

BILL DRAFTING MANUAL

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**State of Arkansas
Bureau of Legislative Research
State Capitol, Room 315**

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PART 1.

WORKING PROCEDURES OF THE BUREAU OF LEGISLATIVE RESEARCH

1.1 BUREAU BILL DRAFTING IN GENERAL

The legal staff of the Bureau of Legislative Research prepares legislation for members of both the House of Representatives and the Senate. The Bureau serves the members of the General Assembly on a nonpartisan basis. Bureau attorneys provide advice to the legislators but it is not their role to be an advocate for or against an idea or a bill.

Appropriation bills and appropriation amendments are drafted by the fiscal staff of the Bureau.

1.2 HOW A DRAFT BILL IS PREPARED

Typically, the process of preparing legislation begins when a legislator contacts a Bureau attorney and presents an idea for a bill or a problem that he or she wants to address. The attorney will research the issue and work with the legislator to develop legislation. At other times the legislator may direct the bill drafter to work with an interested party, or to prepare legislation based on legislation in another state or on a model bill, or may bring a draft prepared by a constituent or interest group.

1.3 BILLS, RESOLUTIONS, OR AMENDMENTS PREPARED BY OUTSIDE DRAFTERS, LOBBYISTS, AND STATE AGENCIES

Before any bill, resolution, or amendment can be introduced it must be entered into the bill drafting computer program by the Bureau staff. A document received from an outside source will be reviewed to ensure conformity with the basic style and numbering of bills, resolutions, and amendments. A bill that amends current law will be reviewed to ensure that it accurately reflects both the additions and deletions being made to the present law. Often the sponsor of the bill will request the Bureau to conduct a more extensive review before the bill is prepared for introduction.

The processing of a bill, resolution, or amendment takes time. The following guidelines are given to help outside bill drafters and those who bring outside bills to legislators. The purpose of the guidelines is to minimize delays in the processing of outside bills.

- (a) Follow the guidelines of this Bill Drafting Manual.
- (b) Prepare and submit drafts to sponsors well in advance of sessions when there is less demand for Bureau drafting services and ask the sponsor to submit the bill to the Bureau as soon as possible. Submission of the draft to the Bureau does not mean that the sponsor must file or release the bill.
- (c) Provide the Bureau with a copy of the draft on a computer disk or as an attachment to an email message so that Bureau staff will not have to retype the bill. For the computer

disk or email attachment to be useful to Bureau staff the following guidelines should be followed:

- Use Microsoft Word.
- Keep your Word document simple. Do not make formatting changes in order to make your draft look like a real bill. If the appearance of your bill draft is of significant concern for you, use the bill-drafting template for Microsoft Word, which is available from the Bureau. The template is designed to make your draft look similar to an actual bill without generating codes that could cause problems when the bill is processed by Bureau staff.
- Use one font throughout the draft. Do not change fonts or the size of fonts.
- Do not use *italics* or **bold** font attributes.
- To show proposed changes in the law you must use the font attribute “underline” to indicate new language, and the font attribute “~~striketrough~~” to show language that will be deleted from present law.
- Do not use the “track changes” or “highlight changes” function in Microsoft Word as a way of showing additions and deletions to the law. A document created by using those functions cannot be used by Bureau staff and the Bureau will have to retype the entire document.
- Use tabs instead of spaces to indent. Do not use the “indent” feature of “*format - paragraph*”.
- Do not use features such as headers, footers, footnotes, margin changes, tab changes, or other word processing features that will have to be removed when the bill is processed.
- If you must insert a symbol in the document use those symbols listed in Microsoft Word under “(*normal text*)”.

(d) Do not amend a law by Act number unless it is an uncodified Act or uncodified section of an Act. If the act has been codified in the Arkansas Code, amend the Arkansas Code section. If there is time, compare the language of the act to the code to assure the accuracy of the codification.

(e) If the draft amends current law, make sure that the bill accurately shows the change to the existing law immediately prior to the convening of the legislative session. Use the font attribute “underline” to indicate new language, and the font attribute “~~striketrough~~” to show language that will be deleted from present law.

(f) Amendments to bills and resolutions.

- Prepare the amendment from an official hard copy of the bill. Do not rely on an Internet version of the bill or a Word file downloaded from the Internet. The line numbers may not match the actual bill.

- Amend the latest version of the bill. Caution must be used because the bill may change after the amendment is proposed and before it is filed. Determine the latest version of the bill by looking at the “engrossment” date, if any. If there is an engrossment date, it will appear above the words “A BILL” located at the top of the first page. The amendment must identify the engrossment date of the bill or if the bill has not been amended indicate “as originally introduced”. When there is a new engrossment of the bill the amendment must be redrafted before it is filed.
- Amendments must be in markup format. (Using underline and ~~striketrough~~ to show how the present law will be changed.)

1.4 RECENT BILL DRAFTING CHANGES

(a) **USE OF QUOTATION MARKS.** Quotation marks will no longer be used to surround Titles, Subtitles, or language being amended in a bill and resolution. However, in amendments to bills and resolutions, language being added or deleted will still be surrounded by quotation marks.

(b) **BOILER PLATE SECTIONS ELIMINATED.** In the past the Bureau has included a Severability Clause, a Codification clause, and a General Repealer Clause in each bill. These sections are unnecessary and therefore will no longer routinely be added by the Bureau.

PART 2

PARTS OF A BILL

2.1 PARTS GENERATED BY BUREAU BILL PROGRAM

The person drafting the bill must list the sponsors of the bill and prepare the Title, Subtitle, Body, and, if appropriate, the Emergency Clause of the bill. Other information will be added through the bill drafting program of the Arkansas Bureau of Legislative Research: Markup header, Session Identification, Enacting Clause, and Document ID Number. The designation of Senate Bill or House Bill is added by the program and the number is added by the House or Senate upon introduction.

2.2 MARKUP HEADER

The markup header explains why some of the text is underlined and other parts are stricken through. Stricken through language shows that the bill would delete the language from present law. Underlined language would be added to present law.

2.3 SESSION IDENTIFICATION

The Session Identification section is composed of three (3) lines in the upper left hand corner of the first page. The first line reads “The State of Arkansas”. The second line identifies the General Assembly into which the bill is introduced. The third line designates the type of session, i.e., regular or special, and the year in which the session occurred. For a special session the line will also designate which special session.

Examples:

*State of Arkansas
79th General Assembly
First Extraordinary Session, 1994*

*State of Arkansas
81st General Assembly
Regular Session, 1997*

2.4 BILL NUMBER

The bill number identifies the house into which the bill was introduced and indicates the number assigned to the bill by the house of introduction. Senate bills are assigned numbers beginning with the number “1”. House bills are assigned numbers beginning with the number “1001”.

2.5 SPONSOR IDENTIFICATION

House bills must have at least one (1) House sponsor and Senate bills must have at least one (1) Senate sponsor. House bills may include Senator sponsors and Senate bills may include House sponsors. List House and Senate sponsors separately with the Representatives first on House bills and the Senators first on Senate bills.

2.6 TITLE

The title is a description of the general purposes of the bill. The title begins immediately below the caption "*FOR AN ACT TO BE ENTITLED*". The caption is generated when the bill is formatted by the Arkansas Bureau of Legislative Research. The title begins with the following words, "*AN ACT TO*" and commonly ends with "; *AND FOR OTHER PURPOSES.*"

There is no limitation on the length of a title. Joint Rule 4 of 1997 says in part, "*No bill shall be passed by either house containing more than one subject, which shall be expressed in the title.*"

The title is written in all capital letters. However, if the title refers to a subsection or subdivision of law with a lower case designation then the lower case letter is retained in the title. Make the title no more specific than necessary to avoid details that might conflict with subsequent amendments.

2.7 SUBTITLE

Like the title, the subtitle is a description of the general purposes of the bill. The subtitle appears below the title and is limited to six (6) lines of forty (40) characters each. The current practice of including a subtitle was instituted to accommodate House voting machine requirements. The subtitle is written in all capital letters. However, if the subtitle refers to a subsection or subdivision of law with a lower case designation then the lower case letter is retained in the subtitle.

The subtitle begins immediately below the caption "*SUBTITLE*". The caption is generated when the bill is formatted by the Arkansas Bureau of Legislative Research.

2.8 PREAMBLE (*seldom used*)

In rare instances a Preamble is added after the Subtitle and before the Enacting Clause. The Preamble may list reasons for introducing the bill and may include a description of the purposes of the bill. The use of a Preamble is discouraged.

A Preamble is composed of one or more statements in resolution style. Each statement begins with "*Whereas*". A preamble ends with "*Now therefore:*"

2.9 ENACTING CLAUSE

The Enacting Clause reads, “*BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:*”. This text is mandated by Article 5 §19 of the Arkansas Constitution. The Enacting Clause follows the Subtitle.

2.10 BODY

The Body is the text of the proposed law and is divided into consecutively numbered sections.

2.11 DOCUMENT I.D. NUMBER

The Document I.D. Number is located in the lower right corner of the bill. It is a reference used by the Arkansas Bureau of Legislative Research to distinguish various drafts of bills.

2.12 BAR CODE

When a sponsor is ready to introduce a bill it is rerun through the bill preparation program and a bar code is added to the bottom of the bill. The bar code is used by the House and Senate in the introduction and tracking of the bill.

Once the bar code is added, that bill cannot be changed prior to introduction except by producing another bill with a different document number.

PART 3

NUMBERING SYSTEM

3.1 BILLS

(a) SECTIONS.

The body of a bill is divided into sections. Each section is numbered using consecutive whole numbers. To identify the beginning of a new section the word SECTION is capitalized.

Example: SECTION 1. It is unlawful to...

In all other instances the word "section" is in lower case.

Example: The effective date of section 1 of this act is...

Example: under this section 1

(b) SUBSECTIONS AND SUBDIVISIONS.

A section of a bill may be broken down into smaller units called "subsections" and "subdivisions" which are numbered according to the system in the Arkansas Code. [See 3.2 (b)]. The numbering system uses neither unnumbered paragraphs nor the word "paragraph" to refer to a part of a section.

3.2 ARKANSAS CODE

(a) TITLE, CHAPTER, SUBCHAPTER, AND SECTION.

The Arkansas Code numbering system is divided into titles, chapters, subchapters, and sections. An Arkansas Code section number is based on a three (3) unit numbering system. The first unit indicates the title. The second unit indicates the chapter. The third unit indicates the subchapter number and section number. If the third unit is a three (3) digit number, the first number represents the subchapter number, and if the third unit is a four (4) digit number, the first two (2) digits represent the subchapter number. The last two digits of the third unit represent the section number. To refer to a section of the Arkansas Code include the numbers of all three units separated by a hyphen. For example, Arkansas Code Title 1, Chapter 1, Subchapter 1, Section 1 is written as: "Arkansas Code 1-1-101".

If the reference to a section of the Arkansas Code appears in a section of a bill that is not amending the Arkansas Code, or in a portion of a section that is not amending the

Arkansas Code, refer to the section by stating, “Arkansas Code” and then the number.

Example: ... under Arkansas Code 1-1-101

If the Arkansas Code is being amended and a reference to the Arkansas Code appears within the text being amended, then do not repeat the words "Arkansas Code" and instead use a section symbol followed by a number.

Example: ... under § 1-1-101

A section that refers to itself does not repeat its section number. The reference is made by stating, “this section.”

Example: ...except as provided by this section.

(b) SUBSECTIONS AND SUBDIVISIONS.

(1) LEVELS. Divisions within a section are called "subsections" and "subdivisions." The first level is referred to as "subsections." All other levels are referred to as "subdivisions." The divisions within a section are as follows:

- First Level (Subsections: (a), (b), (c), etc.)
- Second Level (Subdivisions: (1), (2), (3), etc.)
- Third Level (Subdivisions: (A), (B), (C), etc.)
- Fourth Level (Subdivisions: (i), (ii), (iii) etc.)
- Fifth-Eighth Levels (Subdivisions: Repeat the pattern of the first four levels, however, a breakdown below the fourth level should be avoided if at all possible.)

(2) FIRST LEVEL - WHEN NOT USED. A first level subsection letter is used only if the section is divided into two or more subsections. When the first level is used the first letter, “(a)” will appear before the first sentence of the section. A list that appears after the text begins is not first level division. For example, definition sections usually do not have a first level division.

Example: 8-6-1103. Definitions.
As used in this subchapter:
(1) "Board" means...

(3) UNNUMBERED PARAGRAPHS. Do not divide sections into unnumbered paragraphs. Use subsection and subdivision designations.

(4) "PARAGRAPH" NOT USED. The numbering system does not include the designation "paragraph". However, there are a few instances in which the designation "paragraph" has been used in the Arkansas Code, primarily in uniform acts and compacts. In these instances, the drafter should conform to the existing designation.

(c) NUMBERING SYSTEM EXCEPTIONS.

Some exceptions to this numbering system exist in the Arkansas Code, such as in some uniform acts. In such instances the drafter should conform to the numbering system used by the present code section.

3.3 ARKANSAS CODE - ADDING NEW SECTIONS

- Locate an appropriate place to insert a new section into the Arkansas Code and assign a number to the section.
- Do not reuse the Arkansas Code number of a section that has been repealed by the General Assembly.

3.4 ARKANSAS CODE - RENUMBERING AVOIDED

Avoid renumbering Arkansas Code sections. If you must renumber sections you must research case law to determine whether the Code section has been referenced in any reported case. If so, determine whether renumbering would cause confusion in case law if it would, the renumbering is contraindicated.

If renumbering sections is not contraindicated per case law research, research the Arkansas Code to identify any Code sections which reference the section to be renumbered. You must amend or repeal the referencing sections to avoid causing inaccurate references.

PART 4
STYLE AND USAGE

4.1 GENERAL CONSIDERATIONS

(a) CLARITY.

Arkansas Code 1-2-121 says: *"No bill shall be considered and no law enacted unless the bill or law is written in clear, unambiguous language."*

(b) SENTENCE STRUCTURE.

Keep sentences short. Avoid complex sentences.

(c) PRESENT TENSE.

Statutes are regarded as speaking in the present, as of the time when they are read or applied, therefore, draft in the present tense.

(d) ACTIVE VERB.

Use the active rather than the passive verb.

Example: *"The clerk of the circuit court shall appoint one or more deputies" rather than "One or more deputies shall be appointed...."*

(e) SINGULAR AND PLURAL.

Draft using the singular unless the plural is exclusively intended. *Arkansas Code 1-2-203 says the singular includes the plural.*

4.2 WORDS AND PHRASES

(a) ABBREVIATIONS.

Avoid using abbreviations, acronyms, and contractions.

Example: *Use "Department of Finance and Administration", instead of "DFA" or "Department of Finance and Administration (DFA)"*

(b) CONJUNCTIONS.

If a modifier is intended to affect all terms in a series, the terms should be linked together with the conjunctive "and" or "or". If a modifier is intended to affect only one term, the

modifier should be placed immediately before or after the term and the other terms in the series should be set off with commas or semi colons.

Never use "and/or" because the term lacks clarity. If you intend either item or both say: "X or Y or both". In Boren v. Qualls, 284 Ark. 65, 680 S.W.2d 82 (1984) the Arkansas Supreme Court called the use of "and/or" as "*at best . . . `equivocal, obscure and meaningless,' at worst `slovenly, improper and a linguistic abomination.'"*

(c) SYNONYMS.

The use of synonyms is to be avoided. A change in wording may be construed to convey a change in meaning.

(d) SUPERFLUOUS OR VERBOSE EXPRESSIONS.

AVOID	PREFERRED
a statement setting forth	state
accord	give
adequate number of	enough
afforded	given
and/or	a or b or both
any and all	any
bonds, notes, drafts and other evidences of indebtedness	evidence of indebtedness
both real and personal property	property
by and with	by
commence	begin
consequence	result
constitute and appoint	appoint
deemed to be	is
deemed to include	includes
do and perform	do
duly authorized	authorized
during such time as	while
each and every	each [or] every
evidence, documentary or otherwise	evidence
final and conclusive	conclusive
forthwith	promptly [or] immediately
full and complete	full
give consideration to	consider
has the duty to	shall

AVOID	PREFERRED
if any person shall violate	a person who violates
if it shall appear that	if it appears
if it shall be necessary	if it is necessary
in accordance with	according to [or] pursuant to [or] under
in its discretion may	may
in no event shall	shall not
in the event that	if
in the preceding section	in section (insert numbers)
includes, but is not limited to,	includes
is applicable	applies
is defined and shall be construed to mean with reference to	means
is hereby authorized and empowered to	may
is hereby vested with power and authority and it shall be its duty in carrying out the provisions of this act	shall
is null and void	void
is ordered and directed to	shall
is required to	shall
it shall be lawful	may
it shall be unlawful	it is unlawful
make application	apply
make inquiry	inquire
member of a partnership	partner
nothing in this section shall be construed to	this section does not
null and void and of no effect	void
on or after January 1	after December 31
part and portion	part
prior to	before
provide assistance to	assist
pursuant to	under
set forth	state
shall be	is [or] are
shall be construed to mean	means
shall be in full force and effect	is effective
sole and exclusive	sole
subsequent to	after
U.S.	United States

AVOID	PREFERRED
under the provisions of	under
whatsoever	at all [or] whatever
wherein	in which
wheresoever	wherever
with reference to	about

(e) USE OF PARTICULAR WORDS.

(1) "CONVICTED"

- Instead of using the word "convicted" say "pleads guilty or nolo contendere to, or is found guilty of,"

(2) "IF", "WHEN", OR "WHERE"

- Use "if" not "where" or "when" to introduce a condition unless the place or time is relevant.

(3) "PROVIDED" OR "PROVIDED, HOWEVER"

- Avoid stating an exception by beginning a sentence with "provided" or by using a clause beginning with "provided, however". It is preferable to use "however", "but", "except", or to state the exception directly in a new sentence.

(4) "SHALL" OR "MAY"

- A duty or obligation is best expressed by "shall."
- A power or privilege is best expressed by "may."
- Permission is best expressed by "may." Do not use "can" to grant permission.
- Use "no person may" or "a person may not" instead of "no person shall".

(5) "SUCH", "SAID", OR "SAME"

- Do not use the words "such", "said", or "the same" as demonstrative adjectives to refer to someone or something previously mentioned. The use of these words in this way may cause confusion. Substitute words such as "the", "these", "those", or "that". For example, say "the applicant may...". Do not say "such applicant may....".

(f) WORDS FREQUENTLY CONFUSED.

(1) “AFFECT” AND “EFFECT”

- “Affect” is most commonly used as a verb meaning to have an influence on.

Example: how smoking affects your health....

- “Effect” is most commonly used as a noun meaning a result or the way in which something influences an object. As a verb, it means ‘to bring about’.

*Example: the effect of a drug on the nervous system.....
Layoffs designed to effect savings.....*

(2) “BIANNUAL” AND “BIENNIAL”

- “Biannual” means happening twice each year.
- “Biennial” means happening every second year.

(3) “ASSURE”, “ENSURE”, AND “INSURE”

- Assure means to inform confidently, with a view to removing doubt.
- Ensure means to make certain or guarantee.
- Insure means to cover by a contract binding a party to indemnify another against specified loss in return for premiums paid.

4.3 GENDER

Use gender neutral terms when possible. (*Arkansas Code 1-2-203 says the masculine includes the feminine.*)

(a) EXAMPLES OF GENDER NEUTRAL TERMS:

AVOID	PREFERRED
brother	sibling
chairman	chairperson
committeemen	committee members

AVOID	PREFERRED
fireman	firefighter
husband	spouse
layman	layperson
man	individual
manned	staffed
manpower	personnel
policeman	police [or] law enforcement officer
salesman	salesperson
sister	sibling
unmanned	unstaffed
widow, widower	surviving spouse
wife	spouse
woman	individual

(b) PERSONAL PRONOUNS.

Avoid using personal pronouns (he, she, his, hers). The following techniques may be helpful in avoiding personal pronouns:

- Use an article such as “the”, “a”, “an”, or “that” to replace the personal pronoun. *Example: An applicant shall include with the (instead of “his”) activity report....*
- Use a possessive noun. *Example: The director shall file an annual report and the director’s (instead of “his”) recommendations.*
- Repeat the name or title of the actor. *Example: “A person may apply if the person” (instead of “he”).*

4.4 USE OF PARENTHESES

Do not use parentheses to mark off explanatory or qualifying remarks. Set off explanatory or qualifying remarks with commas instead of parentheses, or put them in a separate sentence.

Use parentheses to set off the identifying numbers or letters of subsections and subdivisions.

Example: “subdivision (d)(1)”.

Use parentheses to enclose a sum, product, or other expression considered or treated as a collective entity in a mathematical operation.

4.5 CAPITALIZATION

(a) GENERALLY. Use lowercase letters whenever possible.

(b) PROPER NAMES. Capitalize first letters of proper names.

- Do not capitalize “department”, “board”, “commission”, etc., if not used as part of the full name.

Examples: Department of Aeronautics
the department
Public Service Commission
the commission

- In general, do not capitalize short versions of officer’s titles.

Examples: The Secretary of the Department of Aeronautics
the secretary

However, there are certain officers whose title should always be capped such as President, Governor, President Pro Tempore, and Speaker of the House.

- Do not capitalize court names unless they refer to a specific court.

Examples: The Supreme Court
the Circuit Court of Pulaski County
may appeal to the circuit court

(c) USE OF “STATE”, “FEDERAL”, AND “CONSTITUTION”.

- “State” is not capped unless it is part of a proper name or the beginning of a sentence.

Examples: in this state
State of Arkansas
Secretary of State
State Plant Board

- The word “federal” is not capped unless it is part of a proper name.

Examples: Federal Aviation Administration
any federal regulations on this subject

- “Constitution” is always capped when referring to either the federal or state constitutions.

*Examples: United States Constitution
the Constitution of Arkansas*

(d) USE of “ACT”, “SECTION”, “SUBSECTION”, AND “SUBDIVISION”.

The words “act” and “section” when referring to a law is written in lower case unless the reference includes the act number and year. However, the word “section” used at the beginning of a section of a bill is written in all capital letters.

The words “subsection” and “subdivision” are always written in lower case.

*Examples: SECTION 1. Arkansas Code 1-1-101 is amended to read as follows:
Section 1 of Act 12 of 1999
Act 12 of 1999
section 1 of this act
this act
this section
subsection (a)
subdivision (1)*

(e) CAPITALIZATION OF PARTICULAR WORDS.

<u>Capitalize</u>	<u>use lower case</u>
Attorney General	circuit court
Congress	circuit court clerk
Court of Appeals	circuit court judge
Department of Aeronautics	city council
Director, State Plant Board	county board of elections
General Assembly	county court
Governor	county court clerk
Legislative Council	county general fund
Lieutenant Governor	county judge
State Treasurer	chancery court
Auditor of State	chancery judge
President Pro Tempore	
Speaker of the House	
President	

4.6 REFERENCES TO OTHER PROVISIONS

(a) AMBIGUOUS REFERENCES.

Avoid ambiguous references. Use specific references. The following words and phrases

should be avoided:

- *above*
- *aforementioned*
- *aforesaid*
- *before-mentioned*
- *below*
- *herein*
- *hereinabove*
- *hereinafter*
- *hereinbefore*
- *hereunder*
- *said*
- *such*
- *the following section*
- *the preceding section*
- *this provision*

(b) ARKANSAS CODE.

Arkansas Code 1-2-113 allows the Arkansas Code of 1987 Annotated to be referred to in any of the following ways: "Arkansas Code of 1987 Annotated", "Arkansas Code of 1987", "Arkansas Code Annotated", "Arkansas Code", "the Code", or "this Code"

Use only: "Arkansas Code". Consistency will aid the reader and will help those who access bills and acts using computer word search programs.

(c) FEDERAL LAWS.

(1) **EXAMPLES:**

- Citing the U.S. Code. **Example:** *15 USC §1601.*
- Citing a Public Law. **Example:** *P.L. 93-641*

(2) **DATE OF REFERENCED FEDERAL LAW.** Although the law referred to may change or even be repealed after being referenced, the referencing statute will probably be construed to incorporate the wording of the federal law as of the date the statutory reference was enacted. Periodic updating of the statutes is the only constitutional method of synchronizing state statutes with federal law changes. For clarity, the reference should adopt the law as it appears on a specific date. The date should not be in the future. **Example:** *42 USC 1396a (a)(13) as it existed on January 1, 1998*

(d) INTERNAL REFERENCES.

(1) SUPERFLUOUS REFERENCES: For clarity it is sometimes necessary to include a reference to another section of the bill or even to other subsections or subdivisions of a section. However, internal references make the drafter's job more difficult because the references must be checked and corrected with each new draft or amendment. Therefore, superfluous references should be avoided.

(2) HOW SPECIFIC: In using an internal reference the drafter should consider how specific a reference to use. For example, is it necessary to refer to a specific subdivision or would a reference to "this section" be sufficient?

(3) USE OF "THIS ACT" - Usually a drafter should avoid using the phrase "this act" in a section of a bill that amends an existing section of the Arkansas Code or adds a section to the Arkansas Code. Depending on the context, the reference may be read to mean the entire Arkansas Code, a chapter or various sections of the Arkansas Code.

(e) USE OF "ET SEQ."

The use of the term "et seq." following the citation to a specific section of the Arkansas Code results in vagueness and should not be used.

Example: § 27- 21-101 through 27- 21-105 not § 27- 21-101 et seq.

If the Arkansas Code cite is a parallel cite to an act with a statutory popular name, the first Arkansas Code section may be cited preceded by the phrase "beginning at" or a parallel cite could be added which states the first and last Arkansas Code section of the particular act.

Example: *Administrative Procedure Act, beginning at § 25-15-201*

Example: *Administrative Procedure Act, §§ 25-15-201 through 25-15-214*

PART 5

AMENDATORY BILLS

5.1 GENERAL CONSIDERATIONS

(a) WHETHER TO AMEND A LAW BY ACT NUMBER OR ARKANSAS CODE NUMBER.

If the law to be amended is codified in the Arkansas Code then refer to the law by the Arkansas Code number, not by the act number. If the Arkansas Code section has been amended by an act that has not yet been codified then refer to the Arkansas Code section followed by “*as amended by section ___ of Act ____ of 20__.*” Laws only appearing in the notes of the Arkansas Code and other uncodified acts should be amended by act and section number.

Example: Uncodified Section 1 of Act 1177 of 1997

(b) HOW MUCH TO AMEND.

Article 5, Section 23 of the Arkansas Constitution says: “*no law shall be revived, amended, or the provisions thereof extended or conferred by reference to its title only; but so much thereof as is revived, amended, extended or conferred shall be re-enacted and published at length.*” This does not mean that an amendment must repeat all of the act to be amended. Acts amending less than the full text of a previous act have been upheld. The primary concern appears to be that the bill be written in a way that the reader will be informed of what the amendment does.

Use the following guidelines for choosing how much to amend in order to clarify what the amendment does:

- To avoid conflicts with other bills do not repeat more language than is reasonably necessary.
- If a subdivision is not a complete sentence move up one level and amend a larger subdivision or a full section or subsection. Sometimes it may be impractical to move up one level because of the length of the text.
- If the amendment is to a subsection or subdivision and the meaning is not obvious, include a brief statement of the subject in the introductory portion of the amendatory section. For example, “*Arkansas Code 1-2-113 (b), concerning the designation and citation of the Arkansas Code, is amended to read as follows:*”

5.2 INTRODUCTORY LANGUAGE FOR AMENDATORY TEXT

(a) AMENDING ENTIRE SUBCHAPTER.

SECTION 1. Arkansas Code Title __, Chapter __, Subchapter __ is amended to read as follows:

(b) AMENDING A SECTION.

***Example:** SECTION 1. Arkansas Code 1-1-101 is amended to read as follows:*

(c) AMENDING SUBSECTION OR SUBDIVISION.

***Example:** SECTION 1. Arkansas Code 26-51-494 (a), concerning the definition of "gross income" for Arkansas Income Tax purposes, is amended to read as follows:*

***Example:** SECTION 1. Arkansas Code 26-51-494 (a)(1), concerning the definition of "gross income" for Arkansas Income Tax purposes, is amended to read as follows:*

(d) ADDING NEW SUBCHAPTER, SECTION, SUBSECTION, OR SUBDIVISION.

***Example:** SECTION 1. Arkansas Code Title __, Chapter __, is amended to add an additional subchapter to read as follows:*

***Example:** SECTION 1. Arkansas Code Title __, Chapter __, Subchapter __ is amended to add an additional section to read as follows:*

***Example:** SECTION 1. Arkansas Code 26-51-494, concerning the definition of "gross income" for Arkansas Income Tax purposes, is amended to add an additional subsection to read as follows:*

***Example:** SECTION 1. Arkansas Code 7-5-416(a), concerning counting absentee ballots, is amended to add an additional subdivision to read as follows:*

(e) AMENDING AN UNCODIFIED SECTION.

If the bill amends an uncodified section of an act, so state.

***Example:** SECTION 1. Uncodified Section 5 of Act 32 of 1997 is amended to read as follows:*

***Example:** SECTION 1. Uncodified section 5 of Act 32 of 1997, as amended, is amended to read as follows:*

(f) AMENDING ARKANSAS CODE PROVISIONS AS AMENDED BY AN ACT NOT YET CODIFIED.

If the Arkansas Code section has been amended by an act that has not yet been codified, refer to the Arkansas Code section followed by “*as amended by section ___ of Act ___ of 20__.*”

5.3 MARKUP (UNDERLINING AND STRIKETHROUGH FORMATTING)

(a) WHEN REQUIRED:

(1) AMENDATORY SECTIONS

Bills and amendments to bills must show the changes the legislation proposes to make in the law. If the bill would delete existing language, the proposed deletion must be indicated by using the font attribute ~~strikethrough~~ on the language to be deleted. Language proposed to be added to law is to be shown by using the font attribute underline.

Example: ...the board ~~may~~ shall ...

(2) NONAMENDATORY SECTIONS

Underline all the text of nonamendatory sections. Some standard sections in bills are exempt from this rule. (*See Appendix*)

(3) REPEALING SECTIONS

A section that repeals a specific law must repeat the text being repealed and show the text with overstriking. The introductory language is not underlined. The text of the law to be repealed is not surrounded by quotation marks.

(4) EXCEPTIONS TO MARKUP REQUIREMENTS

- The introductory language to amendatory sections is not underlined. For example, you would not underline the following: “*SECTION 1. Arkansas Code 26-26-501 is amended to read as follows:*”.
- The markup requirement may be waived by the Speaker of the House of Representatives or the President Pro Tempore of the Senate (in his absence, the Chairman of the Senate Rules Committee).
- Underlining is not required of the following: (1) appropriation sections, state agencies regular salary sections, and state agencies extra help sections contained within a bill if the sections do not specifically amend existing law; (2) sections which allocate funds

within the Revenue Stabilization Law or within the General Improvement Fund Distribution Law; and (3) sections which amend Arkansas Code 21-5-208(b) and 21-5-209(e).

- Underlining is not used in sections that are substantially the same as those listed in Rule 17 of the Joint Rules of the 82nd General Assembly (see Appendix).

(b) MARKUP TECHNIQUES.

- (1) Show deleted language first.
If text is being deleted and replaced show the deleted text first.

Example: The board ~~may~~ shall conduct a study.

- (2) How much to delete.
The markup must accurately reflect the changes being made to the law and must present the changes in a clear manner. The markup must be prepared in a manner that will assist the reader to quickly identify changes.

In most instances the markup should only strikethrough words that are to be deleted from law.

Avoid: ~~The board may conduct a study.~~ The board shall conduct a study.

Better: The board ~~may~~ shall conduct a study

However, sometimes the markup will be clearer if additional language is deleted (strikethrough) and then added back in (underlined). In the following examples the markup is easier to read when the word “must” is deleted and then added back as a part of the new language.

Avoid: The ~~applicant~~ department must ~~file his or her~~ receive the application and the filing fee within fifteen (15) days.

Better: The ~~applicant must file his or her~~ department must receive the application and the filing fee within fifteen (15) days.

When numbers are changed the complete number should be deleted (strikethrough) and the new number added (underlined).

Do not use: one thousand ~~five hundred~~ dollars ~~(\$1,000)~~ (\$1,500).

Use: ~~one thousand~~ dollars ~~(\$1,000)~~ one thousand five hundred dollars (\$1,500).

Do not use: twenty ~~five~~ ~~(25)~~ (20) days

Use: ~~twenty five~~ ~~(25)~~ twenty (20) days

When renumbering or relettering a subsection or subdivision of a section, strikethrough the parentheses enclosing the existing number or letter and underline the parentheses enclosing the new letter or number.

Do not use: (~~3~~ 4)

Use: (~~3~~) (4)

Make changes to entire words.

Do not use: ~~Because~~ The board

Use: ~~Because the~~ The board

Do not use: applicant s

Use: ~~applicant~~ applicants

5.4 REPEALING ARKANSAS CODE PROVISIONS

If a bill specifically repeals a portion of the Arkansas Code, the drafter must check for Arkansas Code sections referencing the repealed law and the references should be corrected if practical.

PART 6

COMMON PROVISIONS

6.1 CHECKLIST FOR CREATING BOARDS, COMMITTEES, COMMISSIONS, TASKFORCES, ETC.

(a) COMMITTEE NAME.

- What is the name of the body to be created?

(b) MEMBERSHIP.

(1) NUMBER

- How many members are on the body?

(2) APPOINTMENT

- Who appoints the members?
- Is the official who makes the appointment free to choose any qualified appointee or must the official appoint from a list submitted by some officer or organization? If the official is limited is there an unlawful delegation of governmental authority?

(3) MEMBERSHIP QUALIFICATIONS

- What qualifications must an appointee have? For example, must the person meet a residency requirement, be representative of a certain segment of the population, hold certain business or professional qualifications, etc.

(4) LEGISLATORS AS MEMBERS

- Avoid placing members of the General Assembly on a board, committee, commission, or task force that is not a legislative committee. (See *State Board of Workforce Education v. King* 336 Ark. 409, 98 S.W. 2d 731 [1999])
- Avoid placing non-legislators on legislative committees. However, if the legislative committee must include non-legislators, state clearly that it is a legislative committee and do not give the committee executive branch functions.

(5) EX OFFICIO MEMBERS

- An ex officio member is one who holds membership by virtue of holding some other office. (Please note that ex officio membership does not mean that the person is a non-voting member. If he or she is to be a non-voting member you must so state.)

(6) VOTING AND NON-VOTING MEMBERS

- All members of a body are voting members unless you specifically state that they are non-voting members.

(7) TERMS OF OFFICE

- Length of term
- Should the terms of office be staggered? The staggering of terms is accomplished by reducing the terms of some of the initial members so that the terms of only part of the membership will expire at any one time.
- One method for staggering the terms is to have the initial members determine their terms by lot.
- Another method is to have the appointing authority determine which of the initial members will serve a shorter term. In many instances, it is desirable to establish a date for terms to begin and end.

(8) VACANCIES

- If a vacancy occurs on the committee how is a replacement chosen to fill the unexpired term? Does the appointing authority fill the vacancy or is the vacancy filled by the remaining members?

(9) CHAIRPERSON

- How is the chairperson selected?
- Is the chair designated by the appointing authority?
- Is the chair selected by the membership of the body?
- If the membership selects its chair, then consider designating a member who is responsible for calling and presiding at the first meeting and until a chair is elected.
- How long does the chair serve?

(10) QUORUM

- What is the quorum to transact business?

(11) MEETINGS

- Must the meeting be held at a specific location?
- Is there a maximum or minimum number of meetings in a year?

(c) POWERS AND DUTIES.

- What are the powers and duties of the body?

(d) TEMPORARY BOARDS, COMMITTEES, COMMISSIONS, AND TASK FORCES.

- If the body is not permanent, when will it expire?

(e) REPORTS.

- If the body is to study an issue and make findings or recommendations, to whom will the report be made and by what date?
- If the body is to report to the General Assembly, require the report to be filed with the Speaker, and the President Pro Tempore, or the Co-Chairs of the Legislative Council.

(f) STAFF.

- Will the body hire its own staff or will staff be supplied by some other agency?

(g) FINANCIAL CONSIDERATIONS.

- Will there be expense reimbursement or a stipend? Who is to pay?
- If an appropriation will be required, inform the sponsor. Refer to the fiscal staff any requests for an appropriation for stipends, mileage reimbursement, or other expense reimbursement for committee members or other expenses of the committee.

6.2 CRIMINAL OFFENSES

(a) NUMBERING.

If a section of a bill creates more than one criminal offense, separate the offenses by placing them in separate subsections or subdivisions. If a section of a bill increases the penalty for a second or subsequent offense, separate each level of punishment by placing them in separate subsections or subdivisions.

(b) PENALTY.

In establishing a penalty for a crime, the classifications in the Arkansas Criminal Code may be used. The penalties for each classification are found in Arkansas Code 5-4-201 and 5-4-401.

Example: A violation of this section is a Class A misdemeanor.

If the crime is to be something other than a classified crime under the Arkansas Criminal Code, the penalty must state the amount or range of the fine and, if the penalty includes imprisonment, the length or range of imprisonment. The penalty should clearly state whether both fine and imprisonment may be imposed. The penalty should state whether the offense is a felony, misdemeanor, or violation.

***Example:** A person who violates this section is guilty of a violation and may be fined not more than one hundred dollars (\$100).*

***Example:** A person who violates this section is guilty of a misdemeanor and shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).*

***Example:** A person who violates this section is guilty of a misdemeanor and shall be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or imprisoned for not less than ten (10) days nor more than thirty (30) days, or both fined and imprisoned.*

6.3 DEFINITIONS

- Definitions should be used when there is more than one meaning for a word or phrase and the intended meaning is not apparent from the context, or when a more specific meaning than the generally recognized meaning is intended. **Do not write substantive provisions into a definition.**
- Use the defined word. Do not use a variation of the defined word or the description itself.
- Connect the word to be defined with the definition by using the word "means". Do not say "shall be deemed to include", "includes but is not limited to", or "means and includes".
- Do not define two or more words or terms to have the same meaning.
- Avoid acronyms.

6.4 EFFECTIVE DATE

(a) **EFFECTIVE DATES AND USE OF EMERGENCY CLAUSE.** An act without an Emergency Clause or specific effective date becomes effective on the ninety-first (91st) day after sine die adjournment of the session at which the act was enacted or the ninety-first (91st) day of a recess. (*See Fulkerson v. Refunding Board*, 201 Ark. 957, 147 SW 2nd 980 (1941)) This rule is derived from Amendment 7 to the Constitution of Arkansas, which gives the people "90 days after the final adjournment of the session" to file referendum petitions. The day of adjournment is not counted as a day in which petitions may be filed since it is not a full day. If the act needs

to become effective before the date it would otherwise become effective by the operation of law, an emergency clause must be added to the draft. The emergency clause must declare an emergency, and state facts constituting an emergency, and state that the bill is necessary “for the preservation of the public peace, health, and safety”. The emergency clause may be drafted to set a specific date or to provide for the act’s immediate application.

The effective date of all or a part of an act may be delayed to a future date.

Example: Section 10. Sections 7 and 8 of this act shall become effective on January 1, 2003.

Example: Section 10. This act shall become effective on January 1, 2003.

(b) EMERGENCY CLAUSE TEXT. The emergency clause must declare an emergency, **state the facts constituting an emergency**, and state that the bill is necessary “for the preservation of the public peace, health, and safety”. The Emergency Clause sets a specific date or provides for its immediate application.

The following language is used to bring an act to immediate effect:

SECTION___ . EMERGENCY. It is found and determined by the General Assembly of the State of Arkansas that (insert reason for emergency). Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.

The following language is used if a bill is to become effective on a certain date:

SECTION___ . EMERGENCY. It is found and determined by the General Assembly of the State of Arkansas that (insert reason for emergency). Therefore, an emergency is declared to exist and this act being immediately necessary for the preservation of the public peace, health and safety shall become effective on (insert date).

6.5 APPLICABILITY

(a) CONTINGENT EVENTS. Occasionally the effectiveness of an act will be made contingent upon a future event. The drafter should exercise caution to avoid an unlawful delegation of legislative authority. The following example of a contingency is from Section 11 of Act 328 of 1997:

Example: *This act shall be effective on and after November 15, 1998 unless a Constitutional amendment or initiated act shall be approved or an act of the General Assembly shall become law before that date which exempts food, either wholly or partially, from the Arkansas Gross Receipts Tax.*

(b) GRANDFATHER CLAUSE. A grandfather clause grants an exemption, typically to a new licensing law. For example a provision might exempt a person with experience from having to meet the new qualifications for licensure or exempt the person from part of the requirements, such as taking an examination. A grandfather clause should include a time limit for a person to register to receive the benefits of the exemption. There is no need to use the words "Grandfather Clause" in the bill.

Example: *An individual who was engaged in _____ work for at least one (1) year before the effective date of this act is entitled to receive a license without examination. A person seeking licensure under this section must register with the board before December 1, 2001 and must pay the license fee.*

(c) RETROACTIVE OR PROSPECTIVE EFFECT. An act or part of an act may be made to apply retroactively but it must specifically state that it is retroactive.

Example: *This act applies retroactively to January 1, 1997.*

Example: *This act applies retroactively to all persons who retired after December 31, 1996.*

(d) SEVERABILITY CLAUSE. A severability clause provides that if a part of a law is declared invalid the remaining part stays in force. A general severability clause is not necessary because Arkansas Code 1-2-117 states that the provisions of the Arkansas Code are severable, and Arkansas Code 1-2-205 states:

“...The provisions of each and every act enacted by the General Assembly after July 24, 1973, are declared to be severable and, unless it is otherwise specifically provided in the particular act, the invalidity of any provision of that act shall not affect other provisions of the act which can be given effect without the invalid provision.”

(e) NON-SEVERABILITY CLAUSE. If the author does not want the provisions to be severable or does not want specific provisions to be severable, omit the severability clause and add a section declaring the provision to not be severable. Bills having a statement of non-severability are rare.

Example: *SECTION 6. The provisions of this act are not severable, and if any provision of this act is declared invalid for any reason then all provisions of this act shall also be invalid.*

(f) SUPPLEMENTAL NATURE. If a bill is intended not to repeal other laws on a subject, add a section stating that the bill is intended to be supplemental to other laws. The general repealer clause should be omitted if the statement is general in nature.

Example: This act is supplemental to all other laws and repeals only those laws or parts of laws in direct conflict with it.

Example: This act is supplemental to all other laws concerning _____ and repeals only those laws or parts of laws in direct conflict with it.

Example: This act is supplemental to and does not repeal Arkansas Code _____.

PART 7

RESOLUTIONS

7.1 KINDS OF RESOLUTIONS

(a) **SIMPLE RESOLUTIONS.** A Simple Resolution is filed and considered by only the house of the General Assembly in which the resolution is filed. A simple resolution is directed at some matter for the sole action of the house concerned. Examples include: resolutions of inquiry addressed to the Governor or to heads of the executive departments and resolutions concerning procedure of the house in which the resolution is filed and considered.

(b) **CONCURRENT RESOLUTIONS.** Concurrent Resolutions are directed at concerns of both houses. A Concurrent Resolution may originate in either house and requires passage in both houses for adoption. Examples include: adopting joint rules, the honoring of persons or events, specific recommendations, and petitions to Congress, other than for constitutional amendments.

(c) **JOINT RESOLUTIONS.** A Joint Resolution is similar to a concurrent resolution in that the resolution may originate in either house and requires passage in both houses for adoption. The Joint Resolution is used for a variety of purposes, the most important of which are the submission of Amendments to the Arkansas Constitution to the people, and approval of U.S. Constitutional Amendments.

7.2 PARTS OF A RESOLUTION

(a) PARTS SIMILAR TO BILLS.

The parts of a resolution are similar to bills in that they also include the session identification, resolution number, sponsor identification, title, subtitle, document I.D. number, and bar code. The resolution number is added to the document by the house of introduction.

(b) MARKUP HEADER.

A markup header does not appear on most resolutions. The markup header appears only on amendatory resolutions. A simple resolution or concurrent resolution would include a markup header if it proposes a rule change. A joint resolution would include a markup header if the joint resolution proposes a constitutional amendment.

(c) PREAMBLE.

Preambles are rarely used for bills but most resolutions include a preamble. A preamble states the reasons for the resolution. A preamble is composed of one or more statements beginning with the word “*Whereas*” and after the final statement ends with the words “*NOW THEREFORE*”. The preamble is located after the subtitle and before the clause beginning “*BE IT RESOLVED*”.

(d) BE IT RESOLVED.

A resolution’s enacting clause is different from that found on a bill. The resolutions enacting clause begins with “*BE IT RESOLVED*”. The clause identifies the house or houses making the resolution and of which General Assembly the house belongs. The style of the various resolutions is as follows:

House Resolution: *BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-THIRD GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:*

Senate Resolution: *BE IT RESOLVED BY THE SENATE OF THE EIGHTY-THIRD GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:*

House Concurrent Resolution: *BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-THIRD GENERAL ASSEMBLY OF THE STATE OF ARKANSAS, THE SENATE CONCURRING THEREIN:*

Senate Concurrent Resolution: *BE IT RESOLVED BY THE SENATE OF THE EIGHTY-THIRD GENERAL ASSEMBLY OF THE STATE OF ARKANSAS, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:*

House Joint Resolution: *BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-THIRD GENERAL ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE SENATE, A MAJORITY OF ALL MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:*

Senate Joint Resolution: *BE IT RESOLVED BY THE SENATE OF THE EIGHTY-THIRD GENERAL ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE HOUSE OF REPRESENTATIVES, A MAJORITY OF ALL MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:*

(e) BODY.

The body of the resolution begins after the *BE IT RESOLVED* clause. The body expresses the opinion, sentiment, will, or desire of one or both houses of the General Assembly. The body begins with the word “*THAT*”. Additional paragraphs should begin with “*BE IT FURTHER RESOLVED THAT*” unless the paragraph is part of the text of a proposed rule or proposed constitutional amendment.

The body of a joint resolution proposing an Amendment to the Arkansas Constitution includes the following clause after the BE IT RESOLVED clause and before the body of the resolution:

THAT the following is proposed as an amendment to the Constitution of the State of Arkansas, and upon being submitted to the electors of the state for approval or rejection at the next general election for Representatives and Senators, if a majority of the electors voting thereon at such election, adopt such amendment, the same shall become a part of the Constitution of the State of Arkansas, to wit:

Part 8.

AMENDMENTS TO BILLS AND RESOLUTIONS

8.1 Numbering of Amendments

Amendments are numbered by the house in which the amendment is introduced. **The drafter does not assign an amendment number.**

8.2 Use Of Underline And Strikethrough In Amendments

A bill uses underline to show what would be added to current law and uses strikethrough to show what would be deleted from current law. Some resolutions such as rule changes and constitutional amendment also use underline and strikethrough to show how the resolution would change the provision.

Amendments to bills and resolutions must be drafted in the same manner so when the amendment is incorporated into the bill, the bill will still show how it would change current law or rule. Underline and strikethrough are not used to show how the amendment would change the bill but how the amended bill or amended resolution would change the existing provision.

8.3 Drafting Considerations

(a) INTRODUCTION.

The text below will be used as the basis for most of the examples in Part 8. The example would appear on page 3 of the bill.

- 9 (b) The director shall establish the design of the plate.
10 (c) Upon submitting proof of eligibility and complying with the
11 state laws relating to registration and licensing of motor vehicles ~~and the~~
12 ~~payment of thirty five dollars (\$35.00) for the initial license plate, the~~
13 applicant shall be issued a special license plate under this ~~chapter~~ section.
14 ~~(d) The license plate fee shall be deposited into the State Central~~
15 ~~Services Fund as a direct revenue for the support of the Department of~~
16 ~~Finance and Administration.~~

(b) PUNCTUATION MARKS.

If an amendment only deletes a punctuation mark or refers to a punctuation mark in order to locate where new language is to be added or deleted, the drafter should refer to the punctuation mark by spelling it as a word.

Example: Page 3, line 9, add “or plates” between “plate” and the period.

However, if the amendment is to merely underline or strikethrough the punctuation mark then in most instances, instead of writing the punctuation mark as a word, it is preferable to repeat the previous word along with the punctuation.

Example: Page 3, line 11, delete “vehicles.” and substitute “vehicles.”

(c) REFERENCE TO LINE AND PAGE OR TO SECTION.

The amendment should reference the line number and page number where the change is to be made. If the amendment changes an entire section the reference may be made to the section number. To assist engrossing clerks, the reference to line and page or section should be placed at or near to the beginning of the text of an amendment.

Example: Page 3, line 9, delete “of the plate” and substitute “of ~~the~~ a special license plate”

(d) REFERENCE TO A WORD USED MORE THAN ONCE.

The word “the” is used more than once on line 9, therefore an amendment to delete “the” and substitute “~~the~~ a special license” would be unclear. Use adjoining text as a way to identify where the change will be made.

Example: Page 3, line 9, delete “of the plate” and substitute “of ~~the~~ a special license plate”

(e) RENUMBERING.

When adding or deleting sections of a bill the remaining sections must be appropriately numbered. This may be accomplished by including the phrase “and by appropriately renumbering the sections of the bill”. Before using this technique the drafter should determine whether renumbering would cause conflicts with internal references. If there are several internal references the drafter may consider adding a new section near the end of the bill.

Example: Delete SECTION 2 in its entirety and appropriately renumber the sections of the bill

Example: Immediately following SECTION 2, add an additional section to read as follows:

“SECTION 3. This act shall be effective January 1, 2002.”

AND

Appropriately renumber the sections of the bill.

A similar technique may be used to renumber or reletter subsections and subdivisions but it is preferable to renumber or reletter each provision by referencing line and page number. Another problem that must be addressed, if this technique is used, is that the drafter must properly identify whether the subsections to be relettered are subsections of a section of the bill or subsections of a section of Arkansas Code being amended by the section. Below is an example of the preferred way to renumber or reletter subsections or subdivisions:

Example: Page 3, line 9, delete “(b)” and substitute “~~(b)~~(c)”
AND
Page 3, line 10, delete “(c)” and substitute “~~(c)~~(d)”

(f) ADDING NEW LANGUAGE.

Example: Page 3, line 9, delete “plate.” and substitute “plate or plates.”

(g) ADDING OR DELETING ENTIRE SECTIONS OF A BILL.

Example: Delete SECTION 2 in its entirety and appropriately renumber the sections of the bill

Example: Immediately following SECTION 2, add an additional section to read as follows:

“SECTION 3. This act shall be effective January 1, 2002.”

AND
Appropriately renumber the sections of the bill.

(h) ADDING A NEW SUBSECTION OR SUBDIVISION.

New subsections or subdivisions to be added at the end of a section may be added by referring to the blank line at the end of the section.

Example: Page 3, line 17, add a new subsection to read as follows:
“(d) The director shall promulgate appropriate regulations.”

Drafters are not allowed to insert text between lines. Therefore, if the new subsection is to be inserted between other subsections (or a subdivision between other subdivisions), the drafter should delete all of the line above or below where the new provision is to be added and then repeat the deleted language along with the new provision. The drafter must also remember to renumber subsequent subsections or subdivisions.

Example: Page 3, delete line 9, and substitute the following:
(b) The director shall establish the design of the plate.
(c) The director shall promulgate appropriate regulations.
AND
Page 3, line 10, delete “(c)” and substitute “~~(c)~~(d)”

(i) DELETING CURRENT LAW.

To remove the word “*special*” from line 13 the drafter cannot merely instruct that it be “deleted” because the word is part of present law and the bill must show the deletion with strikethrough.

Preferred method: Page 3, line 13, delete “*special*” and substitute “~~*special*~~”

Alternative method: Page 3, line 13, apply strikethrough formatting to the word “*special*”

(j) DELETING CURRENT LAW AND ADDING NEW LANGUAGE.

The following is an example of how to delete the word “*eligibility*” on line 10 and replace it with the word “*ownership*”

Example: Page 3, line 13, delete “*eligibility*” and substitute “~~*eligibility*~~ *ownership*”

(k) RESTORING CURRENT LAW BEING DELETED BY THE BILL.

The following are examples of ways to restore lines 14 through 16 of the example text.

Example: Page 3, delete lines 14 through 16, and substitute the following: “(d) The license plate fee shall be deposited into the State Central Services Fund as a direct revenue for the support of the Department of Finance and Administration.”

Example: Page 3, remove strikethrough formatting from lines 14 through 16

(l) RESTORING CURRENT LANGUAGE AND REMOVING PROPOSED NEW LANGUAGE.

Example: Page 3, line 13, delete “~~chapter~~ section” and substitute therefor “chapter”

(m) SPONSOR AMENDMENTS.

Example: By adding [Representative _____] [Senator _____] as a cosponsor of the [bill] [resolution]

Example: By deleting [Representative _____] [Senator _____] as a cosponsor of the [bill] [resolution]

Appendix

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 83rd General Assembly
3 Regular Session, 2001

A Bill

MARKUP LANGUAGE

011120001016
DRAFT

SESSION IDENTIFICATION

SENATE BILL

5 By: Senator Abrams

SPONSOR

BILL NUMBER
Will be assigned by
Originating house

For An Act To Be Entitled

8 AN ACT TO AMEND ARKANSAS CODE 5-41-104 TO INCREASE
9 THE PENALTIES FOR COMPUTER TRESPASS; AND FOR OTHER
10 PURPOSES.

TITLE

Subtitle

13 AN ACT TO INCREASE THE PENALTIES FOR
14 COMPUTER TRESPASS.

SUBTITLE

ENACTING CLAUSE

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

19 SECTION 1. Arkansas Code 5-41-104 is amended to read as follows:
20 5-41-104. Computer trespass.

BODY

21 (a) Any person commits computer trespass who intentionally and without
22 authorization accesses, alters, deletes, damages, destroys, or disrupts any
23 computer, computer system, computer network, computer program, or data.

24 (b) Computer trespass is a ~~Class C~~ Class B misdemeanor if it is a
25 first violation which does not cause any loss or damage.

26 (c) Computer trespass is a ~~Class B~~ Class A misdemeanor if:

27 (1) It is a second or subsequent violation which does not cause
28 any loss or damage; or

29 (2) It is a violation which causes loss or damage of less than
30 five hundred dollars (\$500).

31 (d) Computer trespass is a ~~Class A misdemeanor~~ Class D felony if it is
32 a violation which causes loss or damage of five hundred dollars (\$500) or
33 more, but less than two thousand five hundred dollars (\$2,500).

34 (e) Computer trespass is a ~~Class D~~ Class C felony if it is a violation
35 which causes loss or damage of two thousand five hundred dollars (\$2,500) or
36 more.

BAR CODE

Document ID number

1 SECTION 2. EMERGENCY CLAUSE. It is hereby found and determined by the
2 General Assembly of the State of Arkansas that as our society relies more
3 heavily on computer related products the potential harm from computer
4 trespass has increased; and that to deter future acts of computer trespass
5 the penalties for the offense need to be increased immediately. Therefore, an
6 emergency is declared to exist and this act being immediately necessary for
7 the preservation of the public peace, health and safety shall become
8 effective on the date of its approval by the Governor. If the bill is
9 neither approved nor vetoed by the Governor, it shall become effective on the
10 expiration of the period of time during which the Governor may veto the bill.
11 If the bill is vetoed by the Governor and the veto is overridden, it shall
12 become effective on the date the last house overrides the veto.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

011120001113
DRAFT
HR

5 By: Representative Abrams
6

7 **HOUSE RESOLUTION**

8 FOR A STUDY OF THE HISTORY AND DUTIES OF THE OFFICE
9 OF CONSTABLE.

10
11 **Subtitle**

12 FOR A STUDY OF THE HISTORY AND DUTIES OF
13 THE OFFICE OF CONSTABLE.
14
15

16 WHEREAS, the office of township constable was established in the
17 original Arkansas Constitution of 1874 and is still recognized as a
18 constitutional office today; and
19

20 WHEREAS, the authority and responsibilities of the office of constable
21 are not well defined in either the Constitution or the laws of Arkansas; and
22

23 WHEREAS, it would be helpful to members of the General Assembly to know
24 the history of the office of constable and the powers and duties of the
25 office and would enable the General Assembly to better deal with proposed
26 legislation that may affect the powers and duties of the office,
27

28 NOW THEREFORE,

29 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-THIRD GENERAL
30 ASSEMBLY OF THE STATE OF ARKANSAS:
31

32 THAT the House Interim Committee on City, County and Local Affairs is
33 requested to make a study of the history of the office of township constable
34 and of the powers and duties of the office.
35

36 BE IT FURTHER RESOLVED that the committee is requested to report its

1 findings and recommendations to the Eighty-Fourth Assembly.

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1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

011120001049
DRAFT
SCR

5 By: Senator Abrams
6

7 **SENATE CONCURRENT RESOLUTION**

8 PROVIDING FOR THE EXTENSION OF THE REGULAR SESSION OF
9 THE EIGHTY-THIRD GENERAL ASSEMBLY UNTIL THE CLOSE OF
10 BUSINESS ON THURSDAY, MARCH 29, 2001.
11

12 **Subtitle**

13 PROVIDING FOR THE EXTENSION OF THE
14 REGULAR SESSION OF THE EIGHTY-THIRD
15 GENERAL ASSEMBLY UNTIL THE CLOSE OF
16 BUSINESS ON THURSDAY, MARCH 29, 2001.
17
18

19 WHEREAS, Section 17 of Article V of the Constitution of the State of
20 Arkansas provides that the regular biennial session of the General Assembly
21 shall not exceed sixty (60) days in duration, unless extended by a vote of
22 two-thirds (2/3) of the members elected to each house of the General
23 Assembly; and
24

25 WHEREAS, it now appears that the regular session of the Eighty-Third
26 General Assembly will be unable to complete the essential business of this
27 session within sixty (60) days, and that an extension of this regular session
28 will be necessary for the completion of the business of this session;
29

30 NOW THEREFORE,

31 BE IT RESOLVED BY THE SENATE OF THE EIGHTY-THIRD GENERAL ASSEMBLY OF THE
32 STATE OF ARKANSAS, THE HOUSE OF REPRESENTATIVES CONCURRING THEREIN:
33

34 THAT the regular session of the Eighty-Third General Assembly of the
35 State of Arkansas is extended through the close of business in each house on
36 Thursday, March 29, 2001, at which time the regular session shall be

1 adjourned sine die unless it is determined that a further extension is
2 necessary to complete the business of the session.

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1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001
4

5 By: Senator Abrams
6

011120001135
DRAFT

HJR

7 **HOUSE JOINT RESOLUTION**

8 FOR A PROPOSED CONSTITUTIONAL AMENDMENT TO PROVIDE
9 FOR ANNUAL SESSIONS OF THE ARKANSAS GENERAL ASSEMBLY.
10

11 **Subtitle**

12 FOR A PROPOSED CONSTITUTIONAL AMENDMENT TO
13 PROVIDE FOR ANNUAL SESSIONS OF THE ARKANSAS
14 GENERAL ASSEMBLY.
15

16 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-THIRD GENERAL
17 ASSEMBLY OF THE STATE OF ARKANSAS AND BY THE SENATE, A MAJORITY OF ALL
18 MEMBERS ELECTED TO EACH HOUSE AGREEING THERETO:
19

20 THAT the following is hereby proposed as an amendment to the
21 Constitution of the State of Arkansas, and upon being submitted to the
22 electors of the state for approval or rejection at the next general election
23 for Representatives and Senators, if a majority of the electors voting
24 thereon at such election, adopt such amendment, the same shall become a part
25 of the Constitution of the state of Arkansas, to wit:
26

27 SECTION 1. Sections 5 of Article 5 of the Arkansas Constitution is
28 amended to read as follow:

29 Section 5. Time of meeting.

30 The General Assembly shall meet at the seat of government ~~every two~~
31 ~~years on the first Tuesday after the second Monday in November until said~~
32 ~~time be altered by law~~ annually. The regular annual session of the General
33 Assembly shall begin on the second Monday in January unless the time of
34 meeting is changed by law.
35

36 SECTION 2. Section 17 of Article 5 of the Arkansas Constitution is

1 amended to read as follows:

2 Section 17. Duration of sessions.

3 The regular ~~biennial~~ annual sessions shall not exceed sixty (60) days
4 in duration, unless extended by ~~a~~ an affirmative vote of two-thirds (2/3) of
5 the members elected to each house of ~~said~~ the General Assembly. Provided,
6 that this section shall not apply ~~to the first session of the General~~
7 ~~Assembly under this Constitution,~~ or when impeachments are pending.

8

9 SECTION 3. This amendment shall become effective January 1, 2003.

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RULE 17E OF THE JOINT RULE OF THE SENATE AND HOUSE OF REPRESENTATIVES

(E) (1) Only bills and amendments to bills which meet the requirements of this subsection (E) may be introduced into the House of Representatives or the Senate.

(2) Except as provided in subsections (E) (5), (6) and (8), all bills and amendments to bills shall reflect the changes proposed in the existing law by (a) over striking all language of the existing law which is proposed to be deleted; and (b) underlining all new language proposed to be added to the existing law. At the top of the first page of the bill shall appear the following language: 'Stricken language would be deleted from present law. Underlined language would be added to present law.'

(3) Except as provided in subsections (E) (5), (6) and (8), all resolutions proposing amendments to the Arkansas Constitution and amendments to resolutions shall reflect the changes proposed in the existing constitution by: (a) over striking all language of the existing constitution which is proposed to be deleted; and (b) underlining all new language proposed to be added to the existing constitution. At the top of the first page of the bill shall appear the following language: 'Stricken language would be deleted from present law. Underlined language would be added to present constitution.'

(4) Except as provided in subsections (E) (5), (6) and (8), all resolutions proposing changes in the rules of the Senate or House or the joint rules of the House and Senate shall reflect the changes proposed in the existing rule by: (a) over striking all language of the existing rule which is proposed to be deleted; and (b) underlining all new language proposed to be added to the existing rule. At the top of the first page of the resolution shall appear the following language: 'Stricken language would be deleted from present rule. Underlined language would be added to present rule.'

(5) This subsection (E) may be waived by the Speaker of the House of Representatives or the President Pro Tempore of the Senate or in his absence, the Chairman of the Senate Rules Committee.

(6) Markups are not required of the following: (a) appropriation sections, state agencies regular salary sections, and state agencies extra help sections contained within a bill if the sections do not specifically amend existing law; (b) sections which allocate funds within the Revenue Stabilization Law or within the General Improvement Fund Distribution Law; and (c) sections which amend Arkansas Code 21-5-208(b) and 21-5-209(e).

(7) It shall be the duty of the Chairman of the Joint Budget Committee to have a schedule prepared which reflects the amounts approved by the Joint Budget Committee in each category for each fund within the Revenue Stabilization Law to provide funding for the biennial budget enacted by the General Assembly and a schedule reflecting the proposed distribution of General Improvement funds. The schedule reflecting the allocation of funds in the Revenue Stabilization Law and the General Improvement Fund Distribution Law for the next biennium shall be submitted to each body of the Arkansas General Assembly at least three (3) days prior to the day at which the same is to be considered for final passage.

(8) Markups are not required on sections that are substantially the same as the following boiler-plate sections:

SECTION___. COMPLIANCE WITH OTHER LAWS. Disbursement of funds authorized by this Act shall be limited to the appropriation for such agency and funds made available by law for the support of such appropriations; and the restrictions of the State Purchasing Law, the General Accounting and Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary Procedures and Restrictions Act, the Higher Education Expenditure Restrictions Act, where applicable, and regulations promulgated by the Department of Finance and Administration, as authorized by law, shall be strictly complied with in disbursement of said funds.

SECTION___. EMPLOYMENT OF ATTORNEYS. None of the funds appropriated in this Act for Maintenance and General Operation shall be expended in payment for services of attorneys, unless the agency shall first make a request in writing to the Attorney General of the State of Arkansas to provide the required legal services. The Attorney General's Office shall provide the required legal services, or, if the Attorney General's Office

shall determine that sufficient personnel are not available to provide the requested legal services, the Attorney General shall certify the same to the agency and may authorize the agency to employ legal counsel and to expend monies appropriated for Maintenance and General Operations therefor, if:

(1) The Attorney General determines, and certifies in writing, that such agency needs the advice or assistance of legal counsel, and

(2) The Attorney General consents in writing to the employment of the legal counsel to be retained by the agency.

Such certification shall be required with respect to each instance of the employment of special legal counsel, or shall be required annually with respect to legal counsel employed on a retainer basis. A copy of such certification shall be entered in the official minutes of the agency, and shall be retained in the fiscal records of the agency for audit purposes.

SECTION ____. **DISBURSEMENT CONTROLS.** (A) No contract may be awarded nor obligations otherwise incurred in relation to the project or projects described herein in excess of the State Treasury funds actually available therefor as provided by law. Provided, however, that institutions and agencies listed herein shall have the authority to accept and use grants and donations including Federal funds, and to use its unobligated cash income or funds, or both available to it, for the purpose of supplementing the State Treasury funds for financing the entire costs of the project or projects enumerated herein. Provided further, that the appropriations and funds otherwise provided by the General Assembly for Maintenance and General Operations of the agency or institutions receiving appropriation herein shall be not be used for any of the purposes as appropriated in this Act.

(B) The restrictions of any applicable provisions of the State Purchasing Law, the General Accounting and Budgetary Procedures Law, the Revenue Stabilization Law and any other applicable fiscal control laws of this State and regulations promulgated by the Department of Finance and Administration, as authorized by law, shall be strictly complied with in disbursement of any funds provided by this Act unless specifically provided otherwise by law.

SECTION ____. **LEGISLATIVE INTENT.** It is the intent of the General Assembly that any funds disbursed under the authority of the appropriations contained in this Act shall be in compliance with the stated reasons for which this Act was adopted, as evidenced by the Agency Requests, Executive Recommendations and Legislative Recommendations contained in the budget manuals prepared by the Department of Finance and Administration, letters, or summarized oral testimony in the official minutes of the Arkansas Legislative Council or Joint Budget Committee which relate to its passage and adoption.

[Note: The following section is no longer added to bills.]

SECTION ____. **CODE.** All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

[Note: The following two sections are unnecessary and are no longer routinely added.]

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

SECTION ____. **GENERAL REPEALER.** All laws and parts of law in conflict with this act are hereby repealed.