

35 The ~~Community Service Revolving Fund [abolished]~~ Community Correction
36 Revolving Fund is authorized to borrow from the Budget Stabilization Trust

1 Fund for the establishment of new work-release centers for the Department of
2 Correction. The loans shall be repaid by the end of the fiscal year in which
3 the loans are made.

4
5 SECTION 51. Title 12, Chapter 31, of the Arkansas Code Annotated of
6 1987 concerning the Corrections Resources Commission is repealed because the
7 commission was created for a two-year period that has expired and the chapter
8 is now obsolete:

9 ~~Chapter 31.~~

10 ~~Corrections Resources Commission.~~

11 ~~12-31-101. Creation.~~

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

14 ~~12-32-102. Members—Meetings—Report.~~

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

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

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

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

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

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

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

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

24 ~~(8) The Chief Justice of the Arkansas Supreme Court, or~~
25 ~~designated Associate Justice of the Arkansas Supreme Court;~~

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

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

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

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

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

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

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

35 ~~(c) Members of the commission shall not be entitled to compensation~~
36 ~~for their services but may receive expense reimbursement in accordance with §~~

1 ~~25-16-901 et seq.~~

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

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

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

8

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

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

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

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

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

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

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

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

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

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

34 ~~(iv) Determination of the sanctions should include~~
35 ~~consideration of the seriousness of the offense, the criminal history of the~~
36 ~~offender, and aggravating and mitigating circumstances;~~

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

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

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

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

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

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

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

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

32
33 ~~12-31-104. Authority to employ staff.~~

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

36

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

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

11
12 SECTION 53. Arkansas Code § 12-75-128(d) is amended to read as follows
13 to clarify an ambiguous reference to "the pension law":

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

20
21 SECTION 54. Arkansas Code § 13-8-103(b)(2) is amended to read as
22 follows to make certain stylistic changes:

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

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

31
32 SECTION 55. Arkansas Code § 15-1-102 is repealed because the section
33 consists of temporary language the effectiveness of which has expired:

34 ~~15-1-102. Arkansas Rural Development Study Commission.~~

35 ~~(a) There is created an Arkansas Rural Development Study Commission to~~
36 ~~be composed of fifteen (15) members to be appointed by the Governor. In~~

1 making his or her appointments, the Governor shall assure that the four (4)
2 congressional districts, rural agencies, two (2) from the House of
3 Representatives and two (2) from the Senate, are represented on the
4 commission.

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

9
10 SECTION 56. Arkansas Code § 15-4-219(1)(A)(iii) is amended to read as
11 follows to clarify the meaning of the subdivision:

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

14
15 SECTION 57. Arkansas Code Title 15, Chapter 4, Subchapter 11 is
16 repealed because the original act upon which the effectiveness of the
17 subchapter depended has expired and has not been reenacted:

18 ~~15-4-1101. Definition.~~

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

25
26 ~~15-4-1102. Certification required.~~

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

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

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

36 (A) ~~Property purchased for use in the construction of a~~

1 ~~building or buildings or any addition or improvement thereon to house the~~
2 ~~steel mill;~~

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

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

7 ~~(C) Project planning costs or construction labor costs,~~
8 ~~including:~~

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

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

13 ~~(iii) Right of way purchases;~~

14 ~~(iv) Utility extensions;~~

15 ~~(v) Site preparation;~~

16 ~~(vi) Parking lots;~~

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

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

19 ~~(ix) Rail spurs;~~

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

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

22 ~~(xii) Land;~~

23 ~~(xiii) Buildings;~~

24 ~~(xiv) Building renovation;~~

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

26 ~~(xvi) Freight charges;~~

27 ~~(xvii) Building demolition;~~

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

29 ~~(xix) Drainage systems;~~

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

31 ~~(xxi) Storage facilities;~~

32 ~~(xxii) Equipment rental;~~

33 ~~(xxiii) Contractor's cost plus fees;~~

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

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

36 ~~(xxvi) Job administrative expenses;~~

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

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

14
15 ~~15-4-1103. Use of credit.~~

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

22
23 ~~15-4-1104. Benefits of enterprise zone provisions.~~

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

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

35
36 SECTION 58. Arkansas Code § 15-4-1605(1)(B) is amended to read as

1 follows to clarify the wording of the subdivision:

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

14 (ii) All businesses in ~~this~~ the group described in

15 subdivision (1)(B)(i) of this section ~~must~~ shall:

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

23 SECTION 59. Arkansas Code § 15-4-1605(1)(H) is amended to read as

24 follows to replace an undefined term used in the subdivision with a term that

25 is defined in the subchapter:

26 (H) A coal mining operation that employs twenty-five (25)

27 or more net new full-time permanent ~~positions~~ employees;

28

29 SECTION 60. Arkansas Code § 15-4-2205(g) is amended to read as follows

30 to correct the wording of the subsection in light of an amendment to language

31 in § 15-4-2204:

32 (g) ~~Expense reimbursement and per diem allowance~~ Compensation for the

33 members of the executive committee shall be as provided in § 15-4-2204(e).

34

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

36 to correct an engrossment error:

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

7
8 SECTION 62. Arkansas Code § 15-4-2714(c)(2) is amended to read as
9 follows to insert missing language essential to the meaning of the
10 subdivision:

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

14
15 SECTION 63. Arkansas Code § 15-5-1205(d) is amended to read as follows
16 to properly name a fund referred to in other Code sections:

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

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

25
26 SECTION 64. Arkansas Code § 15-11-507(h) is repealed because the
27 subsection consists of temporary language the effectiveness of which has
28 expired:

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

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

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

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

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

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

18 15-20-501. Definitions.

19 As used in this subchapter:

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

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

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

27
 28 SECTION 66. Arkansas Code § 15-20-903(10) is amended to read as
 29 follows to correct the wording of a definition:

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

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

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

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

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

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

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

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

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

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

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

~~In addition to the members of the Arkansas Natural Heritage Commission~~

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

7
8 SECTION 70. Arkansas Code § 15-23-317 is repealed because the section
9 is obsolete, and the Arkansas Code Revision Commission is directed to place
10 the language of the former section in a note to § 15-20-304:

11 ~~15-23-317. Transfer of powers, functions, and duties.~~

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

16
17 SECTION 71. Arkansas Code § 15-31-113 is amended to read as follows to
18 clarify the language of the section:

19 15-31-113. ~~Fines to State Forestry Fund~~ Legislative findings -
20 Purpose.

21 (a) The General Assembly finds:

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

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

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

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

31
32 SECTION 72. Arkansas Code § 15-46-102 is repealed because the section
33 is obsolete and has been declared unconstitutional in part:

34 ~~15-46-102. Bounty on wolves.~~

35 ~~(a) The county court of any county of this state is authorized to pay~~
36 ~~a bounty for each wolf killed within the county when satisfactory proof has~~

1 ~~been made of the killing of the animals.~~

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

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

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

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

22
23 SECTION 73. Arkansas Code § 17-25-503(a)(2)(A) is amended to read as
24 follows to correct the wording of the subdivision:

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

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

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

36

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

4 17-48-101. Definitions.

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

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

8 (2)(A) "Land surveying" means any service comprising the:

9 (i) ~~determination~~ Determination of the location of
10 land boundaries and land boundary corners; and

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

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

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

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

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

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

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

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

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

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

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

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

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

36

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (i) Vocational, technical, and adult education;
- (ii) Adult basic education;
- (iii) Manpower training;
- (iv) Vocational standards;
- (v) Industry training programs; and

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

4
5 SECTION 81. Arkansas Code § 19-5-304(5)(A) is amended to read as
6 follows to delete a reference to a superseded act and to clarify the code
7 sections concerning the powers, functions, and duties of the Arkansas School
8 for the Blind:

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

16
17 SECTION 82. Arkansas Code § 19-5-304(7)(A) is amended to read as
18 follows to change a reference to a repealed subchapter to the subchapter
19 which now takes its place:

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

27
28 SECTION 83. Arkansas Code § 19-5-1125(b)(1) is amended to read as
29 follows to clarify the ambiguous phrase "upon passage of an act":

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

1
2 SECTION 84. Arkansas Code § 19-5-1222(b) is amended to read as follows
3 to make the subsection consistent with § 6-81-1401 where the creation of the
4 Nursing Student Loan Revolving Fund is also codified:

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

11
12 SECTION 85. Arkansas Code § 19-5-1226(b)(3)(A)(7) is amended to read
13 as follows to clarify the ambiguous phrase "at the time of the passage of
14 this act":

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

20
21 SECTION 86. Arkansas Code § 19-6-491(b) is amended to read as follows
22 to correct references to code sections and to include language from § 19-6-
23 492 where the Domestic Peace Fund is also codified:

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

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

29 ~~(2)(3)~~ The fund shall also consist of any:

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

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

33
34 SECTION 87. Arkansas Code § 19-6-492 is repealed because the Domestic
35 Peace Fund is codified at 19-6-491 and the section is duplicative:

36 ~~19-6-492. Domestic Peace Fund—Moneys collected for additional~~

1 ~~marriage license fee.~~

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

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

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

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

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

16
17 SECTION 88. Arkansas Code § 19-10-210(b)(2) is amended to read as
18 follows to correct an obsolete reference to "chancery":

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

22
23 SECTION 89. Arkansas Code § 19-10-212 is amended to read as follows to
24 make the dollar amount recited in the section consistent with the most recent
25 act affecting the section:

26 19-10-212. Reports of agency liability.

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

1 shall be filed with the ~~Litigation Subcommittee~~ subcommittee within thirty
 2 (30) days after the claim has been adjudicated by the Arkansas State Claims
 3 Commission.

4
 5 SECTION 90. In order to correct errors, § 20-35-102 is amended to read
 6 as follows:

7 20-35-102. Definitions.

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

14
 15 SECTION 91. Arkansas Code § 21-1-402(a)(1) is amended to read as
 16 follows to delete a reference to an abolished council:

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

22 (A) Any state agency;

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

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

26 or

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

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

30
 31 SECTION 92. Arkansas Code § 21-1-502 is amended to read as follows to
 32 delete subsection (b), a substantive provision, from a definitions section:

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

34 (1) "Elected public official" means the Governor, Lieutenant
 35 Governor, Secretary of State, Treasurer of State, Auditor of State, Attorney
 36 General, Commissioner of State Lands, member of the Senate, and member of the

1 House of Representatives;

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

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

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

10

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

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

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

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

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

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

31

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

34 ~~21-1-609. Severability of subchapter.~~

35 ~~In the event any provision of this subchapter regarding the remedies or~~
36 ~~damages for public employees in §§ 21-1-604, 21-1-605, or 21-1-606 is held to~~

1 ~~be invalid, the invalidity shall not affect the other provisions of this~~
2 ~~subchapter which offer protection to public employees from adverse actions by~~
3 ~~public employers, and to this end the provisions of this subchapter are~~
4 ~~declared to be severable.~~

5
6 SECTION 95. Arkansas Code § 21-2-115(a) is amended to read as follows
7 to delete a reference to a repealed code section:

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

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

17
18 SECTION 96. Title 21, Chapter 3, Subchapter 1 of the Arkansas Code
19 Annotated of 1987 is amended to add a new section concerning selection
20 service registration of state employment applicants which is also codified at
21 § 6-80-104:

22 21-3-102. Selective Service registration.

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

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

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

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

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

34 (C) An alien lawfully admitted to the United States as a
35 nonimmigrant under Section 101(A)(15) of the Immigration and Nationality Act,
36 8 U.S.C. § 1101, for so long as he or she continues to maintain a lawful

1 nonimmigrant status in the United States;

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

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

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

10
11 SECTION 97. Arkansas Code § 21-4-502 is repealed because the section
12 is obsolete:

13 ~~21-4-502. Lump sum payment for unused sick leave in 2000.~~

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

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

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

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

36 ~~(ii) If the average sick leave usage during calendar~~

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

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

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

11
12 SECTION 98. Arkansas Code § 21-5-207(a)(13) is repealed because the
13 subdivision is obsolete:

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

18 ~~(14)~~(13) To provide assistance to state agencies and
19 institutions in identifying, developing, and maintaining training and
20 resource programs; and

21 ~~(15)~~(14) To develop and implement, as needed, upon the review of
22 the Legislative Council, rules and regulations to ensure a uniform system of
23 personnel administration within state government.

24
25 SECTION 99. Arkansas Code § 21-5-609(d)(2) is amended to read as
26 follows to clarify the phrase "et cetera":

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

32
33 SECTION 100. Arkansas Code § 21-5-703 is amended to read as follows to
34 delete subsection (d) which is obsolete and to delete a reference in the
35 section to subsection (d):

36 21-5-703. Procedures for filing claims.

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

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

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

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

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

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

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

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

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

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

26
27 SECTION 101. Arkansas Code § 21-5-707(d) is amended to read as follows
28 to clarify an ambiguity and make the subsection consistent with subsection
29 (c) of the section:

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

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

35 (2) The stepchild must have received more than one-half (1/2) of
36 his or her financial support from the covered public employee in each of the

1 five (5) previous income years.

2

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

5 ~~21-6-414. Probate and county matters — Uniform court costs.~~

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

7 ~~Dissolutions of incorporation~~

8 ~~.....\$25.00~~

9 ~~Articles of incorporation25.00~~

10

11 ~~Amendments to articles of incorporation25.00~~

12

13 ~~Filing last will and testament for safekeeping5.00~~

14

15 ~~Authentication certificate5.00~~

16

17 ~~Certify and seal document5.00~~

18

19 ~~Marriage license30.00~~

20

21 ~~Certified copy of marriage license5.00~~

22

23 ~~Underage marriages — Petition and order10.00~~

24

25 ~~Small estates25.00~~

26

27 ~~Assumed names25.00~~

28

29 ~~Limited partnerships25.00~~

30

31 ~~Alcoholics and insane persons25.00~~

32

33 ~~Clerk's tax deed5.00~~

34

35 ~~Recording doctors' and nurses' credentials5.00~~

36

1 ~~Recording ministers' credentials5.00~~

2

3 ~~Filing affidavit of claim against an estate5.00~~

4

5 ~~Filing power of attorney10.00~~

6

7 ~~Filing and recording all accounts and settlements50.00~~

8

9 ~~Certified copies of all letters5.00~~

10

11 ~~Issuing subpoena or summons5.00~~

12

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

14

15 ~~administrators, and guardians5.00~~

16

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

18

19 ~~paper each month5.00~~

20

21 ~~Filing exceptions5.00~~

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

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

24 ~~division of the circuit court.~~

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

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

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

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

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

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

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

32 ~~cost fund".~~

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

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

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

36 ~~legitimate county purpose.~~

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

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

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

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

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

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

18
19 SECTION 103. Arkansas Code § 21-13-108(b) is amended to read as
20 follows to clarify that volunteers in state service enjoy the protection of
21 the state's sovereign immunity to the same extent as paid staff:

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

24
25 SECTION 104. Arkansas Code § 21-14-107(b)(2) is amended to read as
26 follows to clarify the requirements for a notary public's seal:

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

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

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

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

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

35
36 SECTION 105. Arkansas Code § 23-18-531(c) is amended to read as

1 follows to clarify the language of the subsection:

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

10

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

14 23-52-104. Permissible check-casher fees.

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

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

19 (2) Photographing the person signing the check;

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

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

23 (5) Maintaining required capital and liquidity; and

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

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

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

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

36 (A) A fee not to exceed five percent (5%) of the face

1 amount of the check, if ~~such~~ the check is the payment of any kind of state
2 public assistance or federal social security benefit payable to the bearer of
3 ~~such~~ the check or ~~such~~ the check is otherwise a check issued by a federal or
4 state governmental entity;

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

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

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

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

19
20 SECTION 107. Arkansas Code § 23-63-1606(c) is amended to read as
21 follows to clarify the language of the subsection:

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

24
25 SECTION 108. Arkansas Code § 23-75-111(a)(4) is amended to read as
26 follows to clarify the wording of the subdivision:

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

34 (B) If after the hearing provided by subdivision (a)(4)(A)
35 of this section the commissioner finds that the application or a part thereof
36 does not meet the requirements of this code, ~~he or she~~ the commissioner shall

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

7

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

12 ~~23-79-514. Study of pool by interim committees.~~

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

18

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

21 23-91-221. Professional ethics.

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

27

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

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

35 (2)(A) Long-term care insurance policies and certificates shall
36 be accompanied by a notice prominently printed on the first page or attached

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

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

12
13 SECTION 112. Arkansas Code § 24-11-212(e) is amended to read as
14 follows to clarify that the language of the subsection is to be understood as
15 an imperative command:

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

20
21 SECTION 113. Arkansas Code § 25-36-104 is amended to read as follows
22 to clarify the language of the section:

23 25-36-104. Data recording and tracking.

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

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

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

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

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

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

36 (b) The director shall report the data required under subsection (a)

1 of this section semiannually to the Governor and to the cochairs of the
2 Legislative Council and to the Legislative Joint Auditing Committee and the
3 Minority Business Advisory Council.

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

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

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

13
14 SECTION 114. Arkansas Code § 26-18-1003(a)(1) is amended to read as
15 follows to make the subdivision consistent with the requirements of 26-18-
16 1002(i):

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

21
22 SECTION 115. Arkansas Code § 26-57-1206(d) is amended to read as
23 follows to clarify the phrases "e.g." and "etc.":

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

32
33 SECTION 116. Arkansas Code § 28-2-206(b)(4) is amended to read as
34 follows to add essential language that was inadvertently omitted when § 28-2-
35 206 was enacted:

36 (4) ~~Hold~~ Upon the disclaimer of a preceding interest, a future

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

5
6 SECTION 117. Arkansas Code § 28-65-503(b) is amended to clarify the
7 meaning of the subsection by adding a reference that appears throughout the
8 rest of the section:

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

13
14 SECTION 118. Arkansas Code § 28-70-104(f) is amended to read as
15 follows to add essential language that was inadvertently omitted when § 28-
16 70-104 was enacted:

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

22
23 SECTION 119. The enactment and adoption of this act shall not repeal,
24 expressly or impliedly, the acts passed at the regular session of the 85th
25 General Assembly. All such acts shall have full effect and, so far as those
26 acts intentionally vary from or conflict with any provision contained in this
27 Act, those acts shall have the effect of subsequent acts and as amending or
28 repealing the appropriate parts of the Arkansas Code of 1987.

29
30 SECTION 120. *Uncodified Section 18 of Act 1022 of 2005 is amended to*
31 *read as follows:*

32 *Section 18. EMERGENCY CLAUSE. It is found and determined by the*
33 *General Assembly of the State of Arkansas that for the effective*
34 *administration of this act and to avoid undue harm to the members and benefit*
35 *recipients of the Arkansas District Judge Retirement System that this act*
36 *should become effective ~~on July 1, 2005~~ immediately. Therefore, an emergency*

1 is declared to exist and this act being necessary for the preservation of the
2 public peace, health, and safety shall become effective on:

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

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

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

9
10 SECTION 121. Arkansas Code § 5-78-101 is repealed because the subject
11 matter of the statute is more comprehensively covered by § 5-27-227:

12 ~~5-78-101. Possession, purchase, or use of cigarettes or other tobacco~~
13 ~~products by minor.~~

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

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

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

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

33
34 SECTION 122. Arkansas Code § 23-81-304(d) as added to the section by
35 Acts 2005, No. 506, § 42, is amended to correct a date to be consistent with
36 other dates in the 2005 act as follows:

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

6 /s/ Bond
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