

**ADMINISTRATIVE RULES SUBCOMMITTEE
OF THE
ARKANSAS LEGISLATIVE COUNCIL**

Thursday, March 14, 2024

10:00 a.m.

Room A, MAC

Little Rock, Arkansas

- A. Call to Order**
- B. Reports from the Executive Subcommittee Concerning Emergency Rules**
- C. Reports from ALC Subcommittees Concerning the Review of Rules**
- D. Rules Filed Pursuant to Ark. Code Ann. § 10-3-309**
 - 1. ARKANSAS TEACHER RETIREMENT SYSTEM (Mark White, Jennifer Liwo)**
 - a. SUBJECT: Rule 0-1: ATRS Rules of Organization and Operation**

DESCRIPTION: The Arkansas Teacher Retirement System (“ATRS”) seeks to amend Rule 0-1: ATRS Rules of Organization and Operation as follows:

 - Redrafted for clarity and to address issues such as formatting, renumbering, grammar, and spelling;
 - Redrafted to further align with the Code of Arkansas Rules style format;
 - The authority for this rule has been moved to the end of the document;
 - Information that is not required by A.C.A. § 25-15-203 or that is otherwise addressed in other ATRS rules has been repealed;
 - Amended to use the same or similar terminology used in A.C.A. § 25-15-203(a)(1) (See mark-up, page 1, § 1-101(c));
 - The title of the rule has been changed to “Rules of Organization and Operation” (See mark-up, page 1);
 - Changed rule number to 1 (See mark-up, page 1);
 - Amended to add additional information concerning the purpose of A.C.A. § 10-3-309 (See mark-up, page 3, § 1-104(c));
 - Amended to clarify that the Board or ATRS staff may request the initiation of the rulemaking process, but ATRS staff cannot proceed with the rulemaking process for a rule unless the rule is approved by the Board (See mark-up, page 3, § 1-104(d));

- Amended to correct the fax number and the location of the ATRS policies, rules, and regulations on the ATRS website (See mark-up, page 1, § 1-101(a)(2) and (c)(4));
- Repealed 1-800 numbers that the System no longer uses;
- Amended to clarify that ex officio members of the Board are not elected, but are members by virtue of their positions in state government (See mark-up, pages 1-2, § 1-102(e)(2)); and
- Amended to provide that the Executive Director may organize the System in a manner that he or she determines is most efficient for the operation of the System (See mark-up, page 2, § 1-102(g)).

PUBLIC COMMENT: A public hearing was held on February 5, 2024. The public comment period expired on January 22, 2024. The System received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The System states that the amended rule has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 24-7-305(b)(1), the Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the System. Additional authority for the rulemaking can be found in Ark. Code Ann. § 25-15-203(a)(1), which states that each agency shall adopt as a rule a description of its organization, stating the general course and method of its operations, including the methods whereby the public may obtain information or make submissions or requests. Furthermore, each agency shall adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available, including a description of all forms and instructions used by the agency. *See* Ark. Code Ann. § 25-15-203(a)(2).

b. SUBJECT: Rule 4: Election of Board of Trustees

DESCRIPTION: The Arkansas Teacher Retirement System (“ATRS”) seeks to amend Rule 4: Election of Board of Trustees as follows:

- Redrafted for clarity and to address issues such as formatting, renumbering, grammar, and spelling;
- Redrafted to further align with the Code of Arkansas Rules style format;
- The authority for this rule has been moved to the end of the document;
- Changed title of rule to “Election of the Board of Trustees of the Arkansas Teacher Retirement System” (See mark-up, page 1);

- Amended to clarify that published ballots must be mailed by the election vendor by March 15th (See mark-up, page 5, § 4-113(b)(1));
- In the context of education-related agencies, revised definition of “Administrator” to remove “classified or unclassified” and clarify that the employee must be an active member of the system through his or her employment with an education-related agency that is participating in the system (See mark-up, page 1, § 4-101(b)(2)(B));
- Amended to clarify that a completed ballot must be received by April 15 in order to be counted, regardless of the postmark date or other methods used to attempt delivery (See mark-up, page 5, § 4-113(b)(2)(A));
- Amended to clarify that the appointment of a trustee is effective as of the date on which the trustee is appointed by the Board (See mark-up, page 6, § 4-114(c)(2)); and
- Amended to clarify that the term of office of a person who is elected to fill a trustee position to which a trustee was appointed will be six (6) years (See mark-up, page 7, § 4-115(c)(2)).

PUBLIC COMMENT: A public hearing was held on February 5, 2024. The public comment period expired on January 22, 2024. The System received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The System states that the amended rule has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 24-7-305(b)(1), the Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the System. The Board’s members and retiree trustees shall be elected in accordance with rules as have been adopted by the Board to govern the elections. *See* Ark. Code Ann. § 24-7-301(5). Finally, the Board shall adopt its own rules pertaining to attendance and vacancies. *See* Ark. Code Ann. § 24-7-302(c).

e. ~~**SUBJECT: Rule 6: Membership and Employer Participation**~~

d. **SUBJECT: Rule 7: Service Credit, Contributions, Reporting, and Final Average Salary**

DESCRIPTION: The Arkansas Teacher Retirement System (“ATRS”) seeks to amend Rule 7: Service Credit, Contributions, and Reporting, and Final Average Salary as follows:

- Redrafted for clarity and to address issues such as formatting, renumbering, grammar, and spelling;
- Redrafted to further align with the Code of Arkansas Rules style format;
- The authority for this rule has been moved to the end of the document;
- The title of the rule has been changed to “Service Credit, Contributions, and Reporting” (See mark-up, page 1);
- The definition of “specialized support position” has been amended to clarify that the covered employer must certify a position as a specialized support position to ATRS (See mark-up, page 1, § 7-101(8));
- The definition of “surcharge employer” was amended by Acts 2023, No. 64. The definition in the rule has been amended to conform with the legislative change (See mark-up, page 1, § 7-101(9));
- Amended to incorporate a rule adopted by the Board in Resolution No. 2023-16, which prohibits a member from using unearned future service credit or nonqualified service credit purchased through a contract buyout settlement agreement to retire before the member’s employment contract with the school district would naturally have terminated (See mark-up, page 2, § 7-102(d)(3));
- Amended to clarify how service credit is earned by a member who has an employment contract with a covered employer and is employed in a specialized support position (See mark-up, page 3, § 7-102(i)(1));
- Amended to clarify how service credit is earned by a member who does not have an employment contract with a school district and is employed in a specialized support position (See mark-up, page 3, § 7-102(i)(2));
- Amended to clarify how service credit is earned by a member who is employed in a nonspecialized support position (See mark-up, page 3, § 7-102(i)(3));
- Amended to clarify that a covered employer must certify a position as a specialized support position when the covered employer first reports the member’s employment to the System (See mark-up, page 3, § 7-102(i)(1)(A));
- Amended to transfer contribution overpayment rules from Rule 8 to Rule 7 (See mark-up, pages 5-6, § 7-104);
- Amended to transfer rules concerning salary payments made after a member’s death from Rule 11 to Rule 7 (See mark-up, page 8, § 7-107);
- Amended to change “annually” to read “monthly”, which aligns with current System practices (See mark-up, page 4, § 7-103(d)(1));
- Repealed language concerning obtaining a temporary waiver for electronically reporting employee contributions and electronically remitting employee contributions. The provision is obsolete. Additionally, with regard to penalties, the provision is also unnecessary as A.C.A. § 24-7-411 addresses waiving interest penalties and penalties for untimely reports and contribution payments (See mark-up, page 7, § 7-105(f));
- Repealed provision concerning alternative due date for covered employers who obtained temporary waivers for electronically submitting reports. ATRS staff has advised that all covered employers report and

remit contribution payments electronically (See mark-up, page 7, § 7-106(a)); and

- Amended to clarify who has the authority to waive interest penalties and that one (1) or more interest penalties cannot be waived if the interest penalties assessed will exceed \$1,000 for the fiscal year (See mark-up, page 7, § 7-106(b)(2) and (c)(2)(A)).

Following the public comment period, the System indicated that the following changes were made:

- The definition of “credited service” was revised to clarify that credited service is service that is credited by the System (See mark-up, page 1, § 7-101(2));
- Acts 2023, No. 64 amended the definition of “covered employer” for outsourcing purposes to exclude a covered employer that reports through the Arkansas Administrative Statewide Information System. In accordance with this legislative change, the definition of “covered employer” for outsourcing purposes was revised to clarify the entities that are not considered covered employers (See mark-up, page 1, § 7-101(3));
- Revisions have also been made to clarify that the rule applies to disability retirement as well (See mark-up, page 2, § 7-102(d)(3)).

PUBLIC COMMENT: A public hearing was held on February 5, 2024. The public comment period expired on January 22, 2024. The System provided the following public comment summary:

Commenter’s Name: ATRS Staff

COMMENT: Should disability retirement be added to the following, “The system shall not permit a member to use unearned future service credit or nonqualified service credit purchased through a contract buyout settlement agreement with a school district to retire under age and service retirement before the member’s employment contract with the school district would naturally have terminated.”? **RESPONSE:** Yes. The rule has been amended to add disability retirement.

Jason Kearney, an attorney with the Bureau of Legislative Research, asked the following question and received the following response:

(1) Section 7-101 – The definition for “covered employer” appears to track the definition found in Arkansas Code Annotated § 24-7-506(a)(1)(A). Is there a reason why the proposed rule does not also set out what the definition of a covered employer does not include, as is done in Ark. Code Ann. § 24-7-506(a)(1)(B), as amended by Act 64 of 2023, § 1? **RESPONSE:** No. The rule has been amended to incorporate what entities are not covered employers as it relates to outsourcing.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The System states that the amended rule has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 24-7-305(b)(1), the Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the System. The Board may promulgate rules to implement Ark. Code Ann. § 24-7-506, which concerns outsourcing and election to participate. *See* Ark. Code Ann. § 24-7-506(g). Further authority for the rulemaking can be found in Ark. Code Ann. § 24-7-202(18)(B)(ii) and Ark. Code Ann. § 24-7-507(c), which require the Board to promulgate rules for the implementation of Ark. Code Ann. §§ 24-7-202(18)(B)(i) and 24-7-507, both of which concern youth participants in summer work programs.

The proposed changes include those made in light of Act 64 of 2023, sponsored by Representative John Maddox, which amended and updated provisions for outsourcing under the Arkansas Teacher Retirement System.

e. **SUBJECT: Rule 8: Free Service Credit, Purchasable Service Credit, and Purchase Accounts**

DESCRIPTION: The Arkansas Teacher Retirement System (“ATRS”) seeks to amend Rule 8: Free Service Credit, Purchasable Service Credit, and Purchase Accounts as follows:

- Redrafted for clarity and to address issues such as formatting, renumbering, grammar, and spelling;
- Redrafted to further align with the Code of Arkansas Rules style format;
- The authority for this rule has been moved to the end of the document;
- Amended to incorporate the provisions of Acts 2023, No. 125, concerning the purchase of permissive service credit (gap year service) (See mark-up, page 1, § 8-101(3), page 1, § 8-101(6), and page 9, § 8-112);
- Acts 2023, No. 69, amended the law to allow an inactive member to be eligible for free service credit. The rule has been amended to conform with the legislative change (See mark-up, page 2, § 8-102(b) and (c));
- Amended to clarify that a member who voluntarily enlisted in the United States Armed Forces during a military draft may establish free military service credit with ATRS (See mark-up, page 2, § 8-102(b) and (c));
- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased military service credit. The rule has been amended to conform with the legislative change (See mark-up, page 3, § 8-103(d));

- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased National Guard and armed forces reserve service credit. The rule has been amended to conform with the legislative change (See mark-up, page 4, § 8-104(e));
- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased domestic federal service credit. The rule has been amended to conform with the legislative change (See mark-up, page 4, § 8-105(c));
- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased out-of-state service credit. The rule has been amended to conform with the legislative change (See mark-up, page 5, § 8-106(d));
- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased service credit. The rule has been amended to conform with the legislative change (See mark-up, page 3, § 8-104(d));
- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased overseas service credit. The rule has been amended to conform with the legislative change (See mark-up, page 5, § 8-107(c));
- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased General Assembly service credit. The rule has been amended to conform with the legislative change (See mark-up, page 6, § 8-108(d));
- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased advanced degree service credit. The rule has been amended to conform with the legislative change (See mark-up, page 6, § 8-109(b));
- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased certified private school service credit. The rule has been amended to conform with the legislative change (See mark-up, page 7, § 8-110(b)(2));
- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased noncertified private school service credit. The rule has been amended to conform with the legislative change (See mark-up, page 7, § 8-110(c)(2));
- Amended to clarify that permissive service credit may only be purchased if the total gap year service for which permissive service credit is being purchased amounts to one (1) fiscal year (See mark-up, page 9, § 8-112(b)(1)(A));
- Acts 2023, No. 107, amended the law to clarify that service credit purchased under a contract buyout settlement agreement or court order offsets service credit that is earned through covered employment with another covered employer during the same period of time covered by the purchased service credit. The act also amended the law to provide that service credit purchased under a contract buyout settlement agreement cannot be applied in a manner that would allow a member to earn more

than one (1) year of service credit in a fiscal year. The rule has been amended to conform with the legislative changes (See mark-up, page 10, § 8-113(d));

- Amended to clarify when the System will credit a member with additional salary credit purchased through a contract buyout settlement agreement (See mark-up, page 10, § 8-113(e)(1));
- Amended to clarify when purchased additional salary credit may be used to calculate a member's final average salary (See mark-up, page 10, § 8-113(e)(2));
- Amended to incorporate a rule adopted by the Board in Resolution No. 2023-16, which prohibits a member from using unearned future service credit or nonqualified service credit purchased through a contract buyout settlement agreement to retire before the member's employment contract with the school district would naturally have terminated (See mark-up, page 10, § 8-113(f));
- Repealed rules concerning purchase accounts established before July 1, 2011, as ATRS staff has advised that there are no longer any purchase accounts that were open before July 1, 2011 (See mark-up, page 11, § 8-115(a)); and
- Amended to clarify that the deadline to pay the balance of a purchase account is six (6) months from the member's date of death unless the deadline is extended by the Executive Director (See mark-up, page 11, § 8-115(c)(1)).

Following the public comment period, the System indicated that the following changes were made:

- Amended definition of "qualified service" by changing "46" to read "26" in accordance with Acts 2023, No. 125 (See mark-up, page 1, § 8-101(8));
- Amended to clarify that a member who has purchased National Guard or armed forces reserve service credit can concurrently receive service credit for service provided to a covered employer of the System (See mark-up, page 3, § 8-104(d));
- Amended to clarify that a member may be credited with fractions of years of overseas service credit in accordance with Ark. Code Ann. § 24-7-601 (See mark-up, page 5, § 8-107(c));
- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased private education-related entity private school service credit. The rule has been amended to conform with the legislative change (See mark-up, page 8, § 8-110(d)(2));
- Acts 2023, No. 55, amended the law to permit a member to receive a refund of unused purchased federal retirement service credit. The rule has been amended to conform with the legislative change (See mark-up, page 9, § 8-111(g)); and
- Revisions have also been made to clarify that the rule applies to disability retirement as well (See mark-up, page 10, § 8-113(f)).

PUBLIC COMMENT: A public hearing was held on February 5, 2024. The public comment period expired on January 22, 2024. The System provided the following public comment summary:

Commenter's Name: ATRS Staff

COMMENT No. 1: Should the rules state that members may receive concurrent service for National Guard service purchases? **RESPONSE:** Yes. This comment aligns with Ark. Code Ann. § 24-7-610(e). The rule has been amended.

COMMENT No. 2: Should the rules concerning the purchase of overseas service credit also state that a fraction of a year can be credited in accordance with Ark. Code Ann. § 24-7-601? **RESPONSE:** Yes. This comment aligns with Ark. Code Ann. § 24-7-604(b)(3)(B). The rule has been amended.

COMMENT No. 3: Should disability retirement be added to following, “The system shall not permit a member to use unearned future service credit or nonqualified service credit purchased through a contract buyout settlement agreement with a school district to retire under age and service retirement before the member’s employment contract with the school district would naturally have terminated.”? **RESPONSE:** Yes. The rule has been amended to add disability retirement.

Jason Kearney, an attorney with the Bureau of Legislative Research, asked the following question and received the following response:

(1) Section 8-101(8) – Under the definition for “Qualified service”, should the reference to the United States Code be to Title 26, as opposed to Title 46, as it appears in Ark. Code Ann. § 24-7-202 and Act 125 of 2023? **RESPONSE:** Yes. The rule has been amended to change “46” to “26”.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The System states that the amended rule has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 24-7-305(b)(1), the Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the System. Pursuant to Ark. Code Ann. § 24-1-107(a)(1), the Board of Trustees of the Arkansas Public Employees’ Retirement System and the Board of Trustees of the Arkansas Teacher Retirement System shall establish policies and promulgate rules to recognize the service credit for members

of the Arkansas Public Employees' Retirement System and the Arkansas Teacher Retirement System earned in the retirement systems of federal government agencies. Additional rulemaking authority can be found in Ark. Code Ann. § 24-7-603(c)(5), which states that the board may adopt any other rules consistent with Ark. Code Ann. § 24-7-603, which concerns out-of-state service.

The proposed changes include those made in light of the following acts:

Act 55 of 2023, sponsored by Representative Mark Perry, which permitted a refund of unused purchased service credit under the Arkansas Teacher Retirement System;

Act 69 of 2023, sponsored by Representative Mark Perry, which concerned an inactive member's eligibility for free military service credit and ability to purchase military, contributory, and federal service credit in the Arkansas Teacher Retirement System;

Act 107, of 2023, sponsored by Representative Les Warren, which enacted the Arkansas Teacher Retirement System's General Omnibus Act, corrected certain references to "alternative retirement plan", "covered employer", "credited service", "retirant", "service credit", and "the system", amended and added certain definitions applicable to the Arkansas Teacher Retirement System, clarified the law concerning benefits increases and computation, deadlines, system assets, termination separation period, service credit, second reviews of disability retirement applications, a member's residue, contract buyout settlement agreements, the de minimis amount, and other various provisions applicable to the Arkansas Teacher Retirement System; and

Act 125 of 2023, sponsored by Senator Kim Hammer, which allowed the purchase of permissive service credit under the Arkansas Teacher Retirement System and added definitions applicable to the Arkansas Teacher Retirement System.

f. SUBJECT: Rule 9: Retirement and Benefits

DESCRIPTION: The Arkansas Teacher Retirement System ("ATRS") seeks to amend Rule 9: Retirement and Benefits as follows:

- Redrafted for clarity and to address issues such as formatting, renumbering, grammar, and spelling;
- Redrafted to further align with the Code of Arkansas Rules style format;
- The authority for this rule has been moved to the end of the document;
- As the provisions of this rule concern children of retired members of the System, the definition of "dependent child" has been amended to remove

terms that are applicable to dependent children who survive deceased active members (See mark-up, page 1, § 9-101(5)).

- The definitions of “eligible employee”, “full service year”, “partial service year”, and “service” were transferred from Rule 7 to Rule 9 (See mark-up, pages 1-2, § 9-101(7), (8), (13), and (19));
- Amended to clarify that a member must have the required service credit, pay all contributions and amounts owed to the System, and terminate employment or reach the normal retirement age in order to become a disability retiree (See mark-up, page 3, § 9-103).
- Amended to clarify that a member is required to pay all amounts owed to the System due to overpayments in order for the member to be eligible for retirement (See mark-up, page 3, § 9-103(3));
- Acts 2023, No. 107, amended the law to clarify that an extension must be granted by the Executive Director and to provide that additional required documents accompanying a retirement application must be submitted by the end of the sixth full calendar month immediately following the member’s effective retirement date. The rule has been amended to conform with the legislative changes (See mark-up, page 6, § 9-106(a), page 7, § 9-106(b)(1)), and page 7, § 9-107(a)).
- Amended rule to change “voluntary retirement” to “age and service retirement” (See mark-up, page 7, § 9-106(c), and page 8, § 9-107(d)(4)(B));
- Acts 2023, No. 107, amended the law to clarify that an extension must be granted by the Executive Director and to provide that additional medical documentation must be submitted by the end of the sixth full calendar month immediately following the date of the written notice of the medical committee’s decision to deny the initial application for disability retirement. The rule has been amended to conform to the legislative changes (See mark-up, page 7, § 9-107(d)(3));
- Acts 2023, No. 170, amended the law to provide that the same procedures used to determine when an active member’s surviving spouse is entitled to begin receiving benefits must be used in the case of a residue beneficiary who is the surviving spouse of a disability retiree. The rule has been amended to conform to the legislative change (See mark-up, page 8, § 9-107(g)(4));
- Acts 2023, No. 107, amended the law to provide that a member must apply for disability review by the end of the third full calendar month immediately following the System’s suspension of disability retirement benefit payments. The rule has been amended to conform to the legislative change (See mark-up, page 9, § 9-108(c)(3));
- Amended to clarify that a member may apply for disability review if the member either submits an unfavorable SSA determination letter finding that the retiree is not disabled or submits documentation showing that the retiree applied for SSA benefits before the expiration of the thirty-six-month deadline to submit a favorable SSA determination letter finding the retiree disabled (See mark-up, page 9, § 9-108(d)(1));

- Acts 2023, No. 107, amended the law to provide that an application for disability review must be submitted no earlier than three (3) full calendar months before the date on which the retiree's disability retirement benefit payments would otherwise be suspended and no later than by the end of the third full calendar month immediately following the suspension of disability retirement benefits. The rule has been amended to conform to these legislative changes (See mark-up, page 10, § 9-108(d)(2));
- Amended to address the reinstatement of a member's disability retiree status after the Board enters an order finding the member ineligible to receive disability retirement benefits (See mark-up, page 10, § 9-108(d)(4)(C));
- Acts 2023, No. 107, amended the law so that all termination separation period requirements are included under A.C.A. § 24-7-502. The rule has been amended to conform with this legislative change (See mark-up, page 11, § 9-109(c)(1) and (3));
- Amended to clarify that a disability retiree cannot transfer his or disability retirement status to age and service retirement (See mark-up, page 11, § 9-109(e));
- Amended to clarify when a member's annual benefit will be recalculated if a covered employer reports additional salary for the member after the member's annual benefit has been calculated (See mark-up, page 12, § 9-110(d));
- Current rules concerning the final average salary have been transferred from ATRS Rule 7 (See mark-up, pages 12-14, § 9-111 and § 9-112);
- Acts 2023, 104, amended the law to provide that the anti-spiking calculations should not be applied to a partial service year or a fiscal year immediately following a partial service year. The rule has been changed to incorporate this legislative change (See mark-up, pages 13-14, § 9-112(b)(2));
- Acts 2023, 170, amended A.C.A. § 24-7-706 (annuity options) with regard to designating option beneficiaries, eligibility of a surviving spouse to elect Option A benefits, and the disposition of residue after a retiree's death. The rule has been amended to incorporate these legislative changes (See mark-up, pages 15-16, § 9-113(a)(2)(B)(i), § 9-113(a)(2)(B)(ii), and § 9-113(c)(3));
- Acts 2023, 107, incorrectly amended A.C.A. § 24-7-709 to provide that if all designated beneficiaries predecease the retiree, the residue shall be paid to the estate of the most recently deceased designated beneficiary. The provisions of the act conflict with other statutory law addressing the same issue in A.C.A. § 24-7-709. The rule has been revised to allow the System to comply with the pre-existing statutory provision and the subdivision added to the statute by Acts 2023, 107. The error in the act will be corrected next legislative session (See mark-up, page 18, § 9-113(g)(4)(C));

- Amended to clarify when the manifest injustice process may be used to address a change, omission, or error in the records of the System (See mark-up, page 19, § 9-116(b)); and
- Amended to clarify that the Executive Director may implement a resolution that has a direct financial impact to the System of up to five thousand dollars (\$5,000) to address a correction of a change, omission, or error in the records of the System (See mark-up, page 20, § 9-116(f)).

Following the public comment period, the System indicated that the following change was made:

- Amended to clarify to whom payment of a residue will be made if one (1) or more residue beneficiary survives the death of the retiree and the option beneficiary (See mark-up, page 17, § 9-113(g)(4)(A) and (B)).

PUBLIC COMMENT: A public hearing was held on February 5, 2024. The public comment period expired on January 22, 2024. The System provided the following public comment summary:

Commenter's Name: ATRS Staff

COMMENT: Can the definition of “medical committee” be amended at this time to include medical professionals other than physicians?

RESPONSE: Ark. Code Ann. § 24-7-303(f) requires three (3) physicians to be appointed to the medical committee. As such, it would be more appropriate to pursue a legislative change before amending the definition of “medical committee” in this rule. No changes to the rule have been made.

Jason Kearney, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses:

(1) Section 9-106(a) of the proposed rule, which concerns the submission of additional documents in support of age and service retirement applications, provides that a member shall submit a completed application and additional documents by the end of the sixth full calendar month “immediately following the member’s effective retirement date”. Ark. Code Ann. § 24-7-701(a)(1)(B), which concerns voluntary retirement under the Arkansas Teacher Retirement System, requires a member to submit a complete retirement application by the end of the sixth full calendar month immediately following “the effective date of benefits”, including all additional documentation required by the system. Is there a meaningful difference between the terms “effective retirement date” and “effective date of benefits”, for the purposes of the proposed rule?

RESPONSE: No, the effective retirement date and the effective date of benefits are the same. No changes to the rule have been made.

(2) Section 9-113(g)(4) of the proposed rule, which concerns residue beneficiaries, appears to track Ark. Code Ann. § 24-7-709, which concerns disposition of retiree contributions and residue. The agency has indicated that this statutory provision was incorrectly amended by Act 107 of 2023, with respect to the payment of residue when all designated beneficiaries predecease the retiree. Can the agency expound on how it elected to amend this provision of the proposed rule, in light of Act 107?

RESPONSE: ATRS has elected to include this provision under § 9-113(g)(4)(C) by providing, “If all residue beneficiaries predecease the retiree, the residue shall be paid to either the retiree’s estate or the estate of the most recently deceased designated beneficiary.” This revision will allow ATRS to comply with Ark. Code Ann. § 24-7-709(a)(3) and Ark. Code Ann. § 24-7-709(a)(4), which is the codification of Act 107.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The System states that the amended rule has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 24-7-305(b)(1), the Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the System. Furthermore, pursuant to Ark. Code Ann. § 24-7-704 (b)(3)(D)(iv), which concerns the review of disability retirement benefits, after receiving the medical committee’s recommendation upon review, the board shall issue a final order consistent with the provisions of Ark. Code Ann. § 24-7-704 and the system’s rules for initial disability retirement. Additional authority for the rulemaking can be found in Ark. Code Ann. § 24-7-706(f), which provides that the board shall promulgate rules as necessary to administer provisions of Ark. Code Ann. § 24-7-706, concerning annuity options.

The proposed changes include those made in light of the following acts:

Act 104 of 2023, sponsored by Representative Andrew Collins, which amended and updated the law concerning the final average salary under the Arkansas Teacher Retirement System;

Act 107 of 2023, sponsored by Representative Les Warren, which enacted the Arkansas Teacher Retirement System’s General Omnibus Act, corrected certain references to “alternative retirement plan”, “covered employer”, “credited service”, “retirant”, “service credit”, and “the system”, amended and added certain definitions applicable to the Arkansas Teacher Retirement System, clarified the law concerning benefits increases and computation, deadlines, system assets, termination

separation period, service credit, second reviews of disability retirement applications, a member's residue, contract buyout settlement agreements, the de minimis amount, and other various provisions applicable to the Arkansas Teacher Retirement System; and

Act 170 of 2023, sponsored by Representative Andrew Collins, which amended and updated the law concerning annuity options under the Arkansas Teacher Retirement System, allowed a retirant to designate both surviving spouse and dependent children as option beneficiaries under the Arkansas Teacher Retirement System, and clarified when a surviving spouse of a disability retirant is entitled to begin receiving payments under the Arkansas Teacher Retirement System.

g. SUBJECT: Rule 10: Return to Service and Teacher Deferred Retirement Option Plan

DESCRIPTION: The Arkansas Teacher Retirement System ("ATRS") seeks to amend Rule 10: Return to Service and Teacher Deferred Retirement Option Plan as follows:

- Redrafted for clarity and to address issues such as formatting, renumbering, grammar, and spelling;
- Redrafted to further align with the Code of Arkansas Rules style format;
- The authority for this rule has been moved to the end of the document;
- Added definitions for "CBA" and "T-DROP" (See mark-up, page 1, § 10-101(1) and (10));
- Amended to clarify that monthly plan deposits to a plan participant's T-DROP account will stop if the plan participant separates from service with a covered employer and is granted a monthly retirement benefit from either ATRS or a reciprocal plan (See mark-up, page 6, § 10-107(a)(1));
- Added new section providing that a member's T-DROP distribution election is irrevocable once the member's T-DROP distribution election form is accepted by the System (See mark-up, page 7, § 10-110); and
- Amended to clarify when required minimum distributions will be deducted from the CBA account of a retiree who has attained the required minimum distribution age and does not cease to be active in the System (See mark-up, page 9, § 10-112(g)(4)(B)).

Following the public comment period the System indicated that the following change was made:

- Amended to clarify when T-DROP plan participants will receive deposits for uncompleted quarters (See mark-up, pages 4-5, § 10-105(c)(3)(B) and (C)).

PUBLIC COMMENT: A public hearing was held on February 5, 2024.

The public comment period expired on January 22, 2024. The System provided the following public comment summary:

Commenter's Name: ATRS Staff

COMMENT: Should additional rules concerning T-DROP deposits for uncompleted quarters be included? **RESPONSE:** Yes. Pages four (4)-(5), § 10-105(b)(3) has been amended to include rules clarifying T-DROP deposits for uncompleted quarters.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The System states that the amended rule has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 24-7-305(b)(1), the Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the System. Additional authority can be found in Ark. Code Ann. § 24-7-708(e)(1), which states that the board shall adopt rules to carry out the provisions of Ark. Code Ann. § 24-7-708, which concerns employment of retired members by covered employers. Further authority for the rulemaking can be found in Ark. Code Ann. § 24-7-1301(c), which provides that the board may promulgate rules necessary for the orderly administration of the Teacher Deferred Retirement Option Plan, including without limitation the rules for eligibility for continuance of deposits for part-time employment.

h. **SUBJECT: Rule 11: Survivors and Domestic Relations Orders**

DESCRIPTION: The Arkansas Teacher Retirement System (“ATRS”) seeks to amend Rule 11: Survivors and Domestic Relations Orders as follows:

- Redrafted for clarity and to address issues such as formatting, renumbering, grammar, and spelling;
- Redrafted to further align with the Code of Arkansas Rules style format;
- The authority for this rule has been moved to the end of the document;
- Amended definition of “immediately eligible” to clarify that the deceased active member must have been eligible to receive benefits from the System (See mark-up, page 1, § 11-101(3));
- Amended definition of “QDRO” to clarify that the court order assigns a portion of a member’s retirement benefit to an alternate payee (See mark-up, page 1, § 11-101(7)(B));
- Amended to provide consistency and to clarify that actual service for the year immediately preceding the death of the member is used to determine

whether the member has ten (10) or more years of actual service (See mark-up, page 1, § 11-101(8)(A)(ii)(c));

- Acts 2023, No. 77, amended A.C.A. § 24-7-710 (survivor annuity benefits) to provide that a member's effective retirement date shall be determined by the law in effect at the time of the member's death. The rule has been amended to conform with the legislative change (See mark-up, page 2, § 11-102(a)(4));

- Acts 2023, No. 77, and Acts 2023, No. 107, amended A.C.A. § 24-7-710 (survivor annuity benefits) to require an application to be filed by the end of the sixth full calendar month following the date of the member's death. The rule has been amended to conform with the legislative change (See mark-up, page 3, § 11-104(d)(4)(A) and page 8, § 11-112(e)(1) and (2));

- Acts 2023, No. 77, amended A.C.A. § 24-7-710 (survivor annuity benefits) to clarify that an alternative residue beneficiary is not required to waive his or her right to a residue if the member does not have residue balance. The rule has been amended to conform with the legislative change (See mark-up, page 4, § 11-105(b)(3)(B));

- Amended to clarify when ATRS will honor a member's designation of his or her former spouse as the member's residue beneficiary. The amendment also clarifies that ATRS is not obligated to recoup or reimburse a member's current spouse for any residue amount paid to the member's former spouse in accordance with a law, rule, or policy applicable to ATRS;

- Acts 2023, No. 77, amended A.C.A. § 24-7-710 (survivor annuity benefits) to clarify that an alternative residue beneficiary is not required to waive his or her right to a residue if the member does not have residue balance. The rule has been amended to conform with the legislative change and to clarify that the same rule applies in the case of a deceased T-DROP plan participant (See mark-up, page 5, § 11-106(a)(3)(B));

- Amended to clarify that a member's child shall be eligible to qualify as a dependent child or may maintain his or her status as a dependent child if the member was the child's legal parent at the time of the qualifying member's death (See mark-up, page 5, § 11-107(a)(2));

- Acts 2023, No. 77, amended A.C.A. § 24-7-710 (survivor annuity benefits) to clarify the age-range during which a dependent child remains eligible to receive survivor benefits based on his or her continued enrollment in certain educational institutions. The act also added vocational-technical school to the list of qualifying educational institutions. The act also codified the ATRS rules concerning dependent children who are called to active military duty or training. The act also amended the law to allow a dependent child to continue receiving survivor benefits during a period of deferred enrollment if the dependent child deferred enrollment in accordance with ATRS rules. The act also clarifies when a dependent child is no longer eligible to qualify as a dependent child. The rule has been amended to incorporate the legislative changes

(See mark-up, page 6, § 11-107(b) and (c), pages 6-7, § 11-109(b), and page 8, § 11-112(f)(6)).

- Amended to clarify that a dependent child may receive survivor benefits during a period of deferred enrollment if the dependent child is not older than twenty-two (22) years of age and submits proof of the deferred enrollment to ATRS in the manner required by the System. (See mark-up, page 6, § 11-107(b)(2));
- Acts 2023, No. 77, amended A.C.A. § 24-7-710 (survivor annuity benefits) to clarify the age-range during which a dependent child remains eligible to receive survivor benefits based on his or her continued enrollment in certain educational institutions. The rule has been amended to incorporate the legislative change (See mark-up, page 6, § 11-108(c)(1)).
- Amended to clarify that a dependent child who is temporarily physically or mentally incapacitated must be unable to attend school full-time in order to continue receiving benefits (See mark-up, page 6, § 11-108(c)(1) and (2));
- Acts 2023, No. 77, amended the law to permit a dependent child annuity to be paid to a surviving child of a retiree who dies after returning to work. The rule has been amended to incorporate this legislative change (See mark-up, page 7, § 11-111);
- Acts 2023, No. 171, amended the law to clarify that a member of the System who is active, retired, or a T-DROP plan participant may qualify for a lump-sum death benefit. The rule has been amended to incorporate this legislative change (See mark-up, page 9, § 11-115(a));
- Amended to clarify that the lump-sum death benefit may be set by a resolution or rules adopted by the Board (See mark-up, page 9, § 11-116(a)(1));
- Acts 2023, No. 171, amended the law to provide that the lump-sum death benefit must be paid in equal shares to each person designated as a beneficiary. The act also amended the law to provide that if all designated beneficiaries do not survive the member, the lump-sum death benefit must be paid to the member's estate. The rule has been amended to incorporate these legislative changes (See mark-up, page 9, § 11-116(b));
- Amended to address the treatment of a member account when the member designates a funeral home or a former spouse as his or her lump-sum death benefit beneficiary (See mark-up, page 10, § 11-117(a)(2) and (3));
- Amended to clarify that ATRS will notify a member and the alternate payee in writing if the System determines that a QDRO cannot be accepted by the System (See mark-up, page 12, § 11-121(b)(2)(B));
- Amended to clarify when a QDRO will be accepted by the System (See mark-up, page 12, § 11-121(b)(2)(C));
- Amended to clarify that ATRS is not obligated to determine the current address of an alternate payee if the alternate payee's address changes from

the address provided in the QDRO accepted by the System (See mark-up, page 13, § 11-125(a)(2));

- Amended to clarify that ATRS is not required to make restitution for a benefit amount that was distributed before the System received a court order voiding a QDRO approved by the System (See mark-up, page 14, § 11-126(c)(4));

- Amended to clarify when an alternate payee's portion of benefits will revert back to a member (See mark-up, page 14, § 11-127(a));

- Amended to address the treatment of a member account when the account is subject to a QDRO and the member cancels his or her retirement or the court enters an order voiding the QDRO (See mark-up, page 15, § 11-128).

- Amended to clarify that an alternate payee will receive a portion of the member's contributions if the member dies before retirement and a survivor annuity is not payable (See mark-up, pages 14, § 11-127(b)(1)); and

- Amended to clarify that the System will stop paying an alternate payee his or her portion of benefits if the member dies after retiring from the System (See mark-up, pages 14-15, § 11-127(c)).

Following the public comment period, the System indicated that the following changes were made:

- Added a definition for "legal parent" (See mark-up, page 1, § 11-101(4));

- Revisions were also made to clarify that the member's current spouse must be eligible to receive a survivor annuity benefit and to change "lump sum death benefit beneficiary designation form" to read "residue beneficiary designation form" (See mark-up, pages 4-5, § 11-105(c));

- A typo was corrected to read "deferred" (See mark-up, page 6, § 11-107(b)(2));

- Amended to clarify that the QDRO must be accepted by the System (See mark-up, page 12, § 11-123(a)(1) and page 14, § 11-126(a)(1), § 11-126(b)(1), and § 11-126(c)(2)).

PUBLIC COMMENT: A public hearing was held on February 5, 2024. The public comment period expired on January 22, 2024. The System provided the following public comment summary:

Commenter's Name: ATRS Staff

COMMENT No. 1: Should the definition of "immediately eligible" read "for the purpose of survivor annuity benefits means a survivor of an active member who at the time of his or her death is eligible for voluntary or early voluntary retirement and could have retired from the system" instead of "for the purposes of survivor annuity benefits means a survivor of an active member who at the time of his or her death attained the normal retirement age and could have retired from the system"?

RESPONSE: This recommend change aligns with Ark. Code Ann. § 24-7-710((b)(1)(C)(i). The rule has been amended to read “for the purpose of survivor annuity benefits means a survivor of an active member who at the time of his or her death would have been eligible to receive benefits and could have retired from the system”.

COMMENT No. 2: Regarding § 11-104(c)(2), do the current spouse and deceased member have to be married for a certain period of time?

RESPONSE: Yes. This rule is intended to align with Ark. Code Ann. § 24-7-710(a)(2)(B), which requires a surviving spouse to have been married to the member for at least two (2) years immediately preceding the member’s death in order to be eligible for a survivor annuity. The rule has been amended to clarify that the current spouse must be eligible to receive survivor annuity benefits, which would require the current spouse to have been married to the member for at least two (2) years immediately preceding the member’s death.

COMMENT No. 3: Should “lump-sum death benefit” read “beneficiary designation form”? **RESPONSE:** The rule has been amended to read, “A member who remarries and desires to maintain his or her former spouse’s designation as the member’s alternative residue beneficiary shall file with the system a residue beneficiary designation form that:”

COMMENT No. 4: Should nine (9) hours in graduate school be included? **RESPONSE:** No, § 11-107(a) provides that a dependent child may be considered a full-time student if he or she is engaged full-time in a curriculum or field of study based upon verifiable indices from an accredited institution. This provision covers nine (9) hours in graduate school. No changes to the rule have been made.

Jason Kearney, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses:

(1) Section 11-106 of the proposed rule, which concerns dependent children, states that a qualifying member’s child shall be eligible to qualify as a dependent child or maintain his or her status as a dependent child if the qualifying member was the *legal parent* of the child at the time of the qualifying member’s death (emphasis added). This requirement is not found in Ark. Code Ann. § 24-7-710, which is also cited in the rule. What is the agency’s reasoning for adding the requirement that a member be the legal parent of the child? **RESPONSE:** ATRS staff and members have questioned whether a child must be the biological child of a member in order to be eligible for dependent child survivor benefits. Adding “legal parent” is intended to clarify that a child will be considered the child of a member if the child would legally have been considered the child of the member at the time of the member’s death. This change clarifies that

adopted children of a member may also be eligible for dependent child survivor benefits.

(2) With respect to the provision cited above, the term “legal parent” does not appear to be defined in the proposed rule. How does the agency define “legal parent” for the purposes of this rule? **RESPONSE:** ATRS defines “legal parent” for the purposes of the rule as the biological father or mother of a child or the adoptive mother or father of a child. A definition for “legal parent” has been added to the rules on page 1.

(3) Section 11-106(b)(2)(B) – should this subsection refer to a “deferred enrollment”? **RESPONSE:** Yes. The rule has been amended to refer to “deferred enrollment”.

(4) Section 11-120(b)(2)(C), which concerns the system’s acceptance of Qualified Domestic Relations Orders (QDRO), states that the system shall accept a QDRO issued by a circuit court of the State of Arkansas or other court of competent jurisdiction regarding a member and an alternate payee if the QDRO complies with the Arkansas Code, the system’s rules, the system’s model qualified domestic relations order, and other applicable laws. This appears to be premised upon Ark. Code Ann. § 9-18-103 (b)(2)(B)(ii), which only provides that a state-supported retirement system is not required to comply with a qualified domestic relations order that does not substantially follow the uniform legal form approved by the Legislative Council. Is there a reason why the proposed rule’s language is different, and more restrictive, than the language provided in the Arkansas Code? **RESPONSE:** ATRS does not consider the proposed rule to be different or more restrictive than language provided by Ark. Code Ann. § 9-18-103(b)(2)(B)(ii). The proposed rule is premised on Ark. Code Ann. § 9-18-101 et seq. and not Ark. Code Ann. § 9-18-103(b)(2)(B)(ii) alone. The proposed rule requiring the System to accept a qualified domestic relations order that complies with the System’s rules, the System’s model qualified domestic relations order, and other applicable laws aligns with Ark. Code Ann. § 9-18-101 et seq. In relevant part, Ark. Code Ann. § 9-18-101(4) defines “qualified domestic relations order” as a domestic relations order “[w]hich does not require the retirement plan to provide any type or form of benefit, or pay options not otherwise available under the plan”. The System’s rules address benefits and pay options available under ATRS. Additionally, other state or federal laws may impact benefits and pay options available under a retirement plan. Furthermore, ATRS’ model qualified domestic relations order (“ATRS-model QDRO”), which was approved by Legislative Council, was drafted by ATRS staff to ensure that only benefits and pay options available under ATRS were included. Finally, as the proposed rule merely states when ATRS will accept a qualified domestic relations order and does not prohibit ATRS from accepting or complying with a qualified domestic

relations order that does not substantially comply with the ATRS-model QDRO, the proposed rule complies with and is not more restrictive than Ark. Code Ann. § 9-18-103(b)(2)(B)(ii).

(5) With respect to the provision cited above, who would make the determination that a QDRO issued by a circuit court of the State of Arkansas or other court of competent jurisdiction fails to comply with the Arkansas Code, the System's rules or other applicable laws?

RESPONSE: For the limited purpose of determining whether ATRS will accept or comply with a qualified domestic relations order, as provided by § 11-120(b)(2)(A) on page 12, upon receiving a qualified domestic relations order, ATRS will determine whether the qualified domestic relations order complies with the Arkansas Code, the System's rules, the ATRS-model QDRO, and other applicable laws.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The System states that the amended rule has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 24-7-305(b)(1), the Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the System. Additional rulemaking authority can be found in Ark. Code Ann. § 9-18-103(b), which states that the Board shall establish rules to implement Ark. Code Ann. §§ 9-18-101 through 103, which concern Qualified Domestic Relations Orders. Further rulemaking authority is found in Ark. Code Ann. § 24-7-710(i), which states that the Board may adopt rules to carry out Ark. Code Ann. § 24-7-710, concerning survivor annuity benefits.

The proposed changes include those made in light of the following acts:

Act 77 of 2023, sponsored by Senator Kim Hammer, which amended and updated the law concerning survivor annuity benefits under the Arkansas Teacher Retirement System, clarified survivor application deadlines under the Arkansas Teacher Retirement System, clarified a dependent child's ability to receive a dependent child annuity under the Arkansas Teacher Retirement System when the child is called to active military duty or training, and clarified a dependent child's eligibility for a dependent child's annuity under the Arkansas Teacher Retirement System when the child's parent has retired but returns to work under a covered employer; and

Act 171 of 2023, sponsored by Representative Andrew Collins, which amended and updated the law concerning the lump-sum death benefit

under the Arkansas Teacher Retirement System, clarified the administration of the lump-sum death benefit under the Arkansas Teacher Retirement System, and clarified the eligibility of a retired member and a T-DROP participant to receive a lump-sum death benefit under the Arkansas Teacher Retirement System.

i. **SUBJECT: Rule 12-1: Protection of “Qualified Trust” Status of the Arkansas Teacher Retirement System under Internal Revenue Code § 401(a)**

DESCRIPTION: The Arkansas Teacher Retirement System (“ATRS”) seeks to amend Rule 12-1: Protection of “Qualified Trust” Status of the Arkansas Teacher Retirement System under Internal Revenue Code § 401(a) as follows:

- Redrafted for clarity and to address issues such as formatting, renumbering, grammar, and spelling;
- Redrafted to further align with the Code of Arkansas Rules style format;
- The authority for this rule has been moved to the end of the document;
- The title of the rule has been changed to “Protection of “Qualified Trust” Status of the Arkansas Teacher Retirement System under Internal Revenue Code § 401(a)” (See mark-up, page 1); and
- The rule number has been changed to 12 (See mark-up, page 1).

PUBLIC COMMENT: A public hearing was held on February 5, 2024. The public comment period expired on January 22, 2024. The System received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The System states that the amended rule has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 24-7-305(b)(1), the Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the System. Additional rulemaking authority can be found in Ark. Code Ann. § 24-7-210(a), which states that the Executive Director of the Arkansas Teacher Retirement System is authorized and directed to operate the Arkansas Teacher Retirement System and interpret any provisions of Ark. Code Ann. §§ 24-7-101 – 105, consistent with the requirements under the Internal Revenue Code and applicable United States Department of the Treasury regulations necessary to permit the system to be operated as a “qualified trust” under Internal Revenue Code, 26 U.S.C. § 401(a). Notwithstanding any language to the contrary set forth in Title 24, Chapter

7 of the Arkansas Code, which concerns Retirement of Employees of Schools and Educational Institutions, the Board of Trustees of the Arkansas Teacher Retirement System shall have the authority to promulgate rules consistent with these directions. *See Ark. Code Ann. § 24-7-210(b).* Any rule promulgated under Ark. Code Ann. § 24-7-210, concerning federal taxation, that is found to be in conflict with an applicable provision of the code is null and void. *See Ark. Code Ann. § 24-7-210(c).* Finally, Ark. Code Ann. § 24-7-305(b)(2)(B) provides that, in order to fully comply with federal requirements that may affect the members or the members' benefits, and to limit the impact of changes in federal requirements on members or the members' benefits, the Board may promulgate rules to maintain the system's retirement plan tax qualification status by the United States Government to remain tax-exempt and tax-qualified under the Internal Revenue Code, 26 U.S.C. § 401(a).

j. **SUBJECT: Rule 13-1: Administrative Adjudications and Informal Resolutions: Staff Determinations and Manifest Injustice Referrals**

DESCRIPTION: The Arkansas Teacher Retirement System ("ATRS") seeks to amend Rule 13-1: Administrative Adjudications and Informal Resolutions: Staff Determinations and Manifest Injustice Referrals, as follows:

- Redrafted for clarity and to address issues such as formatting, renumbering, grammar, and spelling;
- Redrafted to further align with the Code of Arkansas Rules style format;
- The authority for this rule has been moved to the end of the document;
- The rule number has been changed to 13 (See mark-up, page 1);
- The title of this rule has been changed to "Administrative Adjudications and Informal Resolutions: Staff Determinations and Manifest Injustice Referrals" (See mark-up, page 1);
- Any provisions of ATRS Rule 17-1 (to be repealed) that were determined as being necessary to maintain have been transferred to Rule 13-1 (See mark-up, page 3, § 13-105(c) and pages 8-13, § 13-115, § 13-118, § 13-119, §13-120, § 13-121, and § 13-122);
- Amended throughout to clarify when the staff determination process is being referenced and when the manifest injustice process is being referenced (See for example mark-up, page 1, § 13-101(c)(2) and § 13-102(c) and (d));
- Amended definition of "manifest injustice", so that the definition refers back to the definition in A.C.A. § 24-7-202 (See mark-up, page 1, § 13-101(1));
- Amended to clarify that only the Board may extend a deadline after a deadline has passed (See mark-up, page 1, § 13-103(a)(2));
- Amended to clarify that the Executive Director may implement a resolution having a direct financial impact to the System of up to five

thousand dollars (\$5,000) to resolve a member's claim (See mark-up, page 2, § 13-104(b) and page 11, § 13-120(b)(2)(A));

- Amended to clarify that a good faith informal resolution of a member's claim must be performed in accordance with the law, rules, and policies applicable to ATRS and based on the specific facts of the member's claim (See mark-up, page 2, § 13-104(c)).
- Amended to clarify an Executive Director Review may be requested if a claim is not resolve informally and a staff determination letter adverse to the member's claim is issued (See mark-up, page 2, § 13-104(d));
- Amended to clarify that the manifest injustice process cannot be used if the manifest injustice referral concerns the same questions of law and fact that have been addressed through the staff determination and appeals process (See mark-up, page 2, § 13-104(e));
- Amended to clarify when a staff determination letter may be issued to a member and the information that must be included in a staff determination letter (See mark-up, pages 2-3, § 13-105(a) and (b));
- Amended to clarify that a staff determination letter is not a final decision or order of the System that may be appealed under the Administrative Procedure Act, § 25-15-201 et seq. (See mark-up, page 3, § 13-105(d));
- Amended to clarify when a member's claim will be considered closed (See mark-up, page 3, § 13-105(e) and page 4, § 13-106(g));
- Provision providing that a written determination of System staff concerning an overpayment collection dispute or the applicability of a salary limitation to a plan or payment shall be treated as a staff determination letter was transferred from ATRS Rule 7 and ATRS Rule 9 (See mark-up, page 3, § 13-105(c));
- Amended to clarify the procedures for requesting an Executive Director Review of a staff determination letter, responding to a review request, and appealing an Executive Director Review determination letter (See mark-up, pages 3-4, § 13-106(b)), § 13-106(d)(2), § 13-106(e), and § 13-107(b)(1));
- Amended to clarify that an Executive Director Review determination letter is not a final decision or order of the System that may be appealed under the Administrative Procedure Act, § 25-15-201 et seq. (See mark-up, page 4, § 13-106(f));
- Amended to clarify the requirements for proposed final orders and to clarify that the Board's final decision or order may be appealed under the Administrative Procedure Act, § 25-15-201 et seq. (See mark-up, page 4, § 13-108(a)(3), page 7, § 13-112(b)(2)(B), and page 8, § 13-114(e)(3)(A), § 13-114(g)(3), and § 13-114(g)(4));
- Amended to align with the Administrative Procedure Act, § 25-15-201 et seq. (See mark-up, page 4, § 13-108(a)(3), page 7, § 13-112(b)(2)(B), page 8, § 13-114(e)(3)(A) and § 13-114(g)(4), and page 9, § 13-116(b)(3));

- Amended to clarify when the manifest injustice process may be used to address a change, omission, or error in the records of the System (See mark-up, page 10, § 13-118(d));
- Amended to use “benefit participant” instead of separately listing each category of person or entity (See mark-up, page 10, § 13-119(b)(1)(C));
- Amended to clarify that a member of the Manifest Injustice Committee cannot make a referral (See mark-up, page 10, § 13-119(b)(2));
- Amended to clarify that records of submitted referrals and the resolutions of same must be maintained by the System (See mark-up, page 10, § 13-119(c)(1));
- Amended to clarify that the members of the Manifest Injustice Committee will include the General Counsel and two (2) members of senior management designated by the Executive Director (See mark-up, page 12, § 13-121(a));
- Amended to address the appeal of an unfavorable manifest injustice determination (See mark-up, page 12, § 13-122(b)(2)(C) and § 13-122(b)(3));
- Amended to address notice requirements to a member when the member submits a manifest injustice referral and the referral will be placed on the Board’s agenda for review (See mark-up, page 13, § 13-122(b)(4)(C)(ii)); and
- Amended to provide that a final order of the Board concerning a manifest injustice referral is a final decision or order of the System that may be appealed under the Administrative Procedure Act, § 25-15-201 et seq. (See mark-up, page 13, § 13-122(b)(4)(E)).

PUBLIC COMMENT: A public hearing was held on February 5, 2024. The public comment period expired on January 22, 2024. The System received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The System states that the amended rule has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 24-7-305(b)(1), the Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the System.

k. SUBJECT: Rule 14-1: Retirement Fund Asset Accounts

DESCRIPTION: The Arkansas Teacher Retirement System (“ATRS”) seeks to amend Rule 14-1: Retirement Fund Asset Accounts, as follows:

- Redrafted for clarity and to address issues such as formatting, renumbering, grammar, and spelling;
- Redrafted to further align with the Code of Arkansas Rules style format;
- The authority for this rule has been moved to the end of the document;
- The rule number has been changed to 14 (See mark-up, page 1).

PUBLIC COMMENT: A public hearing was held on February 5, 2024. The public comment period expired on January 22, 2024. The System received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The System states that the amended rule has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 24-7-305(b)(1), the Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the System.

I. SUBJECT: Rule 15-1: Benefit Restoration Plan and Trust

DESCRIPTION: The Arkansas Teacher Retirement System (“ATRS”) seeks to amend Rule 15-1: Benefit Restoration Plan and Trust, as follows:

- Redrafted for clarity and to address issues such as formatting, renumbering, grammar, and spelling;
- Redrafted to further align with the Code of Arkansas Rules style format;
- The authority for this rule has been moved to the end of the document;
- The rule number has been changed to 15 (See mark-up, page 1).

PUBLIC COMMENT: A public hearing was held on February 5, 2024. The public comment period expired on January 22, 2024. The System received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The System states that the amended rule has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 24-7-305(b)(1), the Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the System.

m. **SUBJECT: Rule 16: Cash and Savings Help (CASH) Program**

DESCRIPTION: The Arkansas Teacher Retirement System (“ATRS”) seeks to amend Rule 16: Cash Savings and Help Program, as follows:

- Redrafted for clarity and to address issues such as formatting, renumbering, grammar, and spelling;
- Redrafted to further align with the Code of Arkansas Rules style format;
- The authority for this rule has been moved to the end of the document;
- The title of the rule has been changed to “Cash and Savings Help Program” (See mark-up, page 1).

PUBLIC COMMENT: A public hearing was held on February 5, 2024. The public comment period expired on January 22, 2024. The System received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The System states that the amended rule has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 24-7-305(b)(1), the Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the System. Furthermore, the Board may adopt rules as necessary to implement Ark. Code Ann. § 24-7-505, which concerns a buyout plan for inactive members. *See* Ark. Code Ann. § 24-7-505(b)(1).

n. **SUBJECT: REPEAL – 17-1: Manifest Injustice**

DESCRIPTION: The Arkansas Teacher Retirement System (“ATRS”) seeks to repeal Rule 17-1: Manifest Injustice, in its entirety. Per the agency, the rule is no longer required as its provisions are addressed in the ATRS Board policies. The repeal of this rule is necessary for the orderly and proper operation and administration of the Arkansas Teacher Retirement System. Any provisions of ATRS Rule 17-1 that were determined as being necessary to maintain have been transferred to Rule 13-1.

PUBLIC COMMENT: A public hearing was held on February 5, 2024. The public comment period expired on January 22, 2024. The System received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The System states that the repeal has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 24-7-305(b)(1), the Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the System.

o. **SUBJECT: REPEAL – Rule 5-1: Investment Introduction**

DESCRIPTION: The Arkansas Teacher Retirement System (“ATRS”) seeks to repeal Rule 5-1: Investment Introduction, in its entirety. Per the agency, the rule is no longer required as its provisions are addressed in the ATRS Board policies. The repeal of this rule is necessary for the orderly and proper operation and administration of the Arkansas Teacher Retirement System.

PUBLIC COMMENT: A public hearing was held on February 5, 2024. The public comment period expired on January 22, 2024. The System received no comments.

Jason Kearney, an attorney with the Bureau of Legislative Research, asked the following question and received the following response:

1) With respect to repealed Rule 5-1, is it the System’s position that the rule covers matters of internal policy and is not required to be a rule?

RESPONSE: Rules 5-1 through 5-8 (“Rules”) concern the internal management of ATRS’ investments and do not affect private rights or procedures available to the general public. As the content of these Rules are statements related to the internal management of ATRS’ investments and are already included in ATRS’ policies, it is our opinion that these Rules do not meet the definition of a rule as defined by Ark. Code Ann. § 25-15-202(9) and are not required. With regard to Ark. Code Ann. § 24-2-613, we interpret the statute as requiring ATRS to have investment policies (which will address investment goals and any rules concerning actions that must be taken to achieve the goals) and follow those policies. We do not interpret the statute as requiring ATRS to have separately promulgated rules concerning investments, especially given that such rules would not meet the definition of a rule under Ark. Code Ann. § 25-15-202(9). Based on this interpretation, we believe ATRS is in compliance with the statute.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The System states that the repeal has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 24-7-305(b)(1), the Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the System. Further authority for the rulemaking is found in Ark. Code Ann. § 24-2-613(b)(1), concerning duties at inception of trusteeship, which states that trustees shall develop an investment policy. This policy shall be a written statement of goals for the fund and rules to be followed to achieve those goals.

p. **SUBJECT: REPEAL – Rule 5-2: Standard of Care**

DESCRIPTION: The Arkansas Teacher Retirement System (“ATRS”) seeks to repeal Rule 5-2: Standard of Care, in its entirety. Per the agency, the rule is no longer required as its provisions are addressed in the ATRS Board policies. The repeal of this rule is necessary for the orderly and proper operation and administration of the Arkansas Teacher Retirement System.

PUBLIC COMMENT: A public hearing was held on February 5, 2024. The public comment period expired on January 22, 2024. The System received no comments.

Jason Kearney, an attorney with the Bureau of Legislative Research, asked the following question and received the following response:

1) With respect to repealed Rule 5-2, is it the System’s position that the rule covers matters of internal policy and is not required to be a rule?

RESPONSE: Rules 5-1 through 5-8 (“Rules”) concern the internal management of ATRS’ investments and do not affect private rights or procedures available to the general public. As the content of these Rules are statements related to the internal management of ATRS’ investments and are already included in ATRS’ policies, it is our opinion that these Rules do not meet the definition of a rule as defined by Ark. Code Ann. § 25-15-202(9) and are not required. With regard to Ark. Code Ann. § 24-2-613, we interpret the statute as requiring ATRS to have investment policies (which will address investment goals and any rules concerning actions that must be taken to achieve the goals) and follow those policies. We do not interpret the statute as requiring ATRS to have separately promulgated rules concerning investments, especially given that such rules would not meet the definition of a rule under Ark. Code Ann. § 25-15-202(9). Based on this interpretation, we believe ATRS is in compliance with the statute.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The System states that the repeal has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 24-7-305(b)(1), the Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the System.

q. **SUBJECT: REPEAL – Rule 5-3: Asset Allocation**

DESCRIPTION: The Arkansas Teacher Retirement System (“ATRS”) seeks to repeal Rule 5-3: Asset Allocation, in its entirety. Per the agency, the rule is no longer required as its provisions are addressed in the ATRS Board policies. The repeal of this rule is necessary for the orderly and proper operation and administration of the Arkansas Teacher Retirement System.

PUBLIC COMMENT: A public hearing was held on February 5, 2024. The public comment period expired on January 22, 2024. The System received no comments.

Jason Kearney, an attorney with the Bureau of Legislative Research, asked the following question and received the following response:

1) With respect to repealed Rule 5-3, is it the System’s position that the rule covers matters of internal policy and is not required to be a rule?

RESPONSE: Rules 5-1 through 5-8 (“Rules”) concern the internal management of ATRS’ investments and do not affect private rights or procedures available to the general public. As the content of these Rules are statements related to the internal management of ATRS’ investments and are already included in ATRS’ policies, it is our opinion that these Rules do not meet the definition of a rule as defined by Ark. Code Ann. § 25-15-202(9) and are not required. With regard to Ark. Code Ann. § 24-2-613, we interpret the statute as requiring ATRS to have investment policies (which will address investment goals and any rules concerning actions that must be taken to achieve the goals) and follow those policies. We do not interpret the statute as requiring ATRS to have separately promulgated rules concerning investments, especially given that such rules would not meet the definition of a rule under Ark. Code Ann. § 25-15-202(9). Based on this interpretation, we believe ATRS is in compliance with the statute.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The System states that the repeal has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 24-7-305(b)(1), the Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the System.

r. **SUBJECT: REPEAL – Rule 5-4: Investment Goals**

DESCRIPTION: The Arkansas Teacher Retirement System (“ATRS”) seeks to repeal Rule 5-4: Investment Goals, in its entirety. Per the agency, the rule is no longer required as its provisions are addressed in the ATRS Board policies. The repeal of this rule is necessary for the orderly and proper operation and administration of the Arkansas Teacher Retirement System.

PUBLIC COMMENT: A public hearing was held on February 5, 2024. The public comment period expired on January 22, 2024. The System received no comments.

Jason Kearney, an attorney with the Bureau of Legislative Research, asked the following question and received the following response:

1) With respect to repealed Rule 5-4, is it the System’s position that the rule covers matters of internal policy and is not required to be a rule?

RESPONSE: Rules 5-1 through 5-8 (“Rules”) concern the internal management of ATRS’ investments and do not affect private rights or procedures available to the general public. As the content of these Rules are statements related to the internal management of ATRS’ investments and are already included in ATRS’ policies, it is our opinion that these Rules do not meet the definition of a rule as defined by Ark. Code Ann. § 25-15-202(9) and are not required. With regard to Ark. Code Ann. § 24-2-613, we interpret the statute as requiring ATRS to have investment policies (which will address investment goals and any rules concerning actions that must be taken to achieve the goals) and follow those policies. We do not interpret the statute as requiring ATRS to have separately promulgated rules concerning investments, especially given that such rules would not meet the definition of a rule under Ark. Code Ann. § 25-15-202(9). Based on this interpretation, we believe ATRS is in compliance with the statute.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The System states that the repeal has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 24-7-305(b)(1), the Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the System. Further authority for the rulemaking is found in Ark. Code Ann. § 24-2-613(b)(1), concerning duties at inception of trusteeship, which states that trustees shall develop an investment policy. This policy shall be a written statement of goals for the fund and rules to be followed to achieve those goals.

s. **SUBJECT: REPEAL – Rule 5-6: Investment Consultants**

DESCRIPTION: The Arkansas Teacher Retirement System (“ATRS”) seeks to repeal Rule 5-6: Investment Consultants, in its entirety. Per the agency, the rule is no longer required as its provisions are addressed in the ATRS Board policies. The repeal of this rule is necessary for the orderly and proper operation and administration of the Arkansas Teacher Retirement System.

PUBLIC COMMENT: A public hearing was held on February 5, 2024. The public comment period expired on January 22, 2024. The System received no comments.

Jason Kearney, an attorney with the Bureau of Legislative Research, asked the following question and received the following response:

1) With respect to repealed Rule 5-6, is it the System’s position that the rule covers matters of internal policy and is not required to be a rule?

RESPONSE: Rules 5-1 through 5-8 (“Rules”) concern the internal management of ATRS’ investments and do not affect private rights or procedures available to the general public. As the content of these Rules are statements related to the internal management of ATRS’ investments and are already included in ATRS’ policies, it is our opinion that these Rules do not meet the definition of a rule as defined by Ark. Code Ann. § 25-15-202(9) and are not required. With regard to Ark. Code Ann. § 24-2-613, we interpret the statute as requiring ATRS to have investment policies (which will address investment goals and any rules concerning actions that must be taken to achieve the goals) and follow those policies. We do not interpret the statute as requiring ATRS to have separately promulgated rules concerning investments, especially given that such rules would not meet the definition of a rule under Ark. Code Ann. § 25-15-202(9). Based on this interpretation, we believe ATRS is in compliance with the statute.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The System states that the repeal has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 24-7-305(b)(1), the Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the System. Further authority for the rulemaking is found in Ark. Code Ann. § 24-2-613(b)(1), concerning duties at inception of trusteeship, which states that trustees shall develop an investment policy. This policy shall be a written statement of goals for the fund and rules to be followed to achieve those goals.

t. **SUBJECT: REPEAL – Rule 5-7: Investment Managers**

DESCRIPTION: The Arkansas Teacher Retirement System (“ATRS”) seeks to repeal Rule 5-7: Investment Managers, in its entirety. Per the agency, the rule is no longer required as its provisions are addressed in the ATRS Board policies. The repeal of this rule is necessary for the orderly and proper operation and administration of the Arkansas Teacher Retirement System.

PUBLIC COMMENT: A public hearing was held on February 5, 2024. The public comment period expired on January 22, 2024. The System received no comments.

Jason Kearney, an attorney with the Bureau of Legislative Research, asked the following question and received the following response:

1) With respect to repealed Rule 5-7, is it the System’s position that the rule covers matters of internal policy and is not required to be a rule?

RESPONSE: Rules 5-1 through 5-8 (“Rules”) concern the internal management of ATRS’ investments and do not affect private rights or procedures available to the general public. As the content of these Rules are statements related to the internal management of ATRS’ investments and are already included in ATRS’ policies, it is our opinion that these Rules do not meet the definition of a rule as defined by Ark. Code Ann. § 25-15-202(9) and are not required. With regard to Ark. Code Ann. § 24-2-613, we interpret the statute as requiring ATRS to have investment policies (which will address investment goals and any rules concerning actions that must be taken to achieve the goals) and follow those policies. We do not interpret the statute as requiring ATRS to have separately promulgated rules concerning investments, especially given that such rules would not meet the definition of a rule under Ark. Code Ann. § 25-15-

202(9). Based on this interpretation, we believe ATRS is in compliance with the statute.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The System states that the repeal has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 24-7-305(b)(1), the Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the System. Further authority for the rulemaking is found in Ark. Code Ann. § 24-2-613(b)(1), concerning duties at inception of trusteeship, which states that trustees shall develop an investment policy. This policy shall be a written statement of goals for the fund and rules to be followed to achieve those goals.

u. **SUBJECT: REPEAL – Rule 5-8: Soft Dollars**

DESCRIPTION: The Arkansas Teacher Retirement System (“ATRS”) seeks to repeal Rule 5-8: Soft Dollars, in its entirety. Per the agency, the rule is no longer required as its provisions are addressed in the ATRS Board policies. The repeal of this rule is necessary for the orderly and proper operation and administration of the Arkansas Teacher Retirement System.

PUBLIC COMMENT: A public hearing was held on February 5, 2024. The public comment period expired on January 22, 2024. The System received no comments.

Jason Kearney, an attorney with the Bureau of Legislative Research, asked the following question and received the following response:

1) With respect to repealed Rule 5-8, is it the System’s position that the rule covers matters of internal policy and is not required to be a rule?

RESPONSE: Rules 5-1 through 5-8 (“Rules”) concern the internal management of ATRS’ investments and do not affect private rights or procedures available to the general public. As the content of these Rules are statements related to the internal management of ATRS’ investments and are already included in ATRS’ policies, it is our opinion that these Rules do not meet the definition of a rule as defined by Ark. Code Ann. § 25-15-202(9) and are not required. With regard to Ark. Code Ann. § 24-2-613, we interpret the statute as requiring ATRS to have investment policies (which will address investment goals and any rules concerning actions that must be taken to achieve the goals) and follow those policies.

We do not interpret the statute as requiring ATRS to have separately promulgated rules concerning investments, especially given that such rules would not meet the definition of a rule under Ark. Code Ann. § 25-15-202(9). Based on this interpretation, we believe ATRS is in compliance with the statute.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The System states that the repeal has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 24-7-305(b)(1), the Board of Trustees of the Arkansas Teacher Retirement System shall promulgate rules as it deems necessary from time to time in the transaction of its business and in administering the System. Further authority for the rulemaking is found in Ark. Code Ann. § 24-613(b)(1), concerning duties at inception of trusteeship, which states that trustees shall develop an investment policy. This policy shall be a written statement of goals for the fund and rules to be followed to achieve those goals.

2. **DEPARTMENT OF AGRICULTURE, ARKANSAS NATURAL RESOURCES COMMISSION (Chris Colclasure, Ryan Benefield, Corey Seats)**

a. **SUBJECT: Retail Water Provider Rules**

DESCRIPTION: The Department of Agriculture’s Arkansas Natural Resources Commission proposes amendments to their Oversight of Retail Water Providers Rule. The amendment to the rule is to incorporate Acts 545 and 691 of 2023. This will allow for elimination of the requirement of a rate study before a major development, clarification of when a utility can spend refurbishment funds, flexibility of time to implement new rates, and a new deadline for board member training.

PUBLIC COMMENT: A public hearing was held on January 4, 2024. The public comment period expired on January 8, 2024. The Commission indicated that it received no comments.

Jason Kearney, an attorney with the Bureau of Legislative Research, asked the following question and received the following response:

(1) Section VII(1) of the proposed rule, which concerns training, provides that a majority of the members of provider boards shall receive a minimum of eight hours training. Does the Commission treat this as an

annually recurring training requirement? **AGENCY RESPONSE:** It has been considered as a one-time training for the member. Once they have gone, they do not need to again.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The Commission states that the amended rule has no financial impact.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 14-234-806, the Arkansas Natural Resources Commission shall promulgate rules necessary to implement Ark. Code Ann. §§ 14-234-801 through 807, which concern oversight of retail water providers. Additional authority for the rulemaking can be found at Ark. Code Ann. § 14-234-802(d)(1), which provides that the commission shall determine by rule the requirements of the rate study, including without limitation a review of the provider's refurbishment and replacement account and asset management plan. Further, the commission shall determine by rule an appropriate entity to provide guidelines for the rate study to use as its basis if guidelines of the American Water Works Association and the Water Environment Federation are unavailable. *See* Ark. Code Ann. § 14-234-802(d)(2). Finally, Ark. Code Ann. § 14-234-805(a) states that, within one (1) year of election or appointment, a majority of the members of a provider board shall receive a minimum of eight (8) hours of provider training as promulgated by rule of the Arkansas Natural Resources Commission.

The proposed changes include those made in light of the following legislative Acts: Act 545 of 2023, sponsored by Representative John Maddox, which amended the law concerning retail water providers and related services; and Act 691 of 2023, sponsored by Senator Blake Johnson, which consolidated agricultural boards and commissions, abolished certain boards within the Department of Agriculture, transferred the duties of certain boards within the Department of Agriculture, and amended the duties of certain boards within the Department of Agriculture.

3. **DEPARTMENT OF COMMERCE, STATE INSURANCE DEPARTMENT**
(Amanda Rose)

a. **SUBJECT: Term and Universal Life Insurance Reserve Financing**

DESCRIPTION: This is a new rule intended to provide guidance to insurers with regard to the recent changes in the corresponding law, Ark.

Code Ann. §§ 23-62-301, et seq. (Arkansas Credit for Reinsurance Law), which was amended during the 2021 legislative session.

The rule references portions of the newly amended Arkansas Credit for Reinsurance Law. It is intended to assist insurers in complying with Ark. Code Ann. §§ 23-62-301, et seq. The rule is based on a model regulation prepared by the National Association of Insurance Commissioners (NAIC). The model regulation, prepared and adopted by NAIC, is a national accreditation standard for all states.

The authority for the promulgation of this rule, in addition to the general rulemaking authority provided in Ark. Code Ann. § 23-61-108 and the Arkansas Administrative Procedure Act, can be found at Ark. Code Ann. § 23-62-308.

PUBLIC COMMENT: A public hearing was held on February 1, 2024. The public comment period expired on February 1, 2024. The agency indicated that it received no comments.

The proposed effective date is April 1, 2024.

FINANCIAL IMPACT: The agency indicated that the proposed rule does not have a financial impact.

LEGAL AUTHORIZATION: The Insurance Commissioner, in consultation with the Secretary of the Department of Commerce: (1) may make reasonable rules necessary for or as an aid to the effectuation of any provision of the Arkansas Insurance Code and (2) shall have authority to promulgate rules necessary for the effective regulation of the business of insurance or as required for this state to be in compliance with federal laws. *See* Ark. Code Ann. §§ 23-61-108(a)(1) and 23-61-108(b)(1). In addition, the Insurance Commissioner may adopt rules implementing Title 23, Chapter 62, Subchapter 3 of the Arkansas Code concerning the Arkansas Credit for Reinsurance Law. *See* Ark. Code Ann. § 23-62-308(a).

4. DEPARTMENT OF EDUCATION, DIVISION OF ELEMENTARY AND SECONDARY EDUCATION (Andrés Rhodes, Daniel Shults)

a. SUBJECT: Rules Governing Payments Under the Educational Freedom Account Program

DESCRIPTION: The Arkansas Department of Education's Division of Elementary and Secondary Education proposes its Rules Governing Payments Under the Educational Freedom Account Program. The rules

govern payment processes and establish authority for the Department to facilitate implementation of the Educational Freedom Account Program created under Act 237 of 2023. The rule includes a comprehensive overview of the payment process for the program. It also outlines terms of payments and a process by which schools and providers can invoice for payments. This section also requires that participating schools receiving EFA funds apply any scholarships or tuition discounts toward students' tuition, costs, and fees before applying EFA funds.

Per the agency, the Department received several public comments and made non-substantive changes based on some of those comments.

PUBLIC COMMENT: A public hearing was held on December 18, 2023. The public comment period expired on December 25, 2023. The Division provided the following public comment summary:

Commenter Name: David Corless

COMMENT: Regarding funding, not all schools are alike when it comes to the matter of how much money they spend on each student. For example, public schools are required to provide transportation for students, while private schools are not. I think that the cost per student should be taken into account when deciding how much money should be allocated to schools. This would make the cost fair when allocating money to private schools. **RESPONSE:** Comment considered. No changes made. The amount of funding for each EFA is mandated by statute and legislative changes are outside the scope of rulemaking.

Commenter Name: David Ivers, Easterseals Arkansas, VP for External Affairs & General Counsel

COMMENT: Legislative intent in the LEARNS Act, particularly Ark. Code Ann. 6-18-2505 unclear. We request at a minimum that the Department not impose such a rule mid-school year, but instead make it effective for the 2024-25 school year. Also, we request the Department clarify in Ark. Code Ann. 6-18-2505 the circumstances under which funds may be credited back to a student's account and the maximum amount that can be retained in a student's account from year to year. **RESPONSE:** Comment considered. No changes made. This rule will be effective for the 2024-2025 school year and prospectively. Additionally, legislative changes are outside the scope of rulemaking.

Commenter Name: Lucas Harder, Arkansas School Boards Association, Policy Services Director

COMMENT: I would recommend making this: “to a participating school or service provider”; “unless an expenditure is not authorized”; and “following a review and approval of”. **RESPONSE:** Comment considered. A non-substantive change was made.

Commenter Name: Lucas Harder, Arkansas School Boards Association, Policy Services Director

COMMENT: I would recommend making this “during the payment submission process”. **RESPONSE:** Comment considered. A non-substantive change was made.

Commenter Name: Marti Olesen, Retired Public School Teacher

COMMENT: Longterm evaluation of funding should take place before permanent rules are established. There is no place for public funds to go to private schools except in the case where special education services are unavailable at a specific public school and are available at a nearby private school. Instead of rules for funding private, for-profit, religious, and non-profit schools, this rule-making should bring those funds back to be designated to make every public school better, and pay for improvements that will focus communities on their allegiance to our constitution, and our American ideals that are founded on a free and public education for all. **RESPONSE:** Comment considered. No changes made. The full EFA rule is still in the promulgation process and evaluation of funding will be addressed in that rule. Accordingly, this change would be outside the scope of this rule.

Commenter Name: Linda Crochet, Christ the King Catholic Church, Finance Office Admin Asst.

COMMENT: Report Options: Education Freedom Account System dashboard should add columns to separate first name and last name of student so that sorting can be accomplished by student LAST name. Vendor Enrollment Verification: Need a batch verification system for schools to more efficiently confirm student enrollments at onset of each quarter. Currently the system only allows verification of one record at a time. Additionally, the system sends the verifier back to the main page rather than the next record which adds more steps to the process. **RESPONSE:** Comment considered. No changes made. This change is outside the scope of rulemaking and will be addressed in the procurement process.

Commenter Name: Linda Crochet, Christ the King Catholic Church, Finance Office Admin Asst.

COMMENT: ADE Quarterly Installment Funding: Darrell Smith agreed that schools could bill upfront costs, such as book fees, on the 1st quarter invoice. Christ the King LR School would like to take advantage of the first quarter invoice, building in upfront costs to help with cash flow requirements. **RESPONSE:** Comment considered. No changes made. The statute is clear that the EFA funds shall be made in four equal quarterly payments per school year.

Commenter Name: Linda Crochet, Christ the King Catholic Church, Finance Office Admin Asst.

COMMENT: Timelines: ClassWallet's communication to families after ADE acceptance should arrive within 48 hours of ADE approval to avoid newly accepted families contacting CTKLR pertaining to why they have not received a timely email with funds available from ClassWallet. **RESPONSE:** Comment considered. No changes made. This change is outside the scope of this rule. This will be addressed in the full EFA rule or during the procurement process.

Commenter Name: Linda Crochet, Christ the King Catholic Church, Finance Office Admin Asst.

COMMENT: Enrollment Application for Families: Improve labeling of approved schools in dropdown to avoid parents selecting the wrong school by mistake. For example, Christ the King Little Rock and Christ Little Rock are often confused. **RESPONSE:** Comment considered. No changes made. This change can be addressed by working with the vendor outside of the rulemaking process.

Commenter Name: Linda Crochet, Christ the King Catholic Church, Finance Office Admin Asst.

COMMENT: ClassWallet vendor funding: Instead of a lengthy transaction number, ClassWallet should apply a name to the payment transaction to allow schools to more readily identify the family that the tuition payment should be applied to. **RESPONSE:** Comment considered. No changes made. This change is outside the scope of rulemaking.

Jason Kearney, an attorney with the Bureau of Legislative Research, asked the following questions and received the following responses from the Division:

1) Under section 1.01.1.4, concerning payment submissions, does the Department anticipate a single payment submission per quarter, or may multiple payment submissions be made by a student during a given payment period? **RESPONSE:** The statute states that the Department

shall make 4 equal payments per account per year, so we anticipate making one payment per quarter.

2) Under section 1.01.1.5, concerning payments to schools or participating service providers, is the department or the third-party payment processing vendor ultimately responsible for determining whether an expenditure is authorized by law? **RESPONSE:** The department will be responsible for determining whether an expenditure is authorized by law.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The Division states that the proposed rule has no financial impact. The Division estimates zero total cost by fiscal year to any private individual, private entity, or private business subject to the proposed rule. It further estimates as zero the total cost by fiscal year to a state, county, or municipal government to implement the rule, stating that the rule is being promulgated to make payments that were already approved for payment. There is no additional cost beyond what was previously incurred under the existing emergency rules.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 6-18-2504(a), as amended by Act 237 of 2023, § 42, the division shall administer the Arkansas Children's Educational Freedom Account Program, which shall be subject to the rules adopted by the State Board of Education. The rules adopted by the state board under Ark. Code Ann. § 6-18-2501 et seq., also known as the Arkansas Children's Educational Freedom Account Program, shall include without limitation the:

- (1) process for determining the eligibility of students and service providers, including the awarding of accounts to eligible students and removal of unnecessary barriers or disincentives to participation by potential participating service providers;
- (2) process for conducting account and program audits, including establishing the authority for the division to conduct or contract for the auditing of accounts;
- (3) authority of the division to deem any participating student ineligible for the program, and refer a case involving the misuse of account funds for investigation to the Attorney General or the Secretary of the Department of the Inspector General;
- (4) authority of the division to contract with a vendor or other supplier for the administration of the program or parts of the program;
- (5) requirement that the program shall begin enrolling participating students no later than the beginning of the 2023-2024 school year and be fully implemented to serve all Arkansas children eligible to enroll in a public school by the beginning of the 2025-2026 school year;
- (6) establishment or creation of a contract for the establishment of an online anonymous fraud reporting service, including without limitation a telephone hotline;
- (7) requirement for a surety bond for a participating service provider that receives more than one hundred thousand dollars

(\$100,000) in account funds; (8) mechanism for the refunding of payments from service providers back to the account from which they were paid; (9) required compliance with all state procurement laws and procedures; and (10) means for preventing unreasonable inflation or fraud in participating school tuition and fees. *See* Ark. Code Ann. § 6-18-2504(b).

Additional authority for the rulemaking can be found at Ark. Code Ann. § 6-18-2506(d), which provides that the state board shall promulgate rules: (1) for the implementation of the Arkansas Children’s Educational Freedom Account Program; and (2) to effectively and efficiently administer the Arkansas Children’s Educational Freedom Account Program, including without limitation the awarding of funds to participating students, the oversight of the Arkansas Children’s Educational Freedom Account Program, and any other necessary aspects for the operation of the Arkansas Children’s Educational Freedom Account Program. *See also* Ark. Code Ann. § 6-18-2505(j) and § 6-18-2507(h) (providing that the state board may promulgate rules to implement the Arkansas Children’s Educational Freedom Account Program).

The proposed changes include those made in light of Act 237 of 2023, sponsored by Senator Breanne Davis, which created the LEARNS Act and amended various provisions of the Arkansas Code as they relate to early childhood through grade twelve (12) education in the state of Arkansas.

b. SUBJECT: Rules Governing Tutoring Grants

DESCRIPTION: The Department of Education’s Division of Elementary and Secondary Education proposes its Rules Governing Tutoring Grants. These rules govern eligibility requirements for schools and students under both the literacy tutoring grant program and the high-impact tutoring program created under Act 237 of 2023. Sections 1-2 include a comprehensive overview of the literacy tutoring grant program. They outline eligibility requirements and disbursement procedures, establish a priority schedule, and set requirements for approved tutoring providers. Section 3 is a comprehensive overview of the high-impact tutoring grant program. It outlines initial eligibility requirements for school districts and disbursement procedures and establishes requirements for maintaining eligibility. Section 4 sets eligibility criteria for approved tutoring providers and Section 5 outlines reporting requirements for public schools.

Per the agency, the Department received several public comments and made non-substantive changes based on some of those comments.

PUBLIC COMMENT: A public hearing was held on January 3, 2024. The public comment period expired on January 22, 2024. The division provided the following public comment summary:

Commenter Name: Lucas Harder, Arkansas School Boards Association, Policy Services Director

COMMENT: In section 2.01.1, for consistency with other rules, I would recommend changing “under this section” to “under Section 2.05”.

RESPONSE: Comment considered. A non-substantive change was made.

Commenter Name: Lucas Harder, Arkansas School Boards Association, Policy Services Director

COMMENT: In section 2.02.1, to provide some clarity on how this section reads, I would recommend changing it to read “Is determined by the division to not meet the reading standard, as defined by the state board, under Section 2.02.1.1 or section 2.02.2”.

RESPONSE: Comment considered. A non-substantive change was made.

Commenter Name: Lucas Harder, Arkansas School Boards Association, Policy Services Director

COMMENT: For consistency with other rules, all of your Arabic numerals for percentages here are missing the longhand with the Arabic numerals in parenthetical afterwards. **RESPONSE:** Comment considered. A non-substantive change was made.

Commenter Name: Lucas Harder, Arkansas School Boards Association, Policy Services Director

COMMENT: In section 2.04.1.5, I would recommend adding a “an” between “unless” and “expenditure” at “unless expenditure is”.

RESPONSE: Comment considered. A non-substantive change was made.

Commenter Name: Lucas Harder, Arkansas School Boards Association, Policy Services Director

COMMENT: In section 2.05.1.2, I would recommend changing this to “under Section 2.01” for consistency with other rules. **RESPONSE:** Comment considered. A non-substantive change was made.

Commenter Name: Lucas Harder, Arkansas School Boards Association, Policy Services Director

COMMENT: In section 2.06.4, for consistency with other rules, I would recommend changing this to “under Section 2.06”. **RESPONSE:** Comment considered. A non-substantive change was made.

Commenter Name: Lucas Harder, Arkansas School Boards Association, Policy Services Director

COMMENT: In section 2.08.8, for consistency with other Rules, I would recommend adding “Section” before “2.08”. I would also recommend adding “Sections” before “2.08.1 -2.08.4”. I would similarly add “Section” before “2.03”. **RESPONSE:** Comment considered. A non-substantive change was made.

Commenter Name: Lucas Harder, Arkansas School Boards Association, Policy Services Director

COMMENT: In section 3.01.3.1 for consistency with other rules, the “three” here is missing the parenthetical Arabic numerals afterwards and the “30” is missing the longhand with the Arabic numerals being in a parenthetical afterwards. **RESPONSE:** Comment considered. A non-substantive change was made.

Commenter Name: Lucas Harder, Arkansas School Boards Association, Policy Services Director

COMMENT: For consistency with other Rules, I would recommend changing “under this section” to “under these Rules”. **RESPONSE:** Comment considered. No changes made.

Commenter Name: Lucas Harder, Arkansas School Boards Association, Policy Services Director

COMMENT: In section 3.04.3, for consistency with other rules, the “four” here is missing the parenthetical Arabic numerals afterwards. **RESPONSE:** Comment considered. A non-substantive change was made.

Commenter Name: Lucas Harder, Arkansas School Boards Association, Policy Services Director

COMMENT: In section 3.04.5.1 for consistency with other rules, the “three” here is missing the parenthetical Arabic numerals afterwards and the “30” is missing the longhand with the Arabic numerals being in a parenthetical afterwards. **RESPONSE:** Comment considered. A non-substantive change was made.

Commenter Name: Lucas Harder, Arkansas School Boards Association, Policy Services Director

COMMENT: In section 3.10.1, for consistency with other Rules, I would recommend adding “Section” before “3.10”. **RESPONSE:** Comment considered. A non-substantive change was made.

Commenter Name: Lucas Harder, Arkansas School Boards Association, Policy Services Director

COMMENT: In section 4.02.8, for consistency with other rules, I would recommend changing this to read “under Section 3.01”. **RESPONSE:** Comment considered. A non-substantive change was made.

Commenter Name: Lucas Harder, Arkansas School Boards Association, Policy Services Director

COMMENT: In section 5.01.7, for consistency with other rules, I would recommend changing this to read “by Section 5.01”. **RESPONSE:** Comment considered. A non-substantive change was made.

Commenter Name: Lucas Harder, Arkansas School Boards Association, Policy Services Director

COMMENT: In section 5.02.1, it reads as though some language may be missing from the end of this section. I would recommend changing this to read “Data regarding participating public school or open-enrollment public charter school students’ access to high-impact tutoring and program implementation, including by geography, grade span, and subject. The data shall be based on program requirements, including without limitation.” **RESPONSE:** Comment considered. A non-substantive change was made.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency has indicated that the proposed rule has a financial impact, estimating that the total cost by fiscal year to a state, county, or municipal government to implement this rule is \$215,000.00 for the current fiscal year and \$215,000.00 for the next fiscal year. Per the agency, the Department is using a third-party vendor to service the program and the vendor fee for servicing the program is reflected in the above costs.

LEGAL AUTHORIZATION: Pursuant to Arkansas Code Annotated § 6-17-429(j)(2)(A), or the Right to Read Act, as amended by Act 237 of 2023, § 29, beginning with the 2023-2024 school year, with full

implementation no later than the 2025-2026 school year, the division shall establish a literacy tutoring grant program to provide funds for supplemental educational services for eligible students. Furthermore, the division shall administer and implement the literacy tutoring grant according to rules developed and adopted by the State Board of Education. *See Ark. Code Ann. § 6-17-429(j)(2)(C)*. Such rules shall require the division to: 1) Evaluate a student's eligibility for the literacy tutoring grant; 2) Develop an application process for students and providers and to accept applications; 3) Evaluate providers of supplemental educational services, including without limitation those with expertise in early literacy, to determine the providers' initial and continued eligibility for payments, and the division shall establish minimum criteria by which approved providers shall be evaluated to ensure effectiveness of a literacy tutoring grant program in improving eligible students' reading abilities, including without limitation performance on the Arkansas annual reading assessment or other literacy assessments approved by the division; 4) Remit payments to approved providers for services rendered to eligible students in the literacy tutoring grant program, and the division shall establish criteria for prioritizing eligible students if the number of applicants exceeds available funding for literacy tutoring grants; 5) Notify the governing authority of each public school district and open-enrollment public charter school of the application process, requirements, and deadlines for a literacy tutoring grant for parents, legal guardians, or persons standing in loco parentis to a student; 6) Remit payment for services provided, up to a maximum of five hundred dollars (\$500) per eligible student per school year, which may be used for any of the following purposes designed to improve reading or literacy skills: (a) online or in-person, high-dosage tutoring services from a list of state-approved providers whose employees are trained in the science of reading and hold valid teaching certificates in either elementary education or reading, or baccalaureate or graduate degrees in education, English, or another subject area indicative of expertise in reading and literacy; or (b) evidence-based digital literacy applications or software programs from a list of state-approved programs that are in alignment with the science of reading; 7) Develop and curate a list of approved tutoring providers and evidence-based digital literacy applications or software programs that are in alignment with the science of reading that will be updated on a regular basis; and 8) Develop a procedure for verification that eligible students who received a literacy tutoring grant received the services or materials for which payments were made. *See Ark. Code Ann. §§ 6-17-429(j)(2)(C)(i) through (viii)*. Pursuant to Ark. Code Ann. § 6-17-429(m), the division shall promulgate rules to implement the Right to Read Act.

Additional authority for the rulemaking can be found in Ark. Code Ann. § 6-16-1604(c), as amended by Act 237 of 2023, § 20, which provides that the state board may promulgate rules to implement the Arkansas High-

Impact Tutoring Pilot Program. *See* Ark. Code Ann. §§ 6-16-1601 through 1604.

The proposed rule implements Act 237 of 2023, sponsored by Senator Breanne Davis, which created the LEARNS Act and amended various provisions of the Arkansas Code as they relate to early childhood through grade twelve (12) education in the state of Arkansas.

5. **DEPARTMENT OF HEALTH, ARKANSAS DIETETICS LICENSING BOARD** (Matt Gilmore, Pam Tanner)

a. **SUBJECT:** Arkansas Dietetics Licensing Board Rules

DESCRIPTION: Pursuant to Act 56 of 2023, the proposed rule amends the Board's current rule regarding number of board members to form a quorum, the number of board members required to request a special meeting, and adds email as an option to send renewal notices. The following changes are proposed:

Section IV: General Organization

E. A quorum shall consist of three (3) members.

F. (2) Special called meetings may be held at the discretion of the chairperson or at the written request of any two members of the Board.

Section X: Renewal of Licenses

D. (1) The renewal notice shall be mailed to the most recent address of the person as it appears on the record of the Board or emailed.

Pursuant to Act 137 of 2023, the proposed rule amends the Board's current rule regarding military licensure to allow the Board to accept relevant and applicable uniformed services education, training, national certification or service-issued credential for initial licensure of an individual listed in Ark. Code Ann. § 17-4-104. The following change is proposed:

Section VII: Qualifications for Issuance of License

E. Licensure for Uniformed Members and Spouse

- insert paragraph (4) to comply with Act 137 of 2023:

1. Relevant and applicable uniformed service, education, training, national certification, or service-issued credential shall be accepted toward initial licensure.

PUBLIC COMMENT: A public hearing was not held in this matter. The public comment period expired on February 7, 2024. The agency indicated that it received no comments.

The proposed effective date is March 29, 2024.

FINANCIAL IMPACT: The agency indicated that the amended rule does not have a financial impact.

LEGAL AUTHORIZATION: The Arkansas Dietetics Board shall make such rules not inconsistent with law as may be necessary to regulate its proceedings and promulgate rules necessary to implement Title 17, Chapter 83 of the Arkansas Code, concerning dietitians. *See Ark. Code Ann. § 17-83-203(a)(5)-(6).* The amended rules implement Acts 56 and 137 of 2023.

Act 56 of 2023, sponsored by Representative Jack Ladyman, modified the number of members of the Arkansas Dietetics Licensing Board that constitutes a quorum and that may call a special meeting, and authorized use of email for renewal notices.

Act 137 of 2023, sponsored by Senator Ricky Hill, amended the Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021; added consideration of national certifications toward initial occupational licensure and extended the application to spouses; and eliminated the one-year limit for veterans to apply service education, training, or certification toward initial occupational licensure.

6. **DEPARTMENT OF HEALTH, BOARD OF EXAMINERS IN SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY** (Matt Gilmore, Nathaniel Roe)

a. **SUBJECT:** Arkansas Board of Examiners in Speech-Language Pathology and Audiology Rules

DESCRIPTION: The proposed rule implements Act 137 of 2023 to add consideration of national certifications toward initial occupational licensure and extend the application to spouses. The following change is proposed to SECTION IV-C: Methods of Licensure:

- Insert Paragraph 7 to comply with Act 137 of 2023 regarding accepting relevant and applicable uniformed service education, training, national certification, or service-issued credential toward licensure qualifications or requirements.

PUBLIC COMMENT: A public hearing was not held in this matter. The public comment period expired on January 19, 2024. The agency indicated that it received no comments.

The proposed effective date is July 1, 2024.

FINANCIAL IMPACT: The board indicated that the amended rule does not have a financial impact.

LEGAL AUTHORIZATION: The Board of Examiners in Speech Pathology and Audiology shall adopt rules relating to professional conduct commensurate with the policy of Title 17, Chapter 100 of the Arkansas Code concerning speech-language pathologists and audiologists, including, but not limited to, rules which establish ethical standards of practice necessary to the enforcement and orderly administration of this chapter. In addition, the board shall promulgate rules regarding the use of speech-pathology support personnel by practitioners of speech-language pathology. *See* Ark. Code Ann. § 17-100-202(b)(1) and (b)(2).

The proposed amendment implements Act 137 of 2023, sponsored by Senator Ricky Hill, which amended the Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021; added consideration of national certifications toward initial occupational licensure and extended the application to spouses; and eliminated the one-year limit for veterans to apply service education, training, or certifications toward initial occupational licensure.

7. **DEPARTMENT OF HEALTH, STATE BOARD OF EXAMINERS OF ALCOHOLISM AND DRUG ABUSE COUNSELORS (Matt Gilmore, Jacob Smith)**

a. **SUBJECT: Rules Governing Alcoholism and Drug Abuse Counselors**

DESCRIPTION: Pursuant to Ark. Code Ann. § 17-27-406, the proposed rule amends the Board’s current rule regarding military licensure to allow the Board to accept relevant and applicable uniformed service education, training, national certification, or service-issued credential toward licensure qualifications or requirements when considering an application for initial licensure of an individual listed in Ark. Code Ann. § 17-4-104. Additionally, language was added defining Automatic Occupational Licensing per Act 137 of 2023. The following changes are proposed:

(H). Uniformed Service Members Licensure

- Insert definition of what a “uniformed service member” is.
- Insert paragraph (f) to comply with Act 137 of 2023:

(f) The Board shall accept relevant and applicable uniformed service education, training, national certification, or service-issued credential toward licensure qualifications or requirements when considering an application for initial licensure of an individual listed in Ark. Code Ann. § 17-4-104.

(I). Act 137 of 2023 allows for automatic occupational licensure

- Insert definition of what automatic occupational licensure means.

- Explain the Automatic Occupational Licensure for Out-of-State Licensure Act.

PUBLIC COMMENT: A public hearing was not held in this matter. The public comment period expired on February 4, 2024. The agency indicated that it received no comments.

The proposed effective date is March 29, 2024.

FINANCIAL IMPACT: The agency indicated that the amended rule does not have a financial impact.

LEGAL AUTHORIZATION: The State Board of Examiners of Alcoholism and Drug Abuse Counselors shall administer and enforce the provisions of Title 17, Chapter 27, Subchapter 4, concerning licensing alcoholism and drug abuse counselors, and shall adopt rules consistent with its provisions, including a code of ethical practice. *See* Ark. Code Ann. § 17-27-406(a). Changes to the rule were made in light of Act 137 of 2023, sponsored by Senator Ricky Hill, which amended the Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021; added consideration of national certifications toward initial occupational licensure and extend the application to spouses; and eliminated the one-year limit for veterans to apply service education, training, or certifications toward initial occupational licensure.

8. **DEPARTMENT OF HEALTH, STATE BOARD OF HEALTH** (Laura Shue)

a. **SUBJECT:** Controlled Substances List

DESCRIPTION: The proposed listed amendments update the List of Controlled Substances to include these drugs:

1. Schedule I, (b), (67), now (47) is an item that has been marked for clean-up.
2. Fentanyl Related Substances language has been added, marked for clean-up, and will have substances following this updated language. Schedule I, (b), (78), now (52), (i) through (vi). The language indicates the following:

Fentanyl-related substances, their isomers, esters, ethers, salts and salts of isomers, esters and ethers. Fentanyl-related substance means any substance not otherwise listed, and for which no exemption or approval is in effect under section 505 of the Federal

Food, Drug, and Cosmetic Act [21 U.S.C. 355], that is structurally related to fentanyl by one or more of the following modifications:

- i. Replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;
 - ii. Substitution in or on the phenethyl group with alkyl, alkenyl, alkoxyl, hydroxyl, halo, haloalkyl, amino or nitro groups;
 - iii. Substitution in or on the piperidine ring with alkyl, alkenyl, alkoxyl, ester, ether, hydroxyl, halo, haloalkyl, amino or nitro groups;
 - iv. Replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; or
 - v. Replacement of the N-propionyl group by another acyl group;
 - vi. *Fentanyl-related substances shall include but are not limited to:*
3. Schedule I, (b) (1), (7), (8), (11), (12), (34), (35), (42), (53), (56 through 65), (72 through 77) and (79 through 96) are current controlled substances. In addition, Schedule I, (b), (8) is marked for clean-up. These substances are moved to Fentanyl-related substances designation within Schedule I. Schedule I, (b), (52), (i) through (vi), (A) through (QQ). Relocation of these substances will result in subsequent numbering changes within Schedule I, (b).
 4. Brorphine. The DEA has scheduled this opioid analgesic substance into Schedule I because it has no recognized medical use. This drug would be included in Schedule I to follow DEA. Schedule I, (b), (54).
 5. Upon discussion with other state agencies with relevant knowledge of the substances, a request was submitted for the Benzimidazole-substances designation for substances with the following language be included into Schedule I without a recognized medical use.
 6. It was also requested the following benzimidazole substances also listed after implemented language which include: 4'-Hydroxy Nitazene, 5-Aminoisotonitazene, Butonitazene, Etodesnitazene [other name(s): Etazene], Flunitazene, Isotodesnitazene, Metodesnitazene, N-Desethyl Etonitazene, N-Desethyl Isotonitazene, N-Piperidinyl Etonitazene [other name(s): Etonitazepipne], N-Pyrrolidino Etonitazene, [other name(s): Etonitazepyne], N-Pyrrolidino Protonitazene and Protonitazene.

Of note, Clonitazene, Etonitazene and Isotonitazene are Schedule I

substances and will be relocated from their current position and placed in the Benzimidazole-opioid substances designation within Schedule I with subsequent numbering changes.

Metonitazene. The DEA has placed this opioid analgesic substance into Schedule I because it has no recognized medical use. This drug would be in the Benzimidazole-opioid substances designation within Schedule I.

The language and the following benzimidazole-opioid substances will be included into Schedule I. Schedule I, (b), (55), (i) through (vi), (A) through (Q). The language and added substances are listed as the following:

Benzimidazole-opioid substances, their isomers, esters, ethers, salts and salts of isomers, esters and ethers. Benzimidazole-opioid substances means any substance not otherwise listed or excepted, and for which no exemption or approval is in effect under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355], that structurally has benzimidazole ring with an ethylamine at its 1-position and benzyl group at its 2-position:

- i. With or without substitution on the benzimidazole;*
- ii. With or without substitution at the ethylamine;*
- iii. With or without inclusion of the ethylamine in a cyclic structure;*
- iv. With or without substitution on the benzyl ring; or*
- v. With or without replacement of the benzyl ring with an aromatic ring;*
- vi. Benzimidazole-opioid substances shall include but are not limited to:*

- A. 4'-Hydroxy Nitazene;*
- B. 5-Aminoisotonitazene;*
- C. Butonitazene;*
- D. Clonitazene;*
- E. Etodesnitazene, [other name(s): Etazene];*
- F. Etonitazene;*
- G. Flunitazene;*
- H. Isotonitazene;*
- I. Isotodesnitazene*
- J. Metodesnitazene;*
- K. Metonitazene;*
- L. N-Desethyl Etonitazene;*
- M. N-Desethyl Isotonitazene;*
- N. N-Piperidinyl Etonitazene, [other name(s): Etonitazepipne];*

O. N-Pyrrolidino Etonitazene, [other name(s): Etonitazepyne];
P. N-Pyrrolidino Protonitazene; and
Q. Protonitazene.

7. Upon discussion with other state agencies with relevant knowledge of the substances, a request was submitted for this substance designation for benzodiazepine substances with the following language to be included into Schedule I without a recognized medical use. In addition, Clonazolam, Flualprazolam, Flubromazepam, Flubromazolam, and Phenazepam are current Schedule I substances and are relocated from their current position in Schedule I and placed in the benzodiazepine-substance designation within Schedule I with subsequent numbering changes.

Bromazolam. It was also requested that this depressant substance with no recognized medical use be included into Schedule I and placed in the benzodiazepine substances designation.

Lastly, Phenazolam [other names(s): Clobromazolam]. It was further requested that this depressant substance with no recognized medical use be included into Schedule I and placed in the benzodiazepine substances designation.

The language and the following benzodiazepine substances is included into Schedule I. Schedule I, (e), (4), (i) through (vii). The language and added substances are noted as the following:

Benzodiazepine substances, their isomers, esters, ethers, salts and salts of isomers, esters and ethers. Benzodiazepine substances includes any substance not otherwise listed or excepted, and for which no exemption or approval is in effect under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355], that structurally has a fused 1,4-diazepine and benzene ring structure with a phenyl connected to the diazepine ring, with any substitution(s) or replacement(s) on the 1,4-diazepine or benzene ring, any substitution(s) on the phenyl ring, or any combination thereof. Benzodiazepine substances shall include but are not limited to:

- i. Bromazolam;*
- ii. Clonazolam;*
- iii. Flualprazolam;*
- iv. Flubromazepam;*
- v. Flubromazolam;*
- vi. Phenazepam; and*
- vii. Phenazolam [other name(s): Clobromazolam].*

8. Upon discussion with other state agencies with relevant knowledge of the substances, a request was submitted for the substance designation for Thienodiazepine substances with the following language included into Schedule I without a recognized medical use.

In addition, Etizolam is relocated from its current position in Schedule I and placed in the Thienodiazepine substances designation within Schedule I with subsequent numbering changes.

The language and the following Thienodiazepine substance are included into Schedule I. Schedule I, (e), (5), (i). The language and added substances are noted as the following:

Thienodiazepine substances, their isomers, esters, ethers, salts and salts of isomers, esters and ethers. Thienodiazepine substances includes any substance not otherwise listed or excepted, and for which no exemption or approval is in effect under section 505 of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 355], that structurally has a fused 1,4-diazepine and thiophene ring structure with a phenyl connected to the 1,4-diazepine ring, with any substitution(s) or replacement(s) on the 1,4-diazepine or thiophene ring, any substitution(s) on the phenyl ring, or any combination thereof. Thienodiazepine substances shall include but are not limited to:

i. Etizolam

9. Methiopropamine. (*N*-methyl-1-(thiophen-2-yl)propan-2-amine). The DEA has scheduled this stimulant substance into Schedule I because it has no recognized medical use. This drug would be included as Schedule I to follow DEA. Schedule I, (f), (1), (xv).
10. Eutylone is a Schedule I controlled substance. To follow DEA, a controlled substance code number has been set forth opposite of this substance. Schedule I, (f), (2), (xx).
11. Fenfluramine is a Schedule IV substance. Schedule IV, (d), (1). To follow DEA this drug is removed from the controlled substance list with subsequent outline changes that will follow within Schedule IV.
12. MDMB-4en-PINACA. Methyl 3,3-dimethyl-2-(1-(pent-4-en-1-yl)-1H-indazole-3-carboxamido)butanoate. Upon discussion with other state agencies with relevant knowledge of the substances, a request was submitted for this synthetic cannabinoid with no recognized medical use be included into Schedule VI. Schedule VI, (a), (5), (xi), (JJ).

13. CH-PIATA. N-cyclohexyl-2-(1-pentylindol-3-yl)acetamide. Upon discussion with other state agencies with relevant knowledge of the substances, a request was submitted for this synthetic cannabinoid with no recognized medical use be included into Schedule VI. Schedule VI, (a), (5), (xi), (KK).

PUBLIC COMMENT: A public hearing was held on this rule on January 23, 2024. The public comment period expired on January 29, 2024. The agency provided the following synopsis of the public comment summary:

The Department received approximately fourteen comments, written and verbal, during the public comment period. All of the noted comments received indicated concerns and conveyed information regarding the scheduling of xylazine, specifically concerns recommending an exemption for veterinary use. [Comments received were provided to Bureau Staff.]

Upon review and consideration of the concerns raised by members of the public and industry professionals the Department is withdrawing its proposed scheduling of xylazine and will proceed with the remaining proposed amendments to the List of Controlled Substances.

The Department will further review the potential scheduling of xylazine, to include any input or recommendations from the Drug Enforcement Administration or other experts, as well as potential exemption for legitimate veterinary use before the next proposed amendments to the List are presented.

Due to its length, the full public comment summary is attached separately.

The proposed effective date is April 1, 2024.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The Department of Health administers the Uniform Controlled Substances Act and has authority to add substances to the Controlled Substances List and to delete or reschedule “any substance enumerated in a schedule[.]” Ark. Code Ann. § 5-64-201(a)(1)(A)(i). “The Secretary of the Department of Health shall revise and republish the schedules annually.” Ark. Code Ann. § 5-64-216. If a substance is controlled under federal law, the Department “shall similarly control the substance” unless the Secretary objects to inclusion within thirty days of publication in the Federal Register of a final order

designating a substance as a controlled substance. Ark. Code Ann. § 5-64-201(d).

b. SUBJECT: Rules Pertaining to the State Board of Sanitarians

DESCRIPTION: These rules establish the Board of Sanitarians and the rules for licensure of sanitarians. The proposed amendments to the existing rules are to comply with Acts 137 and 457 of 2023 regarding military licensure and automatic licensure for out-of-state licensees.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on January 30, 2024. The agency indicated that it received no public comments.

The proposed effective date is April 1, 2024.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The powers, duties, and functions of the Arkansas State Board of Sanitarians were transferred to the Department of Health by Act 481 of 2013. *See* Ark. Code Ann. § 17-43-207(a). The Department issues registration certificates for registered sanitarians and has “such authority as is reasonably necessary to administer” Title 17, Chapter 43 of the Arkansas Code, regarding sanitarians. Ark. Code Ann. §§ 17-43-203(a), -301(a). This rule implements Acts 137 and 457 of 2023.

Act 137, sponsored by Senator Ricky Hill, amended the Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021, added consideration of national certifications toward initial occupational licensure and extended the application to spouses, and eliminated the one-year limit for veterans to apply service education, training, or certifications toward initial occupational licensure.

Act 457, also sponsored by Senator Hill, created the Automatic Occupational Licensure for Out-of-State Licensure Act and authorized occupational licensing entities to provide for automatic occupational licensure for new residents who are licensed in another state, territory, or district of the United States.

c. SUBJECT: Rules Pertaining to Septic Tank Cleaners

DESCRIPTION: These rules set standards for the business of cleaning and transportation of septic tanks in Arkansas. The proposed amendments to the existing rules are to comply with Acts 137 and 457 of 2023

regarding military licensure and automatic licensure for out-of-state licensees.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on January 30, 2024. The agency indicated that it received no public comments.

The proposed effective date is April 1, 2024.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The Department of Health has authority to promulgate rules for the administration of Title 17, Chapter 45 of the Arkansas Code, addressing septic tank cleaners. *See Ark. Code Ann. § 17-45-102.* These rules implement Acts 137 and 457 of 2023.

Act 137, sponsored by Senator Ricky Hill, amended the Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021, added consideration of national certifications toward initial occupational licensure and extended the application to spouses, and eliminated the one-year limit for veterans to apply service education, training, or certifications toward initial occupational licensure.

Act 457, also sponsored by Senator Hill, created the Automatic Occupational Licensure for Out-of-State Licensure Act and authorized occupational licensing entities to provide for automatic occupational licensure for new residents who are licensed in another state, territory, or district of the United States.

d. **SUBJECT: Rules Pertaining to Water Operator Licensing**

DESCRIPTION: These Rules are adopted for the purpose of ensuring that all public water systems in the State of Arkansas are operated by personnel who have shown their competence and knowledge of the public health and scientific principles necessary to produce and deliver adequate quantities of water which meets or exceeds the National Primary and Secondary Drinking Water Standards.

The proposed amendments to the existing rules are to comply with Acts 137 and 457 of 2023 regarding military licensure and automatic licensure for out of state licensees.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on February 6, 2024. The agency indicated that it received no public comments.

The proposed effective date is April 1, 2024.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The State Board of Health has authority to license water system operators and to adopt rules as necessary to administer and enforce Title 17, Chapter 51 of the Arkansas Code, regarding waterworks operators. *See* Ark. Code Ann. §§ 17-51-103(a)(1), -201(a). These rules implement Acts 137 and 457 of 2023.

Act 137, sponsored by Senator Ricky Hill, amended the Arkansas Occupational Licensing of Uniformed Service Members, Veterans, and Spouses Act of 2021, added consideration of national certifications toward initial occupational licensure and extended the application to spouses, and eliminated the one-year limit for veterans to apply service education, training, or certifications toward initial occupational licensure.

Act 457, also sponsored by Senator Hill, created the Automatic Occupational Licensure for Out-of-State Licensure Act and authorized occupational licensing entities to provide for automatic occupational licensure for new residents who are licensed in another state, territory, or district of the United States.

9. **DEPARTMENT OF HUMAN SERVICES, DIVISION OF COUNTY OPERATIONS (Mary Franklin, Mitch Rouse)**

a. **SUBJECT: SNAP Resource Limits Changes**

DESCRIPTION:

Statement of Necessity

The Director of the Division of County Operations (DCO) revises the Supplemental Nutrition Assistance Program (SNAP) Certification Manual to implement new federally established resource limits. Corresponding updates regarding assets related to resources and their verification need to be implemented as well.

The resource limits are moved to an appendix referenced in the manual to efficiently implement changes implemented by the USDA Food and Nutrition Service. The other updates include adding ABLE accounts as an excluded resource, clarifying which household are subject to resource limits, and specifying that “Cash on Hand” includes electronic accounts

and applications. Case action or denial reasons are updated to state that applications that attest to resources exceeding the resources limit must be verified, but if verification of excess resources is not received, the application will be denied for failure to return requested information.

Clarification is provided in differentiating between limited and occasional reporting households, including updates regarding reporting of licensed vehicles, liquid resources, lottery and gambling winnings, and time periods of reporting. Business processes have been removed from policy, and outdated policy verbiage and grammatical errors have been removed or corrected.

Rule Summary

The Supplemental Nutrition Assistance Program (SNAP) Certification Manual updates are:

- Resource limits are being moved to an appendix that is referenced in the promulgated rule.
- ABLE accounts have been added as an excluded resource.
- Business processes have been removed.
- Grammatical errors have been corrected.
- “Eligibility worker” has replaced “County worker” in the entire section.
- SNAP 4300: Resource limit amounts deleted. Clarification of which households are subjected to resource limits. Appendix D reference added.
- SNAP 4450: ABLE accounts added to list of excluded resources.
- SNAP 4600: Cash on hand was updated to include electronic accounts, and case action or denial reason was updated to state that “applications that attest to resources exceeding the resources limit must be verified; if verification of excess resources is not received, the application will be denied for failure to return requested information.”
- SNAP 7430: Resource limit amounts removed from policy and will be added to business process. Significant changes to this section regarding classification of resource household members.
- SNAP 7431: References to semi-annual report removed.
- SNAP 7600: Chart removed from business process manual. Case action or denial reason corrected regarding the applications.
- SNAP 11200: Resource limits amounts removed. Clarification provided in differentiating between limited and occasional reporting households, including updates regarding reporting of licensed vehicles. Also, added requirement that households must report when liquid resources go beyond the resource limit for the household, with lottery and gambling winnings, equal to the resource limit for aged or disabled households, reported within ten

(10) days of receipt for both limited and occasional reporters. For occasional reporters, these changes must be reported within ten (10) calendar days of the date that the change becomes known to the household.

- SNAP 12232: Resource limits have been removed, and “See Appendix D” reference added.
- SNAP 12233: Resource limits have been removed.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on January 27, 2024. The agency indicated that it received no public comments.

This rule was filed on an emergency basis and was reviewed and approved by the Executive Subcommittee on December 21, 2023. The proposed effective date for permanent promulgation is April 1, 2024.

FINANCIAL IMPACT: The agency indicated that this rule has a financial impact.

Per the agency, this rule implements a federal rule or regulation. The total estimated cost by fiscal year to implement the rule is \$1,741,152.30 for the current fiscal year (\$50,000 in general revenue and \$1,691,152.30 in federal funds) and \$2,188,203.07 for the next fiscal year (all federal funds). The total estimated cost by fiscal year to state, county, or municipal government to implement this rule is \$50,000 for the current fiscal year and \$0 for the next fiscal year.

LEGAL AUTHORIZATION: The Department of Human Services has the responsibility to administer assigned forms of public assistance, see Ark. Code Ann. § 20-76-201(1), and it has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

This rule implements federal regulations involving Supplemental Nutrition Assistance Program (SNAP) resource eligibility standards. See 7 C.F.R. § 273.8. The federal SNAP resource limits are adjusted each October “to reflect changes in the Consumer Price Index for the All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor (for the 12-month period ending the preceding June).” 7 C.F.R. § 273.8(b)(1).

b. **SUBJECT: Transitional Employment Assistance and Work Pays Updates Pursuant to Acts 266 and 832 of 2023**

DESCRIPTION:

Statement of Necessity

Act 832 of 2023 transferred full authority over Transitional Employment Assistance (TEA) from the Department of Commerce, as administered by the Department of Workforce Services (DWS) to the Department of Humans Services (DHS). Act 266 of 2023 amends the duration of cash assistance for the Transitional Employment Assistance (TEA) program from twenty-four (24) months to twelve (12) months.

This rule amends the DHS *TEA Manual* and the former DWS *TEA and Work Pays Policy Manual* to replace references to DWS with DHS in accordance with Act 832, and this rule revises both aforementioned manuals throughout to match the time limit required by Act 266.

Rule Summary

Accordingly, the Division of County Operations (DCO) revises the *Transitional Employment Assistance Manual* and the *TEA and Work Pays Policy Manual*. The manuals were updated as stated below, and grammatical and formatting corrections and current terminology usage updates were made in all sections as appropriate.

Transitional Employment Assistance (TEA) Manual

- **Section 2005** – Changed County Office to Department of Human Services (DHS).
- **Section 2010** – Changed the twenty-four (24) month time limit to a twelve (12) month time limit.
- **Section 2011 – 2013** – Deleted sections that were moved to the TEA and Work Pays Policy.
- **Section 2130** – Changed the date from July 1, 1998, to January 1, 2024. Changed twenty-four (24) to twelve (12) months. Removed reference to Department of Workforce Services (DWS). Removed DWS and left TEA Case Management Manual. . Updated how the DCO-0118 should be sent to the TEA Policy Unit. Changed TEA Payment Count (TEPC) to TEA Time Clock to reflect current terminology.
- **Section 4140** – Updated rule effective date and changed twenty-four (24) to twelve (12) months. Changed DWS worker to TEA Case Manager. Removed references to DWS.
- **Section 4148** – Changed twenty-four (24) to twelve (12) months.

- **Section 5000** – Changed County Office to DHS.
- **Section 5001** – Changed twenty-four (24) to twelve (12) months. Removed references to DWS. Changed TEPC to TEA Time Clock. Removed time limit language no longer applicable. Corrected the month of staffing. Added TEA in front of Case Manager.
- **Section 10000 – 10900** - Deleted sections. The following sections are located in the TEA and Work Pays policy manual.
- **Glossary** – updates to definitions as appropriate based on the above changes.

TEA and Work Pays Policy Manual

- **All Sections** – References to DWS, DWS forms, and DWS Workforce Specialists deleted. Changed to DHS, TEA, and Program Eligibility Specialists, respectively.
- **Policy 3000 – Case Management and Employment Services: Focus-Time Limited Nature of Program:** New time limit referenced.
- **Policy 3000.1 – Time Limit:** New Time Limit referenced.
- **Policy 3200.1 – Period Review of Time Limited Cases:** Reference to 12, 18, 22 month-reviews changed to 3, 6, and 10-month reviews.
- **Policy 3210 – Staffing:** New time limit referenced.
- **Policy 3210.1 – Local Office Review Team Composition:** Reference to 18 and 22-month reviews changes to 6 and 10-month reviews.
- **Policy 3215 – Time Limit Extensions:** New time limit referenced.
- **Policy 3220 – Case Reviews at Three Months:** Formerly entitled: Case Reviews at Six and Twelve Months.
- **Policy 3230 – Six Month Review:** Formerly entitled: Eighteen-Month Review.
- **Policy 3240 – Ten-Month Review:** Formerly entitled: Twenty-Two Month Review. New time limit referenced. References to 18 and 22-month reviews changed to 6 and 10-month reviews.
- **Policy 3260 – General Staffing Information:** New time limit referenced.
- **Policy 3260.1 – Case Staffing at 42, 48, and 54 Months:** References to 6, 12, and 18-month reviews changed to 3, 6, and 10-month reviews. New time limit referenced.
- **Policy 3405 – Work Participation Exemptions/Deferrals:** New time limit referenced.
- **Policy 3405.2 – Work Participation Deferrals:** New time limit referenced.

- **Policy 3420 – Subsidized Employment (Private and Public):** New time limit referenced.
- **Policy 3425 – On-the-Job Training (OJT):** New time limit referenced.
- **Policy 3670 – Employment Bonus:** New time limit referenced.
- **Policy 3675.1 – Extended Support Services Employment Bonus and Transportation (Example 4):** New time limit referenced. Reference to 22-month staffing changed to 10-month.
- **Policy 3680 – Extended Support Services Job Retention:** New time limit referenced.
- **Policy 3800.3 – Determining Good Cause:** New time limit referenced.
- **Policy 4148 – Appeal Rights:** New time limit referenced.
- **Policy 10000 – Arkansas Work Pays:** New time limit referenced.
- **Policy 10100 – Work Pays Eligibility Requirements:** New time limit referenced.
- **Policy 10101 – Work Pays Application Process:** Changed reference from DWS to DHS.
- **Policy 10102.1 – Employed 30 Days Prior to Application Date:** Removed “DWS-ARK” from the name of the TEA-1 form.
- **Policy 10102.2 – Automated System Review:** New time limit referenced.
- **Policy 10600.3 – Bonus 3: (Twelve) 12 Months Job Retention Target:** Formerly entitled Bonus 3: 21 Out of 24 Months Job Retention Target. New time limit referenced.
- **Policy 10600.4 – Earnings’ Bonus: Case Closure Due to Earnings:** New time limit referenced. Removed “DWS-ARK” from the name of the TEA-1 form.
- **Policy 10730 – Determining Good Cause for Work Non-Compliance:** New time limit referenced. Removed “DWS-ARK” from the name of the TEA-1 form.
- **Policy 10740 – Non-compliance Sanction:** Removed “DWS-ARK” from the name of the TEA-1 form.

PUBLIC COMMENT: No public hearing was held on this rule. The public comment period expired on February 12, 2024. The agency indicated that it received no public comments.

The proposed effective date is April 1, 2024.

FINANCIAL IMPACT: The agency indicated that this rule has a financial impact.

Per the agency, the total cost to implement this rule is \$104,882 for the current fiscal year (\$75,000 in general revenue and \$29,882 in federal

funds). For the next fiscal year, the rule will result in a savings of \$135,354, all of which is federal funds. The total estimated cost by fiscal year to state, county, or municipal government as a result of this rule is \$75,000 for the current fiscal year and nothing for the next fiscal year. The agency indicated that this represents a one-time cost for systems implementation.

LEGAL AUTHORIZATION: The Department of Human Services “shall promulgate rules to determine resource eligibility and benefit levels” for families participating in the Transitional Employment Assistance Program. Ark. Code Ann. § 20-76-401(c). The Department “may by rule establish other limitations on the receipt of financial assistance not inconsistent with state or federal law.” Ark. Code Ann. § 20-76-404(a)(3). The Department shall also “promulgate rules establishing the Arkansas Work Pays Program.” Ark. Code Ann. § 20-76-444(h)(1). This rule implements Acts 266 and 832 of 2023.

Act 266, sponsored by Representative Rebecca Burkes, regarded public assistance and amended the duration of cash assistance.

Act 832, sponsored by Representative Austin McCollum, amended the laws concerning the Transitional Employment Assistance Program and transferred the administration of the Transitional Employment Assistance Program from the Department of Commerce to the Department of Human Services.

10. DEPARTMENT OF HUMAN SERVICES, DIVISION OF DEVELOPMENTAL DISABILITIES SERVICES (Melissa Weatherton, Thomas Tarpley, Mitch Rouse)

- a. SUBJECT: Community and Employment Supports (CES) Agency Provider Standards & REPEALS: Arkansas Refugee Resettlement Program State Plan; DHS Policy 3007 – Options Counseling**

DESCRIPTION:

Statement of Necessity

This rule establishes the minimum standards for community providers delivering services to beneficiaries enrolled in the Arkansas 1915(c) home and community-based waiver number, AR.0188, which is known as the Community and Employment Support Waiver (CES Waiver).

Rule Summary

Since the implementation of the Provider-led Arkansas Shared Savings Entity (PASSE) managed care model, each PASSE has established its own minimum standards for the CES Waiver providers in its network. Since many providers are enrolled in multiple PASSE networks, this has resulted in the inconsistent application of standards across the PASSE model. This single set of CES Waiver minimum standards establishes a uniform set of standards and provides PASSEs and providers with certainty in the requirements and expectations when delivering CES Waiver services to beneficiaries.

Repeals pursuant to the Governor's Executive Order 23-02:

- (1) Arkansas Refugee Resettlement Program State Plan; and
- (2) DHS Policy 3007 – Options Counseling.

Updates Made in Response to Public Comments

- Revised Section 302(b)(2): “Each individual eighteen (18) years of age or older residing in an alternative living home that is not a family member of the beneficiary must successfully pass the checks and searches required by Ark. Code Ann. § 20-48-812(c)(1-4).”
- Revised Section 302(b)(3): “(3) The checks, screens, and searches prescribed in subdivision (b)(1) of this part are not required for any:
 - (A) Licensed professional; or
 - (B) Legal guardian of a beneficiary.”
- Added Section 305(a)(3): “A beneficiary service record must be made immediately available to a beneficiary and their legal guardian upon request.”
- Revised Section 403(c): “The new Provider must hold a transition conference to develop a transition plan for the beneficiary within fourteen (14) business days of issuing the notification required in subsection (b) above. If the new Provider is unable to hold the a transition conference within the required timeframe, reasonable justification for the delay must be documented.”
- Revised Section 403(d)(1)(f) to read “Documentation or other evidence that demonstrated both the current and new provider’s consent to the transition plan (i.e. signatures on plan, email approval, etc.)” to expand the ways agreement can be demonstrated beyond signatures.
- Added Section 403(e)(3): “If a current provider is denied access to deliver services by the beneficiary or the beneficiary’s family/guardian before transition to the new provider is complete,

then the current provider must specifically document its attempts and the family/guardian's denial of access to provide services."

- Revised Section 404(d): "If a Provider is currently serving a beneficiary when declaring a refusal to serve, the Provider shall remain responsible for the delivery of CES Waiver Services until the beneficiary transitions to their new Provider or other placement unless there is an immediate health or safety risk to Provider employees. A detailed description of any health and safety risk justifying the ceasing of service delivery prior to a completed transition of beneficiary to a new Provider must be documented."
- Revised Section 703(a): "If a beneficiary has a legal guardian, then a Provider must notify the legal guardian of any reportable incident involving the beneficiary within one (1) hour of discovery."

PUBLIC COMMENT: A public hearing was held on this rule on January 24, 2024. The public comment period expired on February 12, 2024. The agency provided a public comment summary which, due to its length, is attached separately.

The proposed effective date is April 1, 2024.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

b. **SUBJECT:** Developmental Screen for Children (48 to 60 Months)

DESCRIPTION:

Statement of Necessity

The Division of Developmental Disabilities Services (DDS), working jointly with the Division of Medical Services, adds language to the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) and ARKids-B Medicaid manuals allowing primary care providers (PCPs) to perform a developmental screening for children between the ages of forty-eight (48) and sixty (60) months. Adding the developmental screen will also

enhance early identification of developmental needs for children and increase the quality of referrals for specialized services. The new screening will be incorporated into the Patient Centered Medical Home (PCMH) quality metrics. DDS is also adding language to the EPSDT Medicaid manual requiring PCPs to perform a developmental screen prior to referring a child for their initial evaluations to determine eligibility for early intervention day treatment (EIDT) services. Requiring PCPs to perform this developmental screen will allow the DDS to cease using its third-party contractor, Optum, to perform the developmental screens required for EIDT admission after April 1, 2024.

Rule Summary

Child Health Services/Early and Periodic Screening, Diagnosis, and Treatment Medicaid Manual

- Section 215.295: Added “Early Intervention Day Treatment (EIDT) Screening”; and
- Section 215.320: Updated with added screen between forty-eight (48) and sixty (60) months of age.

ARKids First - B Medicaid Manual

- Section 222.830: Updated with added screen between forty-eight (48) and sixty (60) months of age.

Early Intervention Day Treatment Medicaid Manual

- Section 202.200: Added and clarified existing service documentation requirements;
- Section 212.100: Corrected mistake in EPSDT age range;
- Section 212.200: Added a link to new required DHS-642 ER evaluation referral form;
- Section 212.300: Clarified and added a link to new required DHS-642 YTP treatment prescription form;
- Section 212.300 : Deleted developmental screen from Optum requirement;
- Section 212.400 : Removed list of evaluation instruments and added a link to permissible list of evaluation instruments;
- Section 212.500: Referenced back to applicable statute;
- Section 222.110: Clarified changes throughout;
- Section 222.130: Clarified changes throughout;
- Section 222.140: Added language regarding EIDT OT, PT, and Speech treatment services;
- Section 222.150: Added requirement that performing nurses be enrolled as Medicaid providers listed as performing providers on EIDT billing;
- Section 222.210: Added clarifying language throughout;

- Section 224.000: Added clarifying language throughout; and
- Section 251.000: Added clarifying language.

PUBLIC COMMENT: A public hearing was held on this rule on January 24, 2024. The public comment period expired on February 12, 2024. The agency provided a public comment summary which, due to its length, is attached separately.

The proposed effective date is April 1, 2024.

FINANCIAL IMPACT: The agency indicated that this rule has a financial impact.

Per the agency, this rule will result in a cost savings of \$238,828 for the current fiscal year (\$66,872 in general revenue and \$171,956 in federal funds) and \$955,313 for the next fiscal year (\$267,488 in general revenue and \$687,826 in federal funds). The agency estimates the total savings to state, county, or municipal government as a result of this rule at \$66,872 for the current fiscal year and \$267,488 for the next fiscal year.

LEGAL AUTHORIZATION: The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

11. **DEPARTMENT OF HUMAN SERVICES, DIVISION OF MEDICAL SERVICES (Elizabeth Pitman, Mitch Rouse)**

- a. **SUBJECT: Provider Refunds and Primary Care Provider Qualification Updates**

DESCRIPTION:

Statement of Necessity

As a result of previous audit findings and to ensure compliance with federal requirements, the Division of Medical Services (DMS) updates the Arkansas Medicaid Provider Manual. DMS clarifies methods for providers to refund balances related to adverse actions pertaining to Medicaid claims

findings and updates the qualifications for participating as a primary care provider.

Rule Summary

Section I of the Arkansas Medicaid Provider Manuals is revised as follows:

- **Section 142.600:** Added paragraph stating, “Any outstanding balances over thirty (30) days will be recouped against future payments. Providers unable to refund their outstanding balance within thirty (30) days must contact Gainwell Technologies Provider Assistance Center (PAC) to discuss repayment options. Note: All outstanding balances must be paid back within one (1) year. View or print the Provider Assistance Center contact information.”
- **Section 171.100**
 - Remove language requiring clinics to enroll as PCPs and remove the exception for physicians employed exclusively by an Area Health Education Center, a Federally Qualified Health Center, a Medical College Physician’s Group, or a hospital for enrolling in the PCP program.
 - Remove language defining qualified clinics and health centers as single-entity PCP’s and listing them.
- **Section 171.110:** Remove the exception of family practice and internal medicine clinics at UAMS as physician group practices under the exclusions rule.
- **Section 171.130:** Remove PCP qualified single entity providers from list of providers required to execute Child Health Services (EPSDT) agreements.
- **Section 171.140:** Remove PCP qualified single entity providers from list of providers required to execute Child Health Services (EPSDT) agreements under the Primary Care Case Manager Agreement.
- **Section 171.150:** Delete section specifying what practice groups were allowed to enroll as single-entity PCPs.

PUBLIC COMMENT: A public hearing was held on this rule on January 24, 2024. The public comment period expired on February 12, 2024. The agency provided the following public comment summary:

Commenter’s Name: Jen Mace, Compliance Director, Summit Community Care

COMMENT: Below please see Summit's comments/questions concerning the DHS Proposed Rule Change to Provider Refunds and Primary Care Provider Qualification Updates:

Currently, Summit allows Member assignment at either the FQHC or FQHC Practitioner level. If we can only assign members at an individual FQHC practitioner level, for Member visibility, does this change mean we are obligated to list each individual FQHC practitioner in the provider directory instead of the FQHC location? If so, this is a significant change in our process and may materially impact our FQHC provider partners.

RESPONSE: Listing every enrolled individual provider in the provider directory is necessary to meet Medicaid managed care rules. Publishing individual providers within the FQHC of practice is essential for beneficiaries to make an informed choice pertaining to their overall healthcare.

These changes were brought about as the result of a Payment Error Rate Measurement (PERM) audit to bring AR Medicaid into compliance with the Affordable Care Act (ACA). The ACA requires the National Provider Identifier (NPI) of the Ordering, Referring, Prescribing (ORP) provider be on the claim of service. Therefore, each ORP provider must be enrolled as an individual (Entity Type 1) in the Medicaid program for the claim date of service. Managed Care Organizations must also comply with the ACA regulations.

This means a Medicaid beneficiary needs to be assigned to an individual provider, not a provider group as previously allowed. This does not mean the individual provider is the only one the beneficiary is allowed to see for services within the practice. Medicaid does allow for PCP Substitutes. Under Section 171.601, 171.610, and 171.620 of Section I – General Policy, beneficiaries may see other providers within the practice if the assigned PCP's schedule is full and for several other acceptable reasons.

The proposed effective date is April 1, 2024.

FINANCIAL IMPACT: The agency indicated that this rule has no financial impact.

LEGAL AUTHORIZATION: The Department of Human Services has the responsibility to administer assigned forms of public assistance and is specifically authorized to maintain an indigent medical care program (Arkansas Medicaid). *See* Ark. Code Ann. §§ 20-76-201(1), 20-77-107(a)(1). The Department has the authority to make rules that are necessary or desirable to carry out its public assistance duties. Ark. Code Ann. § 20-76-201(12). The Department and its divisions also have the

authority to promulgate rules as necessary to conform their programs to federal law and receive federal funding. Ark. Code Ann. § 25-10-129(b).

This rule implements federal regulations. A state Medicaid agency “must require all claims for payment for items and services that were ordered or referred to contain the National Provider Identifier (NPI) of the physician or other professional who ordered or referred such items or services.” 42 C.F.R. § 455.440.

12. DEPARTMENT OF LABOR AND LICENSING, DIVISION OF LABOR
(Ralph Hudson, Lacie Kirchner)

a. SUBJECT: Administrative Rules Relating to the Arkansas Amusement Ride and Amusement Attractions Safety Insurance Act

DESCRIPTION: The purpose and necessity of the proposed amendment is to update the Administrative Rules Relating to the Arkansas Amusement Ride and Amusement Attractions Safety Insurance Act to reflect the standards in Volume 15.07 of the “ASTM” (formerly known as the American Society for Testing and Materials). Other amendments of the rules involve grammar and stylistic changes.

PUBLIC COMMENT: A public hearing was held on January 23, 2024. The public comment period expired on January 23, 2024. The agency indicated that received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the amended rule does not have a financial impact.

LEGAL AUTHORIZATION: The Director of the Division of Labor is authorized to adopt appropriate rules to carry out the intent and purposes of Title 23, Chapter 89, Subchapter 5 of the Arkansas Code, concerning the Amusement Ride and Amusement Attraction Safety Insurance Act, and to assure its efficient and effective enforcement. *See* Ark. Code Ann. § 23-89-508.

13. **DEPARTMENT OF LABOR AND LICENSING, DIVISION OF LABOR,
BOARD OF ELECTRICAL EXAMINERS OF THE STATE OF
ARKANSAS (Lindsay Moore, Lacie Kirchner)**

a. **SUBJECT: Rule 010.13-009 of the Board of Electrical Examiners**

DESCRIPTION: Rule 010.13-009 of the Administrative Rules of the Board of Electrical Examiners is amended to reflect changes from Act 318 of 2023, which amended the definitions of “residential journeyman electrician” and “residential master electrician” and added a definition of “dwelling” to expand the scope of work for residential electricians from two-family to four-family dwellings, not to include a mixed-use building or other structure that requires commercial grade electric conductors or equipment for any part of the building or other structure.

PUBLIC COMMENT: A public hearing was held on January 23, 2024. The public comment period expired on January 23, 2024. The board indicated that it received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The board indicated that the amended rule does not have a financial impact.

LEGAL AUTHORIZATION: It shall be the duty of the Board of Electrical Examiners of the State of Arkansas to adopt rules necessary for the implementation of Title 17, Chapter 28 of the Arkansas Code, concerning electricians, and Ark. Code Ann. § 17-55-101 *et seq.*, concerning licensure of electrical inspectors. *See* Ark. Code Ann. § 17-28-202(a)(1). The amended rules implement Act 318 of 2023, sponsored by Representative Richard McGrew, which allowed residential electricians to perform work on three and four family homes and amended the law concerning definitions of electricians. *See* Ark. Code Ann. § 17-28-101(2), (10), and (11) *as amended by* Act 318 of 2023.

14. **DEPARTMENT OF LABOR AND LICENSING, DIVISION OF
OCCUPATIONAL AND PROFESSIONAL LICENSING BOARDS AND
COMMISSIONS, ARKANSAS REAL ESTATE COMMISSION (Andrea
Alford, Lacie Kirchner)**

a. **SUBJECT: 10.25 – Waiver of Certain Requirements for Principal Brokers**

DESCRIPTION: Act 31 of 2023 creates a license exemption for employees of a licensed Arkansas residential construction company. As

part of qualifying for the exemption, the licensed Arkansas residential construction company is required to employ a principal broker to supervise the activities of the unlicensed employees. The purpose of the proposed rule is to allow those principal brokers to request a waiver of certain technical requirements that specifically pertain to the business processes of a real estate firm most often owned and directed by the principal broker, which differ from those of a licensed residential construction company employing an individual to serve as a principal broker under the Act.

PUBLIC COMMENT: A public hearing was held on January 22, 2024. The public comment period expired on January 22, 2024. The agency indicated that it received no comments.

The proposed effective date is pending legislative review and approval.

FINANCIAL IMPACT: The agency indicated that the proposed rule does not have a financial impact.

LEGAL AUTHORIZATION: The Arkansas Real Estate Commission may do all things necessary and convenient for carrying into effect the provisions of Title 17, Chapter 42 of the Arkansas Code concerning real estate license law, and may from time to time promulgate necessary or desirable rules. *See Ark. Code Ann. § 17-42-203(a).* This rule implements Act 31 of 2023, sponsored by Representative DeAnn Vaught, which amended the real estate license law and created an exemption for Arkansas licensed residential construction companies. *See Ark. Code Ann. § 17-42-104 as amended by Act 31 of 2023.*

E. Request for Expedited Repeal of Rules Not Meeting the Definition of a Rule Under the Arkansas Administrative Procedure Act Pursuant to Act 65 of 2021

1. ARKANSAS PUBLIC DEFENDER COMMISSION (Charlotte Bogan)

a. Minimum Standards

F. Agency Updates on the Status of Outstanding Rulemaking from the 2021 Regular Session Pursuant to Act 595 of 2021

1. Department of Education (Andrés Rhodes, Daniel Shults)

G. Agency Requests to Be Excluded from Reporting Requirements of Act 595 of 2021

1. Department of Education (Act 637 of 2023) (Andrés Rhodes, Daniel Shults)

- H. Agency Monthly Written Updates Pursuant to Act 595 of 2021 Concerning Rulemaking from the 2023 Regular Session**
- I. Evaluation of Rule Review Group 2 Agencies Pursuant to Act 781 of 2017 and Act 65 of 2021 (Marty Ryall, Clay Stone)**
 - 1. Department of Parks, Heritage, and Tourism – Capitol Zoning District Commission**
 - 2. Department of Parks, Heritage, and Tourism – Division of Heritage**
- J. Adjournment**