

**REPORT OF THE
ADMINISTRATIVE RULES AND REGULATIONS SUBCOMMITTEE
OF THE
ARKANSAS LEGISLATIVE COUNCIL**

August 19, 2011

Co-Chairs:

The Subcommittee on Administrative Rules and Regulations met at 10:00 a.m. on Wednesday, July 13, 2011 in Room 171 of the State Capitol. The following committee members attended: Senator Percy Malone, Co-Chair; Representative James Word, Co-Chair; Vice Co-Chair, Senator Randy Laverty, Vice Co-Chair; Representative Jonathan Barnett; Senators Mary Ann Salmon, Robert Thompson, Jimmy Jeffress, Kim Hendren, Jack Crumbly, Johnny Key, and Michael Lamoureux; Representatives Terry Rice, Eddie Cheatham, Toni Bradford, Tommy Lee Baker, Johnnie Roebuck, Randy Stewart Les "Skip" Carnine, Linda Tyler, and Kelley Linck. Other legislators attended as follows: Senators Jim Luker, Bill Sample, Gene Jeffress and Larry Teague; Representatives Gary Deffenbaugh, David Branscum, Jody Dickinson, Lori Benedict, Jon Hubbard, Bubba Powers, J. Nathan Bell, Clark Hall, Andrea Lea, Buddy Lovell, John Catlett, Tommy Thompson, James Ratliff, Thomas O. Wren II, Garry L. Smith, Billy Gaskill, Tracy Pennartz, John Burris, Bryan King, Justin Harris, and Mike Patterson.

- 1. The Subcommittee received the report of the House Interim Committee on Agriculture Forestry and Economic Development and the Senate Interim Committee on Agriculture Forestry and Economic Development to report the committees' review of the following Oil and Gas Commission rules that were referred to it on June 15, 2011.**
 - a. B-19; Requirements for Well Completion Utilizing Fracture Stimulation**
 - b. A-5; Enforcement Procedures**
 - c. B-1; Application to Drill a Production Well Procedures**
 - d. B-32; Vacuum Pumps Prohibited Procedures**
 - e. H-1; Class II Disposal and Class II Commercial Disposal Well Permit Application Procedures**

The Subcommittee adopted the report of the committees on the Oil and Gas Commission rule referrals.

2. **The Subcommittee reviewed the following other rules filed pursuant to Ark. Code Ann. § 10-3-309:**

ARKANSAS ALCOHOL AND DRUG ABUSE COORDINATING COUNCIL (Frances Flenner)

- a. Rules of Procedure

DEPARTMENT OF ENVIRONMENTAL QUALITY, WATER DIVISION (Bryan Benefield, ADEQ; Marcy Taylor, Alcoa)

- a. Regulation 2, Water Quality Standards; Third Party Rulemaking by Alcoa, Inc.

DEPARTMENT OF FINANCE AND ADMINISTRATION, REVENUE DIVISION (John Theis)

- a. Rule 2011-1; Standard Mileage Rate for Income Tax Purposes

ARKANSAS STATE HIGHWAY AND TRANSPORTATION DEPARTMENT (Robert Wilson)

- a. Revisions to the Utility Accommodation Policy

DEPARTMENT OF HUMAN SERVICES, CHILDREN AND FAMILY SERVICES (Christin Harper)

- a. Removing No Cohabiting Language from DCFS Policy

DEPARTMENT OF HUMAN SERVICES, COUNTY OPERATIONS (Thomas Green and Doris Wright, item a; Jeff Wood, item b)

- a. ARRA Weatherization Assistance Program; 2009-2010 State Plan
b. Medical Services Policy 27000, Appendix P, and PUB-405

DEPARTMENT OF HUMAN SERVICES, FINANCE AND ADMINISTRATION (Rex Jones)

- a. Social Services Block Grant Pre-Expenditure Report
b. DHS 5014; Facility Access, Evacuation, and Disaster Policy

DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES (Jeff Wood)

- a. Therapy 1-11
 - b. Official Notice ON-002-11; CPT 2011 Code Conversion and Official Notice ON-003-11; HCPCS 2011 Code Conversion
 - c. Official Notice ON-004-11; National Correct Coding Initiative
 - d. ARKids 2-11 and Section I-1-11
 - e. Provider Manual Updates; ELDER 3-10 and APDWVR 2-10
 - f. Rehabilitative Services for Persons with Mental Illness (RSPMI) Update No. 4-11
 - g. Rehabilitative Services for Persons with Mental Illness (RSPMI) Update No. 1-11
 - h. Substance Abuse Treatment Services (SATS) New-11
 - i. Manual of Cost Reimbursement Rules for Long Term Care Facilities Estate Recovery Address Update
 - j. Transp 1-11
- 3. On the State Highway and Transportation Department's rule on Access Driveways to State Highways, the subcommittee referred the rule to the House Interim Committee on Public Transportation and the Senate Interim Committee on Transportation, Technology, and Legislative Affairs for further review. The subcommittee also suggested that the department hold a public hearing on the rule before the rule is considered by the interim committees.**
- 4. The subcommittee referred the Department of Human Services, Medical Services rule titled Hearing 1-11 and Sec V-3-11 to the House Interim Committee on Education and the Senate Interim Committee on Education for further review. In this rule, Arkansas Medicaid is allowing school districts and education service cooperatives to perform certain audiology services within the school setting.**
- 5. At the agency's request, the Livestock and Poultry Commission's rule titled Authorization of Laboratories Conducting Official Tests for Reportable Diseases in Arkansas will be rescheduled on the August 15, 2011 subcommittee agenda.**

6. **The following three rules of the State Medical Board will be rescheduled for the August 15, 2011 subcommittee agenda:**
 - a. **Regulation 7; Use of Stimulants**
 - b. **Regulation 14; Examinations Required for Licensure to Practice Medicine in the State of Arkansas**
 - c. **Regulation 17; Continuing Medical Education Requirement**
7. **Regarding the Public Service Commission's Rules for Conservation and Energy Efficiency Programs, the subcommittee was informed that the decision of the PSC underlying the rule change has been appealed to the Arkansas Court of Appeals by Arkansas Electric Energy Consumers and Arkansas Gas Consumers. The rule implements the appealed PSC decision. The subcommittee recommended that the appeals process be completed before the subcommittee resumes its review of the rule.**

Respectfully submitted,

Senator Percy Malone, Co-Chair

Representative James Word, Co-Chair

REPORT
OF THE
JOINT INTERIM COMMITTEE ON AGRICULTURE, FORESTRY
AND ECONOMIC DEVELOPMENT

TO THE
ADMINISTRATIVE RULES AND REGULATIONS COMMITTEE
OF THE ARKANSAS LEGISLATIVE COUNCIL

JULY 13, 2011

Senator Percy Malone, Chair

Representative James Word, Chair

Administrative Rules and Regulations Committee, Arkansas Legislative Council

Mr. Chairmen:

At its meeting on July 7, 2011, the Joint Committee on Agriculture, Forestry and Economic Development reviewed the Oil and Gas Commission's changes to Rules and Regulations Rule A-5 (Enforcement Procedures), Rule B-1 (Application to Drill a Production Well), Rule B-19 (Requirements for Well Completion Utilizing Fracture Stimulation), Rule B-32 (Vacuum Pumps Prohibited), and Rule H-1 (Class II Disposal & Class II Commercial Procedures).

Following review of the proposed rule changes, testimony from representatives from the Oil and Gas Commission, and discussion by the Committee, the Joint Committee on Agriculture, Forestry and Economic Development recommended favorable review of the proposed rule changes.

Respectfully submitted,

Jerry Brown

Gene Jeffress

Representative Jerry Brown

Senator Gene Jeffress

**REPORT OF THE
ADMINISTRATIVE RULES AND REGULATIONS SUBCOMMITTEE
OF THE
ARKANSAS LEGISLATIVE COUNCIL**

August 19, 2011

Co-Chairs:

The Subcommittee on Administrative Rules and Regulations met at 10:00 a.m. on Monday, August 15, 2011, in Room 171 of the State Capitol. The following committee members attended: Senator Percy Malone, Co-Chair; Representative James Word, Co-Chair; Senator Randy Laverty, Vice Co-Chair; Representative Jonathan Barnett, Vice Co-Chair; Senators Jimmy Jeffress, Kim Hendren and Johnny Key; Representatives Terry Rice, Eddie Cheatham, Tommy Lee Baker, Randy Stewart, Les "Skip" Carnine, Linda Tyler, and Kelley Linck. Other legislators attended as follows: Senators Bill Sample, Larry Teague, Jonathan Dismang, Gene Jeffress and Paul Bookout; and Representatives Tim Summers, Gary Deffenbaugh, James McLean, Tommy Thompson, Jody Dickinson, Robert Dale, David Branscum, Andrea Lea, Efreem Elliott, and Tiffany Rogers.

1. **The Subcommittee received the report of the House Interim Committee on Education and the Senate Committee on Education concerning the Department of Career Education, Special Policies and Procedures rule that was referred to the committees on June 14, 2011.**

The report was filed, and the rule was subsequently reviewed.

2. **The Subcommittee received the report of the Senate Interim Committee on Transportation, Technology, and Legislative Affairs and the House Interim Committee on Public Transportation concerning the Arkansas State Highway and Transportation Department rules concerning Access Driveways to State Highways. This was referred to the committees on July 13, 2011.**

Michelle Davenport with the Highway Department reported that there will be changes to the rule and that the department will be holding a public hearing and public comment period. She requested that this rule be withdrawn.

The Subcommittee accepted the withdrawal of the rule, and the committees' report was filed.

3. **The committee reviewed the following rules filed pursuant to Ark. Code Ann. § 10-3-309.**

DEPARTMENT OF CAREER EDUCATION, ARKANSAS REHABILITATION SERVICES (Robert Trevino, Randy Parker)

- a. Annual State Plan 2012 for the Vocational Rehabilitation and Supported Employment Services Program

DEPARTMENT OF CORRECTION (Bobby Smith)

- a. AR 401; Searches for and Control of Contraband
- b. AR 406; Employees Identification Cards
- c. AR 838; Response to Serious Institutional Disturbances

ARKANSAS DEVELOPMENT FINANCE AUTHORITY (Sara Oliver)

- a. Compliance Monitoring Policies and Procedures Manual for the Low Income Housing Tax Credit Program
- b. 2011 Mortgage Credit Certificate (MCC) Policy and Procedures Manual
- c. 2011 Financial Adjustment Factor (FAF) and Below Market Interest Rate (BMIR) Program Policies

ARKANSAS ECONOMIC DEVELOPMENT COMMISSION (Michael Almond)

- a. Minority Business Enterprise Certification
- b. Equity Investment Incentive Act Certification
- c. Consolidated Incentive Act of 2003 Certification

DEPARTMENT OF EDUCATION (Mark White, Bill Goff)

- a. Athletic Revenues and Expenditures for Public School Districts

STATE BOARD OF ELECTION COMMISSIONERS (Susie Stormes, Tim Humphries)

- a. Reimbursement of Expenses for State-Funded Elections 108.00.05
- b. County Election Commissioner Training 108.00.07

- c. Poll Worker Training 108.00.02
- d. Voter Intent 108.00.03
- e. Poll Watchers, Vote Challenges, and Provisional Voting 108.00.09
- f. Nonpartisan Judicial Filing Fees 108.00.01

**DEPARTMENT OF ENVIRONMENTAL QUALITY, WATER DIVISION
(Teresa Marks)**

- a. Regulation No. 34; State Water Permit Regulation

**DEPARTMENT OF FINANCE AND ADMINISTRATION, ARKANSAS RACING
COMMISSION (Byron Freeland)**

- a. Revisions to Rules & Regulations

**DEPARTMENT OF HUMAN SERVICES, CHILDREN AND FAMILY
SERVICES (Cbristin Harper)**

- a. Revisions to Rules and Regulations

**DEPARTMENT OF HUMAN SERVICES, COUNTY OPERATIONS
(Thomas Green)**

- a. FFY 2012 Home Energy Assistance Program (HEAP) State Plan
- b. State Plan for FY 2012-2013 Community Services Block Grant Program

**DEPARTMENT OF HUMAN SERVICES, MEDICAL SERVICES
(Jeff Wood, Marilyn Strickland)**

- a. Visual 1-11
- b. Hospital 2-11
- c. SPA #2011-006; Rate Increase for Under 16 Bed ICF/MR Facilities

INSURANCE DEPARTMENT (Booth Rand)

- a. Rule 102; Open Enrollment and Enrollment following a Qualifying Event for Child-Only Individual Policies

STATE MEDICAL BOARD (Bill Trice)

- a. Regulation 7; Use of Stimulants
- b. Regulation 14; Examinations Required for Licensure to Practice Medicine in the State of Arkansas
- c. Regulation 17; Continuing Medical Education Requirement

DEPARTMENT OF NATURAL RESOURCES COMMISSION (Randy Young)

- a. Water Resource Conservation and Development Incentive Act

DEPARTMENT OF PARKS AND TOURISM (Greg Butts)

- a. Department of Justice ADA Regulation on Mobility Devices

STATE BOARD OF PHARMACY (John Kirtley)

- a. Regulation 1; General Operations
- b. Regulation 2; Pharmacists
- c. Regulation 5; Long-Term Care Facilities
- d. Regulation 7; Drug Products/Prescriptions
- e. Regulation 9; Pharmaceutical Care/Patient Counseling

REAL ESTATE COMMISSION (Gary Isom)

- a. Regulation 3.1; Fees
- b. Regulation 10.4; Broker Responsibilities, Executive Brokers, Part-Time Brokers
- c. Regulation 10.16; Criminal Convictions and Disciplinary Actions
- d. Regulation 13.1; Registration, Renewal

**SALINE COUNTY REGIONAL SOLID WASTE MANAGEMENT DISTRICT
(Michael Grappe)**

- a. By-Laws

DEPARTMENT OF WORKFORCE SERVICES (Derwin Taylor)

- a. Amendment to TEA State Plan Arkansas Title IV-A1, TANF and TEA Forms 1412, 1413, and Policy Sections 3660-3660.4
- 4. **Upon the agency's request, the Livestock and Poultry Commission's Authorization of Laboratories Conducting Official Tests for Reportable Diseases in Arkansas rule was withdrawn.**
- 5. **After a discussion on the proposed effective dates of agency rules, the subcommittee requested that the staff review the Administrative Procedure Act concerning the agencies implementing rules before they are presented to the subcommittee. A part of the request is to review an agency's authority to promulgate a rule based upon legislation enacted in the 1970s and 1980s.**

The subcommittee also requested that a letter be sent to the Arkansas Development Finance Authority requesting that they explain their policies and procedures for implementing a rule.

Respectfully submitted,

Senator Percy Malone, Co-Chair

Representative James Word, Co-Chair

ARKANSAS GENERAL ASSEMBLY

HOUSE INTERIM COMMITTEE ON EDUCATION and SENATE INTERIM COMMITTEE ON EDUCATION

Senator Jimmy Jeffress
Senate Chair

Representative Eddie Cheatham
House Chair

REPORT of the Joint Meeting of the Senate Interim Committee on Education and House Interim Committee on Education to the Administrative Rules and Regulations Subcommittee of the Arkansas Legislative Council

August 15, 2011

Senator Percy Malone, Senate Chair
Representative James Word, House Chair
Administrative Rules and Regulations Subcommittee, Arkansas Legislative Council

Chairman Malone and Chairman Word:

On June 14, 2011, the Administrative Rules and Regulations Subcommittee of the Arkansas Legislative Council referred the Arkansas Department of Career Education's proposed rule concerning Special Policies and Procedures Relating to Secondary Area Technical Centers to the Senate Interim Committee on Education and the House Interim Committee on Education for review.

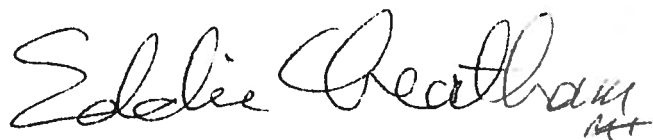
At a joint meeting on July 21, 2011, the Senate Interim Committee on Education and the House Interim Committee on Education heard a presentation by the Arkansas Department of Career Education concerning the proposed rule.

This is to advise that the Committees have reviewed the Arkansas Department of Career Education's proposed rule concerning Special Policies and Procedures Relating to Secondary Area Technical Centers. In a separate action, the Committees adopted a motion urging the Arkansas Department of Career Education to engage the State Board of Career Education and various stakeholders in a dialogue concerning funding adjustments to enhance the state's secondary technical education centers.

Respectfully submitted,



Senator Jimmy Jeffress
Chair
Senate Interim Committee on Education



Representative Eddie Cheatham
Chair
House Interim Committee on Education

ARKANSAS GENERAL ASSEMBLY



Senator Linda Chesterfield
Senate Chair

Representative Jonathan Barnett
House Chair

**SENATE INTERIM COMMITTEE ON TRANSPORTATION, TECHNOLOGY,
and LEGISLATIVE AFFAIRS
and
HOUSE INTERIM COMMITTEE ON PUBLIC TRANSPORTATION**

REPORT
of the
Senate Interim Committee on Transportation, Technology, and Legislative Affairs
Meeting Jointly With the
House Interim Committee on Public Transportation
to the
Administrative Rules and Regulations Committee
of the Arkansas Legislative Council

August 15, 2011

Senator Percy Malone, Senate Chair
Representative James Word, House Chair
Administrative Rules and Regulations Committee, Arkansas Legislative Council

Chairman Malone and Chairman Word:

On July 13, 2011, the Administrative Rules and Regulations Committee of the Arkansas Legislative Council referred to the Senate Interim Committee on Transportation, Technology, and Legislative Affairs and the House Interim Committee on Public Transportation the Arkansas State Highway Commission's amendments to the federal regulation "Access Driveways to State Highways".

At its joint meeting on July 26, 2011, the Senate Interim Committee on Transportation, Technology, and Legislative Affairs and the House Interim Committee on Public Transportation heard the Arkansas Highway and Transportation Department's proposed amendments to the federal regulation.

Following review of the proposed rule changes, testimony from representatives from the Arkansas Highway and Transportation Department, and discussion by the Committees, this is to advise that the Committees reviewed the rule.

Respectfully submitted,

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Senator Linda Chesterfield

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Representative Jonathan Barnett

ARKANSAS GENERAL ASSEMBLY

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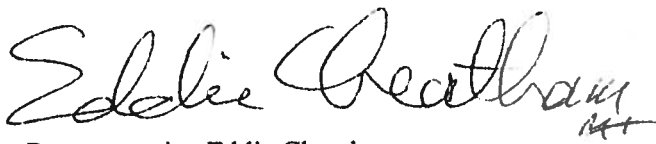
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Chair
Senate Interim Committee on Education



Representative Eddie Cheatham
Chair
House Interim Committee on Education

ARKANSAS GENERAL ASSEMBLY



Senator Linda Chesterfield
Senate Chair

Representative Jonathan Barnett
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**SENATE INTERIM COMMITTEE ON TRANSPORTATION, TECHNOLOGY,
and LEGISLATIVE AFFAIRS
and
HOUSE INTERIM COMMITTEE ON PUBLIC TRANSPORTATION**

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Senator Linda Chesterfield

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Representative Jonathan Barnett