

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

Act 1981 of the Regular Session

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

As Engrossed: S3/2/05 S3/18/05

A Bill

SENATE BILL 507

5 By: Senator Bryles
6 By: Representative Rosenbaum
7
8

9 For An Act To Be Entitled

10 AN ACT TO IMPLEMENT AMENDMENT 82 TO THE ARKANSAS
11 CONSTITUTION; AND FOR OTHER PURPOSES.
12

13 Subtitle

14 AN ACT TO IMPLEMENT AMENDMENT 82 TO THE
15 ARKANSAS CONSTITUTION.
16
17

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

20 SECTION 1. Arkansas Code Title 15, Chapter 4 is amended to add an
21 additional subchapter to read as follows:

22 15-4-3101. Title.

23 This subchapter shall be known and may be cited as the "Arkansas
24 Amendment 82 Implementation Act".
25

26 15-4-3102. Definitions.

27 As used in this subchapter:

28 (1) "Amendment 82 agreement" means a contract between the state
29 and a sponsor under which the state is to provide Amendment 82 bond financing
30 in exchange for the sponsor agreeing to make an investment and to locate a
31 new business or substantially expand an existing business in the State of
32 Arkansas in accordance with the requirements of Amendment 82 and this
33 subchapter. The agreement shall contain, at minimum, the following
34 provisions:

35 (A) The infrastructure needs to be provided by the state



1 in support of the qualified Amendment 82 project and financed under Amendment
2 82 and this subchapter;

3 (B) A description of all other economic incentives to be
4 provided by the state in connection with the qualified Amendment 82 project;

5 (C) The commitments of the sponsor with regard to
6 investment and job creation associated with the qualified Amendment 82
7 project, including timetables for meeting and maintaining the investment and
8 job creation requirements;

9 (D) The agreement of the sponsor to make all specified
10 records pertaining to investment and job creation requirements under
11 Amendment 82 available for annual audit by the chief fiscal officer and, upon
12 request but no more often than annually, by the Office of Economic and Tax
13 Policy or a person or entity retained by the Office of Economic and Tax
14 Policy;

15 (E) Performance benchmarks and economic goals of the
16 qualified Amendment 82 project; and

17 (F) The penalties to be applied if the sponsor does not
18 satisfy its commitments under the Amendment 82 agreement;

19 (2) "Average hourly wage" means the weekly earnings, excluding
20 overtime, bonuses, and company-paid benefits, of all new full-time permanent
21 employees hired after the execution date of the Amendment 82 agreement
22 divided by forty (40) and then divided by the number of new full-time
23 permanent employees;

24 (3) "Bonds" means general obligation bonds issued under
25 Amendment 82 and this subchapter;

26 (4) "Chief fiscal officer" means the Chief Fiscal Officer of the
27 State of Arkansas who is also the Director of the Department of Finance and
28 Administration;

29 (5) "Contractual employee" means an employee who:

30 (A) May be included in the payroll calculations of a
31 sponsor qualifying for bond financing under Amendment 82 and this subchapter
32 and is under the direct supervision of the sponsor receiving benefits under
33 Amendment 82 and this subchapter but is an employee of a business other than
34 the one receiving benefits under Amendment 82 and this subchapter;

35 (B) Otherwise meets the requirements of a new full-time
36 permanent employee of the sponsor receiving benefits under Amendment 82 and

1 this subchapter;

2 (C) Receives an average hourly wage that exceeds the
3 lesser of:

4 (i) The county average hourly wage for the county in
5 which the position or job is located; or

6 (ii) The state average hourly wage; and

7 (D) Receives a benefits package, including without
8 limitation, health and retirement benefits, comparable to direct employees of
9 the sponsor receiving benefits under Amendment 82 and this subchapter;

10 (6) "County average hourly wage" means the weighted average
11 weekly earnings for Arkansas residents in all industries countywide as
12 calculated by the Arkansas Employment Security Department in its most recent
13 "Annual Covered Employment and Earnings" publication divided by forty (40);

14 (7) "Debt service" means principal, interest, redemption
15 premiums, if any, and servicing fees relative to the bonds, including,
16 without limitation, trustees' fees, paying agents' fees, dissemination
17 agents' fees, administrative fees, issuer's fees, guarantee fees, counsel
18 fees, and fees related to arbitrage compliance or rebate calculations;

19 (8)(A) "Existing employee" means an employee hired by a sponsor
20 before the date the Amendment 82 agreement was executed.

21 (B) An existing employee may be considered a new full-time
22 permanent employee for purposes of Amendment 82 and this subchapter only if:

23 (i) The position or job filled by the existing
24 employee was created in accordance with the Amendment 82 agreement; and

25 (ii)(a) The position vacated by the existing
26 employee was filled by a subsequent employee who was not an existing
27 employee; or

28 (b) No subsequent employee will be hired
29 because the sponsor no longer conducts the particular business activity
30 requiring that employee;

31 (9) "Federal Deposit Insurance Corporation" means the federal
32 agency by that name or any successor agency that insures deposits of
33 commercial banks;

34 (10) "Gross general revenues" means the revenues described and
35 enumerated in § 19-6-201 et seq. or in any successor law;

36 (11) "Infrastructure needs" means:

- 1 (A) Land acquisition;
2 (B) Site preparation;
3 (C) Road and highway improvements;
4 (D) Rail spur construction;
5 (E) Water service;
6 (F) Wastewater treatment;
7 (G) Employee training, which may include equipment used
8 for the training;
9 (H) Environmental mitigation;
10 (I) Training and research facilities and the necessary
11 equipment for the facilities; or
12 (J) Any other facility, activity, or infrastructure
13 determined by the General Assembly to fall within the parameters of Amendment
14 82;

15 (12)(A) "Investment" means money expended by the sponsor on
16 capital assets physically located within the state and directly related to
17 the qualified Amendment 82 project, but which are not required to be owned by
18 the sponsor.

19 (B) Investment shall not include amounts expended in aid
20 of the qualified Amendment 82 project by the state under Amendment 82 and
21 this subchapter, or otherwise, or amounts expended in aid of the qualified
22 Amendment 82 project by a local entity, however financed, which are not
23 required to be repaid by the sponsor;

24 (13) "Letter of commitment" means a binding agreement signed by
25 a sponsor and the Department of Economic Development, which contains, at
26 minimum, the following provisions:

27 (A) A determination by the Department of Economic
28 Development that the sponsor has the financial capability, business history,
29 and corporate intent to implement and maintain a qualified Amendment 82
30 project;

31 (B) A commitment by the sponsor that the sponsor intends
32 to locate a new business or substantially expand an existing business in the
33 State of Arkansas that will require an investment by the sponsor of more than
34 five hundred million dollars (\$500,000,000) and will create over five hundred
35 (500) new jobs;

36 (C) A tentative timetable for development of the proposed

1 project;

2 (D) The consequences if the sponsor does not satisfy its
3 obligations under the letter of commitment; and

4 (E) A statement from the Department of Economic
5 Development that its obligation under the letter of commitment is limited to
6 presenting the letter of commitment and supporting documentation to the
7 Governor, who may or may not elect to present the proposal to the General
8 Assembly for its consideration;

9 (14) "Local entity" means any nonprofit corporation, county,
10 city of the first class, city of the second class, incorporated town,
11 improvement district, school district, or any agency or instrumentality of
12 the state, including the Arkansas Development Finance Authority and the
13 Department of Economic Development;

14 (15) "Nationally recognized rating agency" means Moody's
15 Investors Service, Standard & Poor's Ratings Service, Fitch, Inc., or any
16 other nationally recognized rating agency approved by the Treasurer of State;

17 (16) "Net general revenues" means the amount specified in § 19-
18 5-202(b)(2)(B)(iii), otherwise known as net general revenues of the state
19 available for distribution;

20 (17) "New full-time permanent employee" means a position or job
21 that is created under an Amendment 82 agreement and that is filled by one (1)
22 employee or contractual employee who is an Arkansas taxpayer. In order to
23 count toward the job creation requirements of Amendment 82 and this
24 subchapter:

25 (A) The position or job held by the employee must be
26 filled for at least twenty-six (26) consecutive weeks with an average of at
27 least thirty (30) hours' work per week;

28 (B) The employee must receive an average hourly wage that
29 exceeds the lesser of:

30 (i) The county average hourly wage for the county in
31 which the position or job is located; or

32 (ii) The state average hourly wage;

33 (C) The employee must receive a benefits package,
34 including, without limitation, health and retirement benefits; and

35 (D) The employee is not an existing employee;

36 (18)(A) "New job" means a position for a new full-time permanent

1 employee created at a qualified Amendment 82 project in the state.

2 (B) "New job" shall not include a job filled by an
3 existing employee;

4 (19) "Other needs" means financial or other noninfrastructure
5 incentives that are approved by the General Assembly as part of a qualified
6 Amendment 82 project and may include, without limitation, transactions that
7 include loans, grants, or lease arrangements;

8 (20) "Outstanding bonded indebtedness" means the principal
9 balance of all bonds issued under Amendment 82 and this subchapter;

10 (21) "Project costs" means:

11 (A) All or any part of the costs of developing a proposed
12 or qualified Amendment 82 project and costs incidental or appropriate to the
13 proposed or qualified Amendment 82 project, including, without limitation,
14 all costs to the Department of Economic Development associated with the
15 development or operation of a qualified Amendment 82 project in a supervisory
16 capacity; and

17 (B) Costs incidental or appropriate to the financing of
18 the proposed or qualified Amendment 82 project, including, without
19 limitation, capitalized interest, costs of issuance, funding of appropriate
20 reserves for the bonds, loan fees, guarantee fees, commitment fees, grant
21 administration fees, surety bond premiums, bond insurance, credit
22 enhancement, fees of nationally recognized rating agencies, liquidity
23 facilities fees, and costs for engineering, legal, and other administrative
24 and consultant services;

25 (22) "Proposed project" means a project which if developed as
26 proposed would meet the criteria for a qualified Amendment 82 project and is
27 therefor properly considered under Amendment 82 and this subchapter;

28 (23) "Qualified Amendment 82 project" means a proposed project
29 that has satisfied the requirements of Amendment 82 and this subchapter and
30 with respect to which the General Assembly has approved the issuance of bonds
31 under Amendment 82 and this subchapter;

32 (24) "Related entity" means any entity or person that bears a
33 relationship to the sponsor as described in Section 267 of the Internal
34 Revenue Code of 1986, as in existence on January 1, 2005;

35 (25) "Sponsor" means a sole proprietor, partnership,
36 corporation, limited liability company, joint venture, or association taxable

1 as a business entity or any combination of these entities that qualifies as
2 an eligible business under the Consolidated Incentive Act of 2003, § 15-4-
3 2701 et seq.; and

4 (26) "State average hourly wage" means the weighted average
5 weekly earnings for Arkansas residents in all industries statewide as
6 calculated by the Arkansas Employment Security Department in its most recent
7 "Annual Covered Employment and Earnings" publication divided by forty (40).

8
9 15-4-3103. Amendment 82 project qualification.

10 (a)(1) The General Assembly in exercising its responsibilities under
11 Section 1 of Amendment 82 to the Arkansas Constitution delegates, authorizes,
12 and directs the Arkansas Department of Economic Development, the Arkansas
13 Development Finance Authority, and the chief fiscal officer to undertake a
14 review of all proposed projects following the procedures described in this
15 section.

16 (2) If the Governor refers a proposed project to the General
17 Assembly under subsection (h) of this section, the department and the
18 authority shall prepare and provide to each member of the General Assembly
19 the reports described in subsection (i) of this section after which the
20 General Assembly shall make the final and definitive decisions concerning the
21 proposed project as set forth in subsection (j) of this section.

22 (b)(1) As the lead economic development agency for the State of
23 Arkansas, the Department of Economic Development may propose the use of
24 Amendment 82 bonds to finance infrastructure and other needs in any
25 combination in order to attract proposed projects to the State of Arkansas.

26 (2) In addition to powers conferred under other laws, the
27 department may take any reasonable action necessary to carry out the purposes
28 of Amendment 82 and this subchapter.

29 (3) The proposed use of Amendment 82 financing by the department
30 shall not prohibit the department, the state, or any local entity from using
31 any other available economic incentives in connection with a proposed
32 project.

33 (c) The department shall initiate the process of selecting a proposed
34 project for referral to the General Assembly by performing an economic-impact
35 and cost-benefit analysis to evaluate the capability of a sponsor and the
36 feasibility of a proposed project and to determine if the proposed project

1 has the potential to be a qualified Amendment 82 project. The economic-
2 impact and cost-benefit analysis shall include all other economic incentives
3 offered by the state in connection with the proposed project.

4 (d) If the department determines that a proposed project has the
5 potential to become a qualified Amendment 82 project, the department shall
6 refer the proposal and the department's findings to the Arkansas Development
7 Finance Authority so that the authority may perform an initial assessment of
8 the feasibility and impact of issuing Amendment 82 bonds in connection with
9 the proposed project, including the state's ability to cover projected debt
10 service obligations and the impact on the overall rating of the state's
11 general obligation bonded indebtedness, including, without limitation, bonds
12 issued under Amendment 82 and this subchapter.

13 (e) If the authority's initial assessment is that Amendment 82 bond
14 financing for the proposed project is feasible, the authority shall notify
15 the department, and the department shall refer the proposal and the findings
16 of the department and the authority to the chief fiscal officer for review of
17 the impact of the proposed Amendment 82 bond financing on any agency or
18 program supported from the gross general revenues under the Revenue
19 Stabilization Law, § 19-5-101 et seq.

20 (f) If the chief fiscal officer's initial assessment is that the
21 proposed Amendment 82 financing will not have a substantially negative impact
22 on any agency or program supported from gross general revenues, the chief
23 fiscal officer shall notify the department, and the department shall make a
24 formal proposal to the sponsor detailing the state's proposed offer with
25 respect to Amendment 82 financing and all other economic incentives offered
26 by the state in connection with the proposed project.

27 (g)(1) If the sponsor of a proposed project determines to accept
28 Amendment 82 financing, the sponsor and the department, on behalf of the
29 state, shall sign a letter of commitment.

30 (2) The department shall forward the letter of commitment and
31 the findings and recommendations of the department, authority, and chief
32 fiscal officer to the Governor for review.

33 (3) The department shall also forward the letter of commitment,
34 findings and recommendations of the department, authority, and chief fiscal
35 officer, and all supporting documentation to the Office of Economic and Tax
36 Policy on behalf of the President Pro Tempore of the Senate and the Speaker

1 of the House of Representatives. At the direction of the President Pro
2 Tempore of the Senate or the Speaker of the House of Representatives, the
3 office shall arrange for an independent confirmation of the economic impact
4 and cost-benefit analysis performed by the department or an independent
5 economic impact and cost-benefit analysis of the proposed project to be
6 completed within twenty (20) working days after the receipt of the letter of
7 commitment. All information forwarded to the President Pro Tempore of the
8 Senate and the Speaker of the House of Representatives by the department and
9 any resulting information related to the confirmation of the department's
10 economic impact and cost-benefit analysis or independent economic impact and
11 cost-benefit analysis shall be considered working papers of the President Pro
12 Tempore of the Senate and the Speaker of the House under § 25-19-105(b)(7)
13 and shall not be open to inspection and copying by any citizen of the State
14 of Arkansas and is specifically exempt from the requirements of § 25-19-
15 105(a).

16 (h) If the Governor determines that it is in the best interest of the
17 state to pursue Amendment 82 financing for the proposed project, the Governor
18 shall refer the proposed project to the General Assembly in regular or
19 special session in order for the General Assembly to consider whether or not
20 to approve the issuance of bonds under Amendment 82 and this subchapter.

21 (i)(1) In order to expedite review by the General Assembly, the
22 department and the authority shall prepare and provide to each member of the
23 General Assembly the reports described in subdivisions (i)(2) and (i)(3) of
24 this section.

25 (2) The department's report shall include:

26 (A) A description of the proposed project;

27 (B)(i) An itemization of the proposed infrastructure needs
28 and other needs to be financed with the proceeds derived from the sale of
29 Amendment 82 bonds.

30 (ii) The itemization shall include estimated costs
31 and details to the maximum extent available at the time of the report;

32 (C) A description of all other economic incentives to be
33 provided by the state in connection with the proposed project;

34 (D) A description of the economic impact and cost-benefit
35 analyses of the proposed project for a period of at least ten (10) years that
36 includes:

1 (i) The annual projected benefit to the state from
2 increased sales and use tax and income tax revenue;

3 (ii) The annual projected cost to the state for each
4 economic incentive offered to the sponsor in connection with the proposed
5 project; and

6 (iii) The overall net present value benefit/cost
7 ratio for the period of at least ten (10) years.

8 (E) The amount of bonds necessary to be issued to defray
9 project costs and a budget of the project costs;

10 (F) A tentative time schedule setting forth the period of
11 time during which the proceeds of the Amendment 82 bonds are to be expended;

12 (G) A certification by the Director of the Department of
13 Economic Development that, under the terms of the letter of the commitment,
14 the proposed project shall consist of an investment in the state of not less
15 than five hundred million dollars (\$500,000,000) and shall create no fewer
16 than five hundred (500) new jobs;

17 (H) A copy of the signed letter of commitment for the
18 proposed project; and

19 (I) A copy of the unexecuted Amendment 82 agreement for
20 the proposed project.

21 (3) The authority's report shall include:

22 (A) A schedule of projected debt service, including all
23 fees, showing the annual principal and interest requirements for any
24 Amendment 82 bonds outstanding, if applicable, and the projected debt service
25 for the Amendment 82 bonds proposed to be issued for the proposed project;

26 (B) A projected schedule of revenues, if any, to be
27 received by the state from the sponsor in connection with its use of the
28 infrastructure needs and other needs associated with the proposed project;

29 (C) An initial plan of marketing for the bonds and a
30 proposed schedule of issuance dates, including, without limitation, the
31 number of series to be issued and an estimated timeline for the series based
32 on the department's proposed spending schedule; and

33 (D) A preliminary and estimated sources and uses table.

34 (j) If the General Assembly determines that the proposed project is of
35 the nature intended by the electors of the state to be financed with
36 Amendment 82 bonds and approves the Amendment 82 agreement, it shall take

1 appropriate legislative action to:

2 (1) Declare the proposed project a qualified Amendment 82
3 project;

4 (2) Establish any additional parameters deemed necessary by the
5 General Assembly for the general structure of the qualified Amendment 82
6 project, including, without limitation, penalty provisions;

7 (3) Authorize the execution of the Amendment 82 agreement in
8 substantially the same form as presented to the General Assembly; and

9 (4) Authorize the issuance of Amendment 82 bonds.

10
11 15-4-3104. Amendment 82 agreement.

12 As soon as practicable after the General Assembly's approval of the
13 issuance of bonds and before the Arkansas Development Finance Authority
14 issues bonds, the Governor, the Speaker of the House of Representatives, the
15 President Pro Tempore of the Senate, the Director of the Department of
16 Economic Development, the President of the Arkansas Development Finance
17 Authority, and the chief fiscal officer, all on behalf of the state, and the
18 sponsor of the qualified Amendment 82 project shall execute the Amendment 82
19 agreement in substantially the same form as approved by the General Assembly.

20
21 15-4-3105. Penalties.

22 If the sponsor does not satisfy the minimum job creation and investment
23 requirements specified in the Amendment 82 agreement within the time period
24 specified in the Amendment 82 agreement, does not maintain the job creation
25 requirements specified in the Amendment 82 agreement for the period of time
26 specified in the Amendment 82 agreement, or fails to satisfy other terms of
27 the Amendment 82 agreement, the sponsor shall be subject to specific
28 penalties set forth in the Amendment 82 agreement and enacted in related
29 legislation under § 15-4-3103(j).

30
31 15-4-3106. Compliance time period – Audit requirements.

32 (a) The Amendment 82 agreement shall specify a time period in which
33 the sponsor must comply with the investment and job creation thresholds
34 specified in the Amendment 82 agreement. Except as provided in subsection
35 (b) of this section, the time period shall not exceed four (4) years from the
36 date of enactment of related legislation under § 15-4-3103(j). In the event

1 that the sponsor does not comply with the applicable time period, then the
2 penalty provisions set forth in the Amendment 82 agreement and enacted in
3 related legislation under § 15-4-3103(j) shall apply.

4 (b)(1) The sponsor may request a one-year extension of the time period
5 specified in the Amendment 82 agreement by submitting to the Director of the
6 Department of Economic Development a written request with an explanation as
7 to why the extension is necessary. The request shall be submitted at least
8 ninety (90) days prior to the expiration of the time period specified in the
9 Amendment 82 agreement.

10 (2) Upon receipt of a request to extend the applicable time
11 period, the Director of the Department of Economic Development shall
12 immediately notify the President of the Arkansas Development Finance
13 Authority, the chief fiscal officer, and the Governor. The director of the
14 department, the president of the authority, and the chief fiscal officer may
15 approve a request for a one-year extension upon a determination that there is
16 a valid economic reason for granting the extension.

17 (3) The sponsor shall not be granted more than three (3) one-
18 year extensions of the applicable time period.

19 (c)(1) The sponsor shall maintain and make available records
20 pertaining to investment and job creation requirements for annual audit by
21 the chief fiscal officer and, upon request by no more often than annually, by
22 the Office of Economic and Tax Policy or a person or entity retained by the
23 Office of Economic and Tax Policy.

24 (2) The Arkansas Tax Procedure Act, § 26-18-101 et seq. shall
25 apply to records maintained under subsection (c) of this section and any
26 audits conducted of the records, including any audit conducted through the
27 Office of Economic and Tax Policy.

28 (3) Records obtained or reviewed by the Office of Economic and
29 Tax Policy under this section shall be considered working papers of the
30 President Pro Tempore of the Senate and the Speaker of the House under § 25-
31 19-105(b)(7) and shall not be open to inspection and copying by any citizen
32 of the State of Arkansas and is specifically exempt from the requirements of
33 § 25-19-105(a). However, a report of the audit shall be presented to the
34 Legislative Council with respect to the status of the applicable qualified
35 Amendment 82 project which details the sponsor's compliance with the
36 provisions of the Amendment 82 agreement.

1
2 15-4-3107. Maximum ceiling on bond principal.

3 (a) In determining the maximum amount of Amendment 82 bonds that may
4 be issued, the sum of the outstanding bonded indebtedness plus the principal
5 amount of the proposed Amendment 82 bonds shall not exceed five percent (5%)
6 of the net general revenues for the most recent fiscal year for which revenue
7 calculations are available.

8 (b) It shall not be a violation of Amendment 82 or this subchapter or
9 affect the validity of Amendment 82 bonds that were properly issued if net
10 general revenues decline after Amendment 82 bonds are issued and the
11 outstanding bonded indebtedness exceeds five percent (5%) of the net general
12 revenues for the most recent fiscal year for which revenue calculations are
13 available.

14 (c) Amendment 82 bonds that when issued complied with the five percent
15 (5%) limitation may be refunded under Amendment 82 and this subchapter even
16 if the outstanding bonded indebtedness before or after the refunding exceeds
17 five percent (5%) of the net general revenues for the most recent fiscal year
18 for which revenue calculations are available.

19
20 15-4-3108. Amendment 82 bonds.

21 (a) After the General Assembly's approval in regular or special
22 session and the execution of the Amendment 82 agreement, the Arkansas
23 Development Finance Authority, on behalf of the state, may issue bonds under
24 Amendment 82 and this subchapter to be known as "Amendment 82 Bonds" in one
25 (1) or more series up to the maximum principal amount approved by the General
26 Assembly.

27 (b)(1) Bonds shall be issued for the purpose of financing
28 infrastructure needs and other needs to support a qualified Amendment 82
29 project.

30 (2) The proceeds of the Amendment 82 bonds shall be applied:

31 (A) To the payment of project costs and the costs and
32 expenses of issuance of the Amendment 82 bonds; or

33 (B) In connection with a qualified Amendment 82 project
34 refinancing, to the repayment of indebtedness incurred to pay project costs
35 and the costs and expenses of issuance of the Amendment 82 bonds.

36

1 15-4-3109. Series of bonds.

2 (a) The bonds shall be issued, whether or not the interest on the
3 bonds is subject to federal taxation, in series in amounts sufficient to
4 finance or refinance all or any part of a qualified Amendment 82 project's
5 costs with the respective series to be designated by the year in which issued
6 and, if more than one (1) series is to be issued in a particular year, by
7 alphabetical designation.

8 (b) Each series of bonds shall have such date as the Arkansas
9 Development Finance Authority shall determine and shall mature or be subject
10 to mandatory sinking-fund redemption as determined by the authority over a
11 period ending not later than thirty (30) years after the date of issuing the
12 bonds of each series.

13 (c) Pending the issuance of bonds, the authority may issue temporary
14 notes maturing not more than five (5) years after the date of issuance to be
15 exchanged for or paid from the proceeds of bonds at such time as the bonds
16 may be issued.

17 (d)(1) Each series of the bonds shall bear interest at the rate or
18 rates accepted by the authority. The bonds may bear interest at either a
19 fixed or variable rate or may be convertible from one interest rate mode to
20 another.

21 (2) Interest shall be payable at such times as the authority
22 shall determine, including the use of zero coupon or capital appreciation
23 bonds.

24 (e) As determined by the authority, the bonds may:

25 (1) Be issued in the form of a bond registered as to principal
26 and interest without coupons;

27 (2) Be in the denominations;

28 (3) Be made exchangeable for bonds of another form or
29 denomination bearing the same rate of interest and date of maturity;

30 (4) Be made payable at the places within or without the state;

31 (5) Be made subject to redemption prior to maturity in the
32 manner and for redemption prices; and

33 (6) Contain other terms and conditions.

34 (f) The bonds shall have all of the qualities of negotiable
35 instruments or securities under the laws of this state, subject to the
36 provision for registration of ownership.

1
2 15-4-3110. Authorization of bonds.

3 (a)(1) Prior to the issuance of any series of bonds, the Arkansas
4 Development Finance Authority shall adopt a resolution authorizing the
5 issuance of the bonds.

6 (2) Each resolution may contain terms, covenants, and conditions
7 as deemed desirable, including, without limitation, those pertaining to:

8 (A) The establishment and maintenance of funds and
9 accounts;

10 (B) The deposit and investment of revenues and of bond
11 proceeds; and

12 (C) The rights and obligations of the state, its officers
13 and officials, the authority, and the registered owners of the bonds.

14 (3)(A) The resolution of the authority may provide for the
15 execution and delivery by the authority of a trust indenture or indentures,
16 which may be a master trust indenture, series indenture, supplemental
17 indenture, or any other form of indenture deemed necessary by the authority,
18 with one (1) or more banks or trust companies located within or without the
19 state, containing any of the terms, covenants, and conditions referred to in
20 this subchapter or as otherwise authorized by law.

21 (B) The trust indenture or indentures shall be binding
22 upon the state and its agencies, officers, and officials to the extent set
23 forth in this subchapter or as otherwise authorized by law.

24 (b) Any resolution or trust indenture adopted or executed under this
25 section shall provide that power is reserved:

26 (1) To apply to the payment of debt service on the bonds issued
27 or secured under Amendment 82 and this subchapter all, any part, or none of
28 the revenues that may be derived from any qualified Amendment 82 project
29 financed by the bonds or financed by the authority in some other manner; and

30 (2) At the option of the authority and to the extent of the
31 revenues that the authority elects to apply to debt service, to release from
32 any requirement of the resolution or trust indenture other revenues and
33 resources of the state.

34 (c) Any resolution or trust indenture adopted or executed under this
35 section may provide for the retirement and defeasance of the bonds by the
36 depositing of cash or investments in trust to be maintained for the purpose

1 of retirement and defeasance of the bonds. When the provision of the
2 resolution or trust indenture are complied with, the bonds being defeased
3 shall not be deemed to be outstanding bonded indebtedness for the purposes of
4 this subchapter.

5
6 15-4-3111. Form and delivery of bonds.

7 (a) Each bond shall:

8 (1) Be signed with the manual or facsimile signatures of the
9 Governor, the Chair of the Board of Directors of the Arkansas Development
10 Finance Authority, and the Treasurer of State; and

11 (2) Have affixed, imprinted, or lithographed on the bond the
12 Great Seal of the State of Arkansas.

13 (b) Delivery of the bonds shall be valid notwithstanding any change in
14 persons holding such offices occurring after the bonds have been executed.

15
16 15-4-3112. Sale and price of bonds.

17 (a) The bonds may be sold in the manner, either at public or private
18 sale, and upon terms as determined by the Arkansas Development Finance
19 Authority to be reasonable and expedient for effectuating the purposes of
20 Amendment 82 and this subchapter.

21 (b) The bonds may be sold at the price the authority determines
22 acceptable, including sale at a discount or a premium.

23 (c) If the bonds are to be sold at public sale, the authority shall
24 give notice of the offering of the bonds in a manner reasonably designed to
25 notify participants in the public finance industry that the offering is being
26 made. The authority shall set the terms and conditions of bidding, including
27 the basis on which the winning bid will be selected.

28 (d) The authority may employ administrative agents, fiscal agents,
29 underwriters, architects, accountants, engineers, and legal counsel and may
30 pay them reasonable compensation from the proceeds of the bonds.

31 (e)(1) The authority may structure the sale of bonds using financing
32 techniques recommended by its underwriters or other professional advisors in
33 order to take advantage of market conditions and obtain the most favorable
34 interest rates consistent with the purposes of Amendment 82 and this
35 subchapter.

36 (2)(A) In furtherance of this authorization, the authority may

1 enter into ancillary agreements in connection with the sale of the bonds as
2 it deems necessary and advisable.

3 (B) Ancillary agreements may include, without limitation,
4 bond purchase agreements, remarketing agreements, letters of credit, or
5 reimbursement agreements.

6 (3) The authority may also enter into interest rate exchange
7 agreements or similar agreements or contracts with any person on a
8 competitive or negotiated basis under terms or conditions determined by the
9 authority, but in compliance with § 15-5-317.

10 (f) After funding any necessary reserve or reserves, the proceeds from
11 the sale of the bonds may be used to pay:

12 (1) The fees of any trustee or paying agent;

13 (2) The costs of publication of notices;

14 (3) The costs of the printing of the bonds;

15 (4) The costs of publication and printing of official statements
16 and other documents relating to the sale of the bonds;

17 (5) The fees of any nationally recognized rating agency;

18 (6) The fees of the issuer;

19 (7) The fees of the guarantor;

20 (8) Project costs; and

21 (9) Other reasonable costs incurred by the authority for issuing
22 and selling the bonds.

23
24 15-4-3113. Deposit of bond proceeds.

25 (a) The proceeds from the sale of the bonds, together with any
26 revenues derived by the authority from a qualified Amendment 82 project
27 financed or refinanced under Amendment 82 and this subchapter that are
28 required to be so deposited under the resolution or trust indenture
29 authorizing or securing the bonds, shall be deposited by the recipient, as
30 received, into trust funds in the name of the Arkansas Development Finance
31 Authority under the resolution or trust indenture authorizing or securing the
32 bonds to accomplish the purposes of Amendment 82 and this subchapter in
33 amounts or portions as set forth in the resolution or trust indenture
34 authorizing or securing the bonds issued to finance or refinance the
35 qualified Amendment 82 project.

36 (b)(1) The holder of the trust funds shall establish separate accounts

1 and subaccounts within the applicable fund to correspond to the applicable
2 series of bonds.

3 (2) In addition and under the resolution or trust indenture
4 authorizing or securing the bonds, there may be created other funds,
5 accounts, or subaccounts as the authority may determine to be necessary or
6 desirable to accomplish the purposes of Amendment 82 and this subchapter.

7 (c) All procedures and methods for application of proceeds of any
8 series of bonds to the financing or refinancing of project costs shall be
9 developed in consultation with the Department of Economic Development and the
10 chief fiscal officer, shall be set forth in the resolution or trust indenture
11 authorizing or securing the bonds, and maintained as part of the records of
12 the authority.

13 (d) The holder and administrator of funds, comprised in whole or in
14 part of proceeds of bonds or disbursements from funds established under this
15 subchapter, shall be required by appropriate provision of the resolution or
16 trust indenture authorizing or securing the bonds issued to audit funds no
17 less frequently than annually and to assist the authority in preparing any
18 report related to the bonds that may be required by this subchapter or other
19 applicable federal or state law.

20 (e) The proceeds from the sale of the bonds together with any revenues
21 derived by the authority from any qualified Amendment 82 project financed or
22 refinanced under Amendment 82 and this subchapter that are required to be so
23 deposited under the resolution or trust indenture authorizing or securing the
24 bonds and any money held in any funds created under or authorized by
25 Amendment 82 or this subchapter may be invested and reinvested in accordance
26 with the resolution or trust indenture authorizing or securing the bonds
27 issued and shall be invested by the authority to the fullest extent
28 practicable pending disbursement for the purposes intended in any of the
29 following:

30 (1) Direct obligations of the United States, including
31 obligations issued or held in book entry form on the books of the United
32 States Department of the Treasury or obligations the principal of and
33 interest on which are unconditionally guaranteed by the United States;

34 (2) Bonds, debentures, notes, or other evidences of indebtedness
35 issued or guaranteed by any United States government agency if the
36 obligations are backed by the full faith and credit of the United States;

1 (3) Nonfull faith and credit senior debt obligations issued or
2 guaranteed by United States government agencies;

3 (4) Money market funds investing exclusively in the investments
4 described in subdivisions (e)(1)-(3) of this section;

5 (5)(A) Certificates of deposit providing for deposits secured at
6 all times by collateral described in subdivisions (e)(1)-(3) of this section.

7 (B) The certificates must be issued by commercial banks
8 deposits of which are insured by the Federal Deposit Insurance Corporation
9 and collateral of which must be held by a third party.

10 (C) The holder of the trust funds must have a perfected
11 first security interest in the collateral;

12 (6) Certificates of deposit, savings accounts, deposit accounts,
13 or money market deposits, all of which are fully insured by the Federal
14 Deposit Insurance Corporation;

15 (7) Bonds or notes issued by this state, any municipality,
16 county, or school district in this state or by any agency or instrumentality
17 thereof;

18 (8) Investment agreements with financial institutions or
19 insurance companies that are rated in one (1) of the two (2) highest rating
20 categories of a nationally recognized rating agency;

21 (9) Repurchase agreements providing for the transfer of
22 securities from a dealer bank or securities firm to the holder of the trust
23 funds and the transfer of cash from the holder of the trust funds to the
24 dealer bank or securities firm with an agreement that the dealer bank or
25 securities firm will repay the cash plus a yield to the holder of the trust
26 funds in exchange for the securities at a specified date. Repurchase
27 agreements must satisfy the following criteria:

28 (A) Repurchase agreements must be between the holder of
29 the trust funds and a dealer bank or securities firm described as follows:

30 (i) Dealers with at least one hundred million
31 dollars (\$100,000,000) in capital; or

32 (ii) Banks whose deposits are insured by the Federal
33 Deposit Insurance Corporation; and

34 (B) The written repurchase agreement contract must include
35 the following:

36 (i) Securities that are acceptable for transfer are

1 those listed in subdivisions (e)(1)-(3) of this section;

2 (ii) The term of the repurchase agreement may not
3 exceed thirty (30) calendar days;

4 (iii) The collateral must be delivered to the holder
5 of the trust funds, a trustee if a trustee is not supplying the collateral,
6 or a third party acting as agent for the trustee if the trustee is supplying
7 the collateral before or simultaneously with payment; and

8 (iv)(a) The securities must be valued weekly,
9 marked-to-market at current market price plus accrued interest.

10 (b)(1) The value of collateral must be equal
11 to one hundred three percent (103%) of the amount of cash transferred by the
12 holder of the trust funds to the dealer bank or security firm under the
13 repurchase agreement plus accrued interest.

14 (2) If the value of securities held as
15 collateral declines below one hundred three percent (103%) of the value of
16 the cash transferred by the holder of the trust funds, then additional cash
17 or acceptable securities, or both, must be transferred and held by the holder
18 of the trust funds; and

19 (10) Any other investment authorized by state law.

20
21 15-4-3114. General obligation bonds.

22 (a) The bonds shall be direct general obligations of the state for the
23 payment of debt service on which the full faith and credit of the state are
24 irrevocably pledged so long as any of the bonds are outstanding.

25 (b) The bonds shall be payable from gross general revenues or special
26 revenues, which shall be appropriated by the General Assembly for such
27 purpose, and such amount of gross general revenues or, if applicable, special
28 revenues as may be necessary are pledged to the payment of debt service on
29 the bonds and shall be and remain pledged for those purposes. In addition,
30 each authorizing resolution or trust indenture may pledge all, a portion, or
31 none of the revenues generated by any qualified Amendment 82 project as
32 additional security for the bonds.

33
34 15-4-3115. Annual determination of moneys required for bond repayment.

35 (a)(1) On or before commencement of each fiscal year, the chief fiscal
36 officer shall determine the estimated amount required for payment of all or a

1 part of the debt service on the outstanding bonded indebtedness during the
2 fiscal year and deduct therefrom the estimated moneys to be available from
3 special revenues or to the Arkansas Development Finance Authority from other
4 sources related to the qualified Amendment 82 project to determine what
5 amount of gross general revenues, if any, will be required.

6 (2) The chief fiscal officer shall certify the estimated amount
7 to the Treasurer of State.

8 (3) The Treasurer of State shall then make monthly transfers
9 from the State Apportionment Fund to the appropriate trust fund of the amount
10 of gross general revenues or, if applicable, special revenues as shall be
11 required to pay the maturing debt service on the outstanding bonded
12 indebtedness.

13 (b)(1) The obligation to make monthly transfers of general revenues
14 from the State Apportionment Fund to the appropriate trust fund shall
15 constitute a first charge against the gross general revenues prior to all
16 other uses to which the general revenues are devoted, either under present
17 law or under any laws that may be enacted in the future.

18 (2) To the extent other general obligation bonds of the state
19 may have been issued or may subsequently be issued, they shall rank on a
20 parity of security with respect to payment from general revenues.

21 (c) The resolution or trust indenture authorizing or securing the
22 bonds issued shall identify the fund to which moneys shall be credited and
23 used for the purposes identified in § 15-4-3108(b), and for those purposes
24 the holder of the trust funds is designated as the disbursing officer to
25 administer those funds in accordance with Amendment 82 and this subchapter.

26 (d) Moneys held in trust funds in excess of the amount necessary to
27 ensure the prompt payment of debt service on the bonds and the establishment
28 and maintenance of reserve funds, if any, may be used for the redemption of
29 bonds prior to maturity in the manner and in accordance with the provisions
30 pertaining to redemption prior to maturity as set forth in the resolution or
31 trust indenture authorizing or securing the bonds.

32
33 15-4-3116. Exemption from taxes.

34 (a) All bonds issued under Amendment 82 and this subchapter and
35 interest on the bonds are exempt from all state and local taxes.

36 (b) The bonds shall be eligible to secure deposits of all public funds

1 and shall be legal for investment of bank, fiduciary, insurance company,
2 trust, and public funds.

3
4 15-4-3117. Refunding bonds.

5 (a) After bonds have been issued under Amendment 82 and this
6 subchapter, the Arkansas Development Finance Authority may issue bonds for
7 the purpose of refunding any outstanding bonds issued under Amendment 82 and
8 this subchapter.

9 (b) The refunding bonds shall be general obligations of the state and
10 shall be secured and sold in accordance with the provisions of this
11 subchapter.

12 (c) The proceeds of the refunding bonds may be either applied to the
13 payment of the bonds being refunded or deposited in trust and there
14 maintained in cash or investments for the retirement of the bonds being
15 refunded as shall be specified by the authority in the resolution or trust
16 indenture authorizing or securing the refunding bonds.

17 (d) The resolution or trust indenture under which the refunding bonds
18 are issued may provide that any refunding bonds shall have the same security
19 for payment as provided for the bonds being refunded. Other than approval of
20 the resolution or trust indenture under which refunding bonds are issued by
21 appropriate action of the authority, no additional action or approval for the
22 issuance of refunding bonds shall be required to be taken by the General
23 Assembly, the Department of Economic Development, or the chief fiscal officer
24 under this subchapter or as otherwise may be provided by other law.

25
26 15-4-3118. Contractual obligations of state – Enforcement.

27 (a) This subchapter shall constitute a contract between the state and
28 the registered owners of all bonds issued under Amendment 82 and this
29 subchapter that shall never be impaired, and any violation of its terms,
30 whether under purported legislative authority or otherwise, shall be enjoined
31 by the courts at the suit of any bondholder or any taxpayer.

32 (b)(1) In any suit for impairment or violation of contract with regard
33 to bonds issued under Amendment 82 and this subchapter brought against the
34 Arkansas Development Finance Authority, the Treasurer of State, or other
35 appropriate agency, officer, or official of the state, the courts shall
36 prevent a diversion of any revenues pledged and shall compel the restoration

1 of diverted revenues by injunction or mandamus.

2 (2) Without limitation as to any other appropriate remedy at law
3 or in equity, any bondholder, by an appropriate action, including, without
4 limitation, injunction or mandamus, may compel the performance under this
5 subchapter of all covenants and obligations of the state and its officers and
6 officials.

7
8 15-4-3119. No rights until first series of bonds sold and delivered -
9 Outstanding bonds unaffected.

10 (a) This subchapter shall not create any right of any character, and
11 no right of any character shall arise under it unless and until the first
12 series of bonds authorized by this subchapter are sold and delivered.

13 (b) The issuance of bonds authorized by this subchapter shall not
14 impair or affect any outstanding bonds of the Arkansas Development Finance
15 Authority issued under prior acts.

16
17 15-4-3120. Legal actions heard as preferred cause - Appeals.
18 Any case involving the validity of this subchapter or involving the
19 bonds issued under Amendment 82 and this subchapter shall be deemed of public
20 interest and shall be advanced by all courts and heard as a preferred cause,
21 and all appeals from judgments or decrees rendered in the cases must be taken
22 within thirty (30) calendar days after rendition of the judgment or decree.

23
24 15-4-3121. Monitoring and reporting.

25 (a) The Department of Economic Development shall require audits of all
26 accounts related to construction, operation, or maintenance of any qualified
27 Amendment 82 project funded by this subchapter.

28 (b) The department shall be responsible for monitoring and reporting
29 to the Arkansas Development Finance Authority, the Governor, and the General
30 Assembly on the ongoing economic impact of the project and the sponsor's
31 progress in meeting economic development investment requirements under
32 Amendment 82 and this subchapter.

33 (c) The department and the authority, as applicable, shall require the
34 sponsor to comply with all reporting and auditing requirements of the
35 Securities and Exchange Commission or other state or federal regulatory
36 agency that may have jurisdiction over the sponsor.

1
2 15-4-3122. Release of information.

3 (a)(1) Except as otherwise required to be disclosed under this
4 subchapter, all information that is of the type identified in § 25-19-
5 105(b)(9)(A) and that is related to a proposed project or a qualified
6 Amendment 82 project that is provided to, compiled by or for, or developed by
7 or for the Department of Economic Development, the Arkansas Development
8 Finance Authority, the chief fiscal officer, a local entity, the Governor, or
9 the Office of Economic and Tax Policy in furtherance of their powers, duties,
10 and obligations under this subchapter is awarded the privileges and entitled
11 to the exclusions set forth in subsection (b) of this section."

12 (2) Subsection (a)(1) of this section shall not apply to
13 information is that is:

14 (A) Generated, compiled, or developed by a local entity
15 that is not an agency or instrumentality of the state;

16 (B) Noncompetitive and nonproprietary; and

17 (C) Not provided to the department under its powers,
18 duties, and obligations set forth in this subchapter.

19 (b) The information described in subsection (a)(1) of this section is
20 not open to inspection and copying by any citizen of the State of Arkansas
21 and is specifically exempt from the requirements of § 25-19-105(a) regardless
22 of whether such information is in the custody of the department, the
23 authority, the chief fiscal officer, a local entity, or the Governor.

24
25 15-4-3123. Power and duties of the Department of Economic Development
26 and the Arkansas Development Finance Authority.

27 (a) In connection with their duties and powers under this subchapter,
28 the Department of Economic Development and the Arkansas Development Finance
29 Authority, acting independently or jointly, shall have the following powers
30 and duties in addition to and not in replacement or limitation of powers
31 conferred under other laws, to:

32 (1) Provide loans to a sponsor for payment of project costs;

33 (2) Develop or cause to be developed with proceeds of the
34 Amendment 82 bonds, leases as lessee or lessor, in any manner acquire, own,
35 hold, maintain, operate, sell, dispose of, exchange, mortgage, or lend, on
36 behalf of the state, with respect to all of any part of any qualified

1 Amendment 82 project;

2 (3) In any manner, acquire, own, hold, use, exercise, sell,
3 mortgage, pledge, hypothecate, or dispose of franchises, rights, privileges,
4 licenses, rights-of-way, and easements that are necessary, useful, or
5 appropriate for the exercise of the powers or implementation of the purposes
6 set forth in Amendment 82 and this subchapter;

7 (4) Sell, convey, mortgage, pledge, lease as lessor, or
8 otherwise dispose of all or any part of any qualified Amendment 82 project or
9 other properties that it owns or leases, tangible or intangible, including,
10 without limitation, franchises, rights, privileges, licenses, rights-of-way,
11 and easements;

12 (5) Have and exercise the right of eminent domain for the
13 purpose of acquiring lands, the fee title thereto or any easement, right-of-
14 way, or other interest or estate therein, for a qualified Amendment 82
15 project, the infrastructure needs or other needs therefore or portions
16 thereof, by the procedure now provided for condemnation by railroads in §§
17 18-15-1201 – 18-15-1207;

18 (6) Make or accept gifts or grants of moneys, services,
19 franchises, rights, privileges, licenses, rights-of-way, easements, or other
20 property, real or personal or mixed;

21 (7) Enter into any contract necessary or convenient for the
22 exercise of the powers or implementation of the purposes set forth in
23 Amendment 82 and this subchapter;

24 (8) Fix, regulate, and collect rates, fees, rents, or other
25 charges for the use of any properties or services furnished or delivered by
26 the department and the authority;

27 (9) Require audits or other periodic reports of any or all
28 accounts related to construction, operation, or maintenance of any
29 infrastructure or other needs funded by Amendment 82 and this subchapter;

30 (10) Take reasonable actions to ensure that debt service
31 requirements are met; and

32 (11) Take such other action as may be appropriate to accomplish
33 the purpose of Amendment 82 and this subchapter.

34 (b) The department and the authority may promulgate rules with respect
35 to their powers and duties under Amendment 82 and this subchapter.

36 (c) No member, officer, director, or employee of department or the

1 authority shall be liable personally for any reason arising from the issuance
2 of bonds under Amendment 82 and this subchapter unless such person acted with
3 corrupt intent.

4
5 15-4-3124. Public reporting requirements.

6 (a) The reports delivered to the General Assembly under § 15-4-
7 3103(i)(2) and (i)(3) shall be available to the general public under the same
8 policies and procedures that generally apply with respect to reports to the
9 General Assembly.

10 (b)(1) During the term of an Amendment 82 agreement, the Department of
11 Economic Development shall provide a report to the Legislative Council, no
12 less frequently than annually, with respect to the status of the applicable
13 qualified Amendment 82 project which details the sponsor's compliance with
14 the provisions of the Amendment 82 agreement.

15 (2) The department's report shall address, at a minimum:

16 (A) A description of the infrastructure needs and other
17 needs provided by the state under Amendment 82 and this subchapter and costs
18 associated with each item;

19 (B) A description of how the sponsor has satisfied the
20 investment and job creation requirements of the Amendment 82 agreement,
21 including performance benchmarks and economic goals as specifically defined
22 in the Amendment 82 agreement;

23 (C) The number of jobs created by each qualified Amendment
24 82 project and average hourly wages for each project;

25 (E) A description of the benefits package, including,
26 without limitation, health and retirement benefits received by hourly
27 employees;

28 (F) A comparison of the total number of new jobs and
29 annual payroll by the sponsor pertaining to the qualified Amendment 82
30 project on the date the Amendment 82 agreement was executed and the end date
31 of the calendar year before the filing of this report; and

32 (G) The application of any penalties for failure of the
33 sponsor to satisfy its commitments under an Amendment 82 agreement.

34 (c) At the end of a ten (10) year period following the beginning of
35 operation of the Amendment 82 project, the General Assembly may request a
36 third party cost-benefit analysis to accurately determine the total project

1 costs and the total benefits received by the state from the qualified
2 Amendment 82 project.

3 (d) While Amendment 82 bonds are outstanding, the Arkansas Development
4 Finance Authority shall provide a report to the Legislative Council, no less
5 frequently than annually, with respect to the status of the Amendment 82
6 bonds. The report shall contain the information required by § 19-9-502.

7 (e) During the term of an Amendment 82 agreement, the chief fiscal
8 officer shall provide a report to the Legislative Council, no less frequently
9 than annually, with respect to the dates and costs of all economic incentives
10 received by each qualified Amendment 82 project except as restricted by law.

11
12 SECTION 2. Arkansas Code § 10-3-1403(a) is amended to read as follows:

13 (a) The Office of Economic and Tax Policy shall work under the
14 standards and guidelines of the Joint Committee on Economic and Tax Policy
15 and shall:

16 (1) Review the biennial and annual revenue forecast submitted by
17 the executive branch;

18 (2) Provide legislators with such information as may be
19 requested regarding the data and assumptions supporting the forecast;

20 (3) At the request of the committee, provide alternative
21 forecasts based on different assumptions regarding economic performance;

22 (4) Make periodic reviews of the official revenue forecast
23 performance;

24 (5) Provide members with analyses of policy proposals which
25 might affect the economy or fiscal outlook of the State of Arkansas;

26 (6) Biennially prepare and make available to the members of the
27 General Assembly a comprehensive compilation of taxes levied by the State of
28 Arkansas;

29 (7) Provide committee members or other members of the General
30 Assembly with such data, information, or policy studies as may be requested,
31 subject to time and resource constraints;~~and~~

32 (8) Review any changes made in the distribution of funds for
33 public education; and

34 (9) Perform or arrange for the performance of audits of the
35 economic impact and cost-benefit with regard to any economic development
36 project for which the sponsor receives the benefit of Amendment 82 bond

1 financing.

2
3 SECTION 3. Arkansas Code § 10-3-1405 is amended to read as follows:
4 10-3-1405. Interdepartmental cooperation and assistance.

5 (a) The Department of Finance and Administration shall cooperate with
6 and assist the Office of Economic and Tax Policy in carrying out its
7 responsibilities by providing:

8 (1) The office with such nonconfidential tax information as may
9 be requested by the office; and

10 (2) Such other assistance to the office as may be requested.

11 (b) Other state agencies shall cooperate with and assist the office in
12 carrying out its duties including, without limitation, review and analysis of
13 cost-benefit studies, fiscal impact statements, and other fiscal analyses as
14 requested by the office. Such state agencies shall provide assistance to the
15 office as requested.

16 (c) The state-supported institutions of higher education shall:

17 (1) Cooperate with and assist the office in carrying out its
18 duties; and

19 (2) Provide support and advice to the Joint Committee on
20 Economic and Tax Policy in determining the economic policy and revenue
21 forecast of the State of Arkansas.

22 (d)(1) The Department of Education shall cooperate with and assist the
23 office in carrying out its responsibilities by providing:

24 (A) The office with information requested by the office;
25 and

26 (B) Assistance to the office as requested.

27 (2) The Department of Education shall provide the office with
28 any information regarding changes in the calculation of state aid to public
29 school districts within seven (7) working days of a change.

30 (e) The Department of Economic Development and the Arkansas
31 Development Finance Authority shall cooperate with and assist the Office of
32 Economic and Tax Policy in carrying out its responsibilities by providing:

33 (1) The office with information requested by the office; and

34 (2) Assistance to the office as requested.

35
36 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the

1 General Assembly of the State of Arkansas that the State of Arkansas has been
 2 disadvantaged in its ability to effectively compete for large economic
 3 development projects due to its inability to quickly raise revenues through
 4 the issuance of general obligation bonds; that attracting a project would
 5 significantly benefit the economic development of the state by providing
 6 increased payrolls, job opportunities, and tax income; that the citizens of
 7 the State of Arkansas recognized the missed opportunities caused by this
 8 competitive disadvantage through their overwhelming approval of Amendment 82;
 9 and that this act is immediately necessary in order to effectuate the will of
 10 the people and position the State of Arkansas to act expeditiously in
 11 securing a project in the state. Therefore, an emergency is declared to
 12 exist and this act being immediately necessary for the preservation of the
 13 public peace, health, and safety shall become effective on:

- 14 (1) The date of its approval by the Governor;
- 15 (2) If the bill is neither approved nor vetoed by the Governor,
 16 the expiration of the period of time during which the Governor may veto the
 17 bill; or
- 18 (3) If the bill is vetoed by the Governor and the veto is
 19 overridden, the date the last house overrides the veto.

20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

/s/ Bryles

APPROVED: 04/11/2005

1