

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

As Engrossed: H3/10/97 S3/21/97

A Bill

HOUSE BILL 1946

4 *By: Representatives Thicksten, Wilkinson, Pollan, McGehee, Willems, Ammons, and Hall*

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For An Act To Be Entitled

8 "TO PROVIDE FOR THE MANAGEMENT AND OPERATION OF FORT
9 CHAFFEE AS A RESERVE COMPONENT MILITARY TRAINING
10 RESERVATION; TO AUTHORIZE THE ADJUTANT GENERAL TO ENTER
11 INTO AGREEMENTS WITH THE SECRETARY OF THE ARMY FOR THE
12 OPERATION OF FORT CHAFFEE, ARKANSAS, DECLARING AN
13 EMERGENCY; AND FOR OTHER PURPOSES."

14
15

Subtitle

16 "TO PROVIDE FOR THE MANAGEMENT OF FORT
17 CHAFFEE, ARKANSAS"

18

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

20

21 SECTION 1. Legislative Findings of Fact.

22 (a) The United States Congress has directed the United States Army to
23 close certain military training posts. Fort Chaffee will be operated by the
24 Adjutant General as a reserve component military training facility. Other
25 agencies, departments and political subdivisions of the United States or the
26 State of Arkansas will or have indicated an interest to acquire or occupy
27 portions of Fort Chaffee that are not needed for military purposes. The
28 Adjutant General of Arkansas is best suited to act as the executive agent of
29 the State of Arkansas to negotiate with the Secretary of the Army and the
30 various tenant agencies for the orderly administration of Fort Chaffee.

31 (b) It is necessary for the State of Arkansas to amend certain laws
32 concerning military reservations and to authorize particular activities on
33 Fort Chaffee in order to facilitate administration and operation of Fort
34 Chaffee as a military reservation.

35

36 SECTION 2. Arkansas Code Annotated § 12-61-124 is amended to read as

1 follows:

2 "12-61-124. Civilian juvenile student training programs.

3 (a) The Adjutant General may, at his discretion and with such funds as
4 may be appropriated by the General Assembly, or with such funds as may be
5 provided by the United States, develop and implement civilian juvenile student
6 training programs for the purpose of providing training, education, health,
7 welfare, rehabilitative, and other services to juveniles.

8 (b) The Adjutant General is authorized to enter into agreements,
9 contracts, and memoranda of understanding with other state, federal, and local
10 agencies, other persons, firms, and corporations, and the juvenile courts of
11 this state for the purposes of providing training, education, health, welfare,
12 rehabilitative, and other services to juveniles participating in such programs
13 as may be implemented by the Adjutant General.

14 (c) The Adjutant General may promulgate and issue such rules,
15 regulations, and other guidelines as may be necessary and proper to carry out
16 the purposes and provisions of this section.

17 (d)(1) Juvenile participants in the Civilian Student Training Program
18 ~~at Camp Joseph T. Robinson~~ receiving services from the Arkansas National Guard
19 are authorized to receive a monetary stipend, not to exceed ten dollars
20 (\$10.00) per week to defray personal hygiene and other personal necessities.
21 Juvenile participants are authorized to receive uniforms and clothing items as
22 determined by the staff to be appropriate for effective participation in
23 outdoor activities.

24 (2) Transportation to support Civilian Student Training Program
25 activities for juvenile participants and staff may be provided by commercial
26 lease/purchase of motor vehicles not to exceed six vehicles."
27

28 SECTION 3. Arkansas Code Annotated § 12-63-201 is amended to read as
29 follows:

30 "12-63-201. Definition.

31 For the purpose of this subchapter the term military reservation shall
32 apply to and encompass all lands, buildings, and improvements used for
33 military training purposes on:

34 (1) Camp Joseph T. Robinson, both that portion owned by the State of
35 Arkansas and used by the National Guard and that portion owned by the United
36 States, which consists of thirty-one and one-half (31.5) acres more or less,

1 and used by the United States Army Reserve, the United States Navy Reserve,
2 and the United States Marine Corps Reserve;

3 (2) Properties licensed by the United States to the State of Arkansas
4 to use and occupy for year-round training and support of the Arkansas Air
5 National Guard; ~~and~~

6 (3) Taxiways, runways, and other airport land and improvements used by
7 military aircraft in conjunction with and adjacent to those properties
8 described in subdivision (2)-~~i~~ and

9 (4) Fort Chaffee, Arkansas, including that part owned, leased,
10 licensed, operated, maintained, occupied or controlled by the Adjutant General
11 and that part owned, leased, licensed, operated, maintained, occupied or
12 controlled by any other component of the active or reserve military forces of
13 the United States, or any other part that is leased, licensed, operated,
14 maintained, occupied or controlled by any political subdivision, agency,
15 person, firm, corporation or association for use by the active or reserve
16 military forces of the State of Arkansas and the United States."

17

18 SECTION 4. Arkansas Code Annotated § 12-63-209 is amended to read as
19 follows:

20 "12-63-209. Criminal trespass upon a military reservation - Penalty.

21 (a) A person commits the offense of criminal trespass upon a military
22 reservation if he or she purposefully, and without authority, enters upon or
23 remains unlawfully upon any military reservation, military armory, or other
24 military building or property owned, leased, licensed, operated, occupied,
25 maintained, under the control, or management of ~~by~~ the State of Arkansas ~~and~~
26 under the control and management of the State Military Department.

27 (b) Criminal trespass upon a military reservation or other military
28 property is a Class A misdemeanor."

29

30 SECTION 5. Arkansas Code Annotated § 12-63-402 is amended to read as
31 follows:

32 "12-63-402. Adjutant General as custodian.

33 (a) The Adjutant General of the State of Arkansas is ~~made~~ the custodian
34 of ~~the property.~~ all military property and military reservations located
35 within the State of Arkansas, and which are owned, leased, licensed, operated,
36 occupied or maintained by the State of Arkansas for the purpose of training

1 the active or reserve military forces of the United States or any of any
2 State.

3 **(b)** The Adjutant General of Arkansas is not the custodian of any
4 military property or military reservation which is reserved to the exclusive
5 legislative jurisdiction and sovereignty of the United States or which is
6 reserved to exclusive legislative authority of the United States Secretary of
7 the Army, United States Secretary of the Navy, or United States Secretary of
8 the Air Force, pursuant to the Constitution and laws of the United States.
9 Specifically, the Adjutant General is not the custodian of Little Rock Air
10 Force Base and Pine Bluff Arsenal, except such parts thereof that are owned,
11 leased, licensed, operated, occupied or maintained pursuant to a deed, lease,
12 license, or agreement for the exclusive control by the Adjutant General of
13 Arkansas and units of the Arkansas Army National Guard or Arkansas Air
14 National Guard, in accordance with the respective agreements between the
15 Adjutant General and the Secretary of the Army or the Secretary of the Air
16 Force.

17 **(c)(1)** The Adjutant General shall not enter into or accept any
18 contract, deed, license, lease, permit, memorandum of understanding,
19 memorandum of agreement, obligation, gift, or donation of any real property,
20 whereby the State of Arkansas shall incur or undertake to incur financial
21 liability for or assume financial liability with, or for, or on behalf of an
22 agency or instrumentality of the United States, for such agency's or
23 instrumentality's past or continuing violation or violations of the
24 environmental protection laws of the State of Arkansas or of the United
25 States, or for past or continuing violation or violations of the laws,
26 regulations, rules, or orders of the Arkansas Department of Pollution Control
27 and Ecology, or of the United States Environmental Protection Agency, or for
28 the past or continuing violation or violations of any other law, regulation,
29 rule, or order of any agency and instrumentality of the State of Arkansas or
30 of the United States which is charged with the responsibility of enforcing the
31 environmental law.

32 **(2)** This prohibition shall not be applicable if:

33 **(A)** The Adjutant General shall be authorized by federal law
34 or regulation to accept such responsibility for remediation of past or
35 continuing violations and the Adjutant General is provided, appropriated,
36 allocated, or apportioned adequate funds from the United States required to

1 remediate such violations, or

2 (B) The Attorney General of the State of Arkansas, after
3 conferring with the Director of the Arkansas Department of Pollution Control
4 and Ecology, shall advise the Governor in writing that the potential financial
5 liability of the State for environmental remediation is de minimis, and if the
6 Governor shall so approve and concur in the Attorney General's advice, or

7 (C) The laws of the United States prescribe and fix sole
8 financial liability for such violation or violations upon an agency or
9 instrumentality of the United States to the exclusion of the State."

10

11 SECTION 6. Arkansas Code Annotated § 12-63-403 is amended to read as
12 follows:

13 "12-63-403. Lease or sale - Disposition of funds.

14 (a) The Adjutant General of the State of Arkansas shall have authority
15 to lease or sublease such property or portions thereto for such rentals, on
16 such terms and conditions, and for such period of time as he shall deem to be
17 in the best interest of the National Guard and the State of Arkansas.

18 (b) The lease or sublease or contracts for sale of property which is
19 not needed for military purposes shall be executed by the Adjutant General for
20 and in the name and behalf of the State of Arkansas.

21 (c) The contracts or leases shall contain suitable provisions for the
22 immediate termination in the event of the occurrence of an emergency rendering
23 the use of the property for military purposes.

24 (d) Funds received or derived from leases, rentals, and sales of real
25 property or from severed personal property derived from Camp Joseph T.
26 Robinson shall be used exclusively for the operation operations, and
27 maintenance, improvements, and personnel costs of Camp Joseph T. Robinson.

28 (e) Funds received or derived from leases, rentals, and sales of real
29 property or from severed personal property derived from Fort Chaffee shall be
30 used for operations, maintenance, improvements, and personnel costs of Fort
31 Chaffee."

32

33 SECTION 7. Arkansas Code Annotated § 12-63-404 is amended to read as
34 follows:

35 "12-63-404. Canteen - Establishment and operations.

36 (a) The Adjutant General of the State of Arkansas, ~~as custodian of Camp~~

1 ~~Joseph T. Robinson, is authorized to institute and operate a military-type~~
2 ~~canteen, similar to those operated by the armed forces, on the Camp Joseph T.~~
3 ~~Robinson reservation, and he shall have authority to designate a suitable~~
4 ~~building located on the Camp Joseph T. Robinson reservation for such purposes~~
5 as custodian of military properties and military reservations is authorized to
6 institute and operate military-type canteens and exchanges similar to those
7 operated by armed forces of the United States on any military reservation, and
8 he shall have authority to designate suitable buildings and lands located on a
9 military reservation for such purposes.

10 (b)(1) Except as otherwise provided in subsection (b)(2) of this
11 section, every military type canteen established or operated pursuant to the
12 authority granted under this section shall be subject to ~~the same limitations~~
13 ~~and restrictions governing all such activities of the Army and Air Force~~
14 ~~Exchange Service under appropriate Department of Defense regulations similar~~
15 procedures, policies, limitations and restrictions governing such canteens and
16 exchanges of the Army and Air Force Exchange Service, as the Adjutant General
17 may deem advisable, necessary or expedient.

18 (2) ~~However, a military type canteen established or operated~~
19 ~~pursuant to the authority granted under this section shall not sell, trade,~~
20 ~~exchange, market, or vend automobiles, household appliances, furniture,~~
21 ~~building products, motorcycles, and bicycles. Military canteens and exchanges~~
22 established or operated pursuant to the authority granted under this section
23 shall not sell, trade, exchange, market, or vend automobiles, household
24 appliances, furniture, building products, motorcycles, and bicycles. Military
25 canteens and exchanges may contract with one or more automobile rental
26 agencies to provide leased or rented vehicles for use by uniformed service
27 members, trainees, and other temporary residents of military reservations."

28
29 SECTION 8. Arkansas Code Annotated 12-63-405 is amended to read as
30 follows:

31 "12-63-405. Canteen - Adjutant General's powers and duties.

32 (a) ~~The Adjutant General, acting for and in behalf of the Arkansas~~
33 ~~National Guard,~~ shall have the authority:

34 (1) To hire and set the salaries or compensation of sufficient
35 ~~personnel~~ employees for the operation of ~~the canteen~~ canteens and exchanges;

36 (2) To enter into contracts or agreements with wholesalers,

1 distributors, or suppliers of inventory items for stocking the ~~canteen~~
2 canteens and exchanges;

3 (3) To prescribe a system of bookkeeping, accounting and auditing
4 procedures for the proper handling of funds derived from the ~~operation of the~~
5 ~~canteen operations of canteens and exchanges;~~ and

6 (4) To prescribe regulations governing the operation of the
7 ~~canteen at Camp Robinson and in units of the Arkansas National Guard~~ canteens
8 and exchanges on military reservations and military properties.

9 (b) Employees of canteens and exchanges are not subject to the
10 Uniform Classification and Compensation Act (Arkansas Code Annotated 21-5-201
11 et seq.)."

12
13 SECTION 9. Arkansas Code Annotated § 12-63-406 is amended to read as
14 follows:

15 "12-63-406. Canteen - Inventory and sales - Tax exemption.

16 (a) The Adjutant General, acting for and on behalf of the Arkansas
17 National Guard, shall have authority to purchase normally regarded canteen
18 inventory items, subject to the limitations prescribed in § 12-63-404.

19 (b) ~~(1) The sale of all these items shall be made only to:~~

20 ~~_____ (A) Active and retired members of the Army and Air National~~
21 ~~Guard of the United States;~~

22 ~~_____ (B) Active, retired, and reserve members of the armed~~
23 ~~forces of the United States;~~

24 ~~_____ (C) Department of Defense employees;~~

25 ~~_____ (D) Full-time employees of the State Military Department;~~

26 and

27 ~~_____ (E) Dependents of the above-named persons who hold proper~~
28 ~~identification cards.~~

29 ~~(2) Sales may also be made to:~~

30 ~~_____ (A) Students attending training programs at Camp Joseph T.~~
31 ~~Robinson; and~~

32 ~~_____ (B) Contractors performing work under contract with the~~
33 ~~United States or the State of Arkansas at Camp Joseph T. Robinson.~~

34 The sale of items shall be made only to active and retired members of
35 the Army National Guard and Air National Guard; to active, retired, and
36 reserve members of the armed forces of the United States; to Department of

1 Defense employees; to full time employees of the of the Arkansas Military
 2 Department; to students attending training programs at Camp Joseph T. Robinson
 3 or Fort Chaffee; to contractors and their employees performing work pursuant
 4 to a contract with the United States or the State of Arkansas on Camp Joseph
 5 T. Robinson or Fort Chaffee; and to employees of tenant government agencies
 6 located on Camp Joseph T. Robinson or Fort Chaffee; and to dependents of the
 7 above named persons who hold identification cards evidencing their status as
 8 may be found acceptable to the Adjutant General.

9 (c) The items sold shall be exempt from the imposition of any taxes
 10 levied by the State of Arkansas or by any political subdivision thereof."

11

12 SECTION 10. Arkansas Code Annotated § 12-63-407 is amended to read as
 13 follows:

14 "12-63-407. ~~Canteen~~ Canteens - Camp Robinson and Fort Chaffee.

15 (a) The General Assembly finds that the Adjutant General is subject to
 16 conflicting laws of the State of Arkansas and regulations of the Department of
 17 the Army and the National Guard Bureau, requiring the Adjutant General to
 18 reconcile conflicting laws and regulations.

19 (b) The purpose of this section is to eliminate duplicated and
 20 conflicting laws, reconcile state law to ~~Department of the Army~~ Departments of
 21 the Army and Air Force and ~~the~~ National Guard Bureau regulations, and to
 22 reduce operating expenses of the Camp Joseph T. Robinson ~~Canteen~~ and Fort
 23 Chaffee canteens.

24 (c) The Adjutant General is hereby authorized to operate the Camp
 25 Joseph T. Robinson ~~Canteen~~ and Fort Chaffee Canteens in accordance with the
 26 regulations of the ~~Department of the Army~~ Departments of the Army and Air
 27 Force and the National Guard Bureau governing morale, welfare and recreation
 28 fund activities as he may determine to be applicable.

29 (d) Nothing in this section shall be construed to eliminate the
 30 restrictions on the types of goods or services the Camp Joseph T. Robinson
 31 ~~Canteen~~ and Fort Chaffee canteens may offer for sale, trade, exchange,
 32 ~~marketing~~, or ~~vending~~, nor shall this section be construed to expand or
 33 broaden the authority of the Camp Joseph T. Robinson ~~Canteen~~ and Fort Chaffee
 34 Canteens to sell goods and services to any person other than active, retired,
 35 and reserve members of the armed services, ~~and~~ to full time employees of the
 36 Arkansas Military Department and Departments of Defense, to employees of

1 contractors performing contracts or services on either Camp Joseph T. Robinson
2 or Fort Chaffee, employees of other government agencies, students, and other
3 tenants of either Camp Joseph T. Robinson or Fort Chaffee.

4 (e) The Adjutant General shall cause an external annual audit of the
5 Camp Joseph T. Robinson ~~Canteen to be conducted~~ and Fort Chaffee Canteens.
6 The audit shall be conducted by a certified public accountant.

7 (f) The Adjutant General shall, within ten (10) days of receipt, submit
8 a copy of the annual ~~audit~~ audits and any other audits of the Camp Joseph T.
9 Robinson ~~Canteen~~ and Fort Chaffee Canteens conducted in accordance with
10 regulations of the ~~Department of the Army~~ Departments of the Army and Air
11 Force, and the National Guard Bureau to the Division of Legislative Audit."
12

13 SECTION 11. Arkansas Code Annotated § 12-63-409 is amended to read as
14 follows:

15 "12-63-409. Canteen - Use of Funds.

16 All nonappropriated funds derived from the operation of the ~~Canteen~~ Camp
17 Joseph T. Robinson and Fort Chaffee canteens shall be used exclusively for
18 improvements ~~on or to the Camp Joseph T. Robinson military reservation, to~~
19 ~~unit armories, and on, to, or for~~ Camp Joseph T. Robinson, Fort Chaffee, or
20 any other military reservation, armory, airfield, or for the general welfare
21 of the units and members of the Arkansas National Guard."
22

23 SECTION 12. Arkansas Code Annotated § 12-63-410 is amended to read as
24 follows:

25 "12-63-410. Canteen - Conditional termination.

26 (a) If ~~he~~ the Adjutant General deems it to be in the best interest of
27 the ~~Arkansas National Guard~~ military forces of this state or of the United
28 States, the Adjutant General may enter into an agreement or agreements with
29 the Army and Air Force Exchange Service for the institution, maintenance, and
30 operation by ~~that agency of a post exchange on the Camp Robinson military~~
31 ~~reservation~~ the Army and Air Force Exchange Service of post exchanges on Camp
32 Joseph T. Robinson or Fort Chaffee, or both.

33 (b) Upon the execution of such agreement or agreements and the
34 institution by ~~that agency of a post exchange on Camp Robinson, the operation~~
35 ~~of the military-type canteen by the Adjutant General as provided in~~

36 ~~AA 12-63-404 - 12-63-410 shall terminate~~ the Army and Air Force Exchange

1 Service of a post exchange on Camp Joseph T. Robinson or Fort Chaffee, the
2 operation of the military style canteen or canteens as the case may be, by the
3 Adjutant General as provided in Sections 12-63-404 et seq., shall terminate.
4 The termination of the operation of one or more canteens shall not mandate
5 that other canteens at other locations be closed."

6

7 SECTION 13. Arkansas Code Annotated 3-4-703 is amended to read as
8 follows:

9 "3-4-703. Authorized purchasers.

10 ~~_____ (a) Sales of alcoholic beverages under the post exchange package permit~~
11 ~~shall be limited to those persons over the age of twenty-one (21) years who~~
12 ~~are:~~

13 ~~_____ (1) Members of the Army and Air National Guard of the United~~
14 ~~States;~~

15 ~~_____ (2) Active, retired, and reserve members of the armed forces of~~
16 ~~the United States;~~

17 ~~_____ (3) Department of Defense employees;~~

18 ~~_____ (4) Full-time employees of the State Military Department; and~~

19 ~~_____ (5) Dependents of the above-named persons who hold proper~~
20 ~~identification cards.~~

21 ~~_____ (b) Sales may also be made to:~~

22 ~~_____ (1) Students attending training programs at Camp Joseph T.~~
23 ~~Robinson; and~~

24 ~~_____ (2) Contractors performing work under contract with the United~~
25 ~~States or the State of Arkansas at Camp Joseph T. Robinson.~~

26 Sales of alcoholic beverages under the post exchange permit shall be
27 limited to those persons over the age of twenty-one (21) years, who are active
28 or retired members of Army National Guard and Air National Guard; to active,
29 retired, and reserve members of the armed forces of the United States; to
30 Department of Defense employees; to full time employees of the Arkansas
31 Military Department; to students attending training programs at Camp Joseph T.
32 Robinson or Fort Chaffee; to contractors and their employees performing work
33 pursuant to a contract with the United States or the State of Arkansas on Camp
34 Joseph T. Robinson or Fort Chaffee; and to employees of tenant government
35 agencies located on Camp Joseph T. Robinson or Fort Chaffee; and to dependents
36 of the above named persons who hold identification cards evidencing their

1 status as may be found acceptable to the Adjutant General."

2

3 SECTION 14. (a) The State of Arkansas acknowledges and endorses the
4 establishment of the Fort Chaffee Redevelopment Authority Public Trust,
5 created by Sebastian County, Arkansas, on February 19, 1997, as set forth in
6 the Fort Chaffee Redevelopment Authority Indenture of Trust and pursuant to
7 the provisions of the laws of the State of Arkansas, including specifically
8 Title 28, Chapter 72, Subchapter 2 of the Arkansas Code of 1987 Annotated.

9

10 (b) The Fort Chaffee Redevelopment Authority Public Trust
11 is hereby recognized by the State as the entity to: prepare a comprehensive
12 study of all issues related to the closure and redevelopment of Fort Chaffee
13 Military Base surplus properties and to ensure proper planning and optimal use
14 of the property embodied therein; after conversion of such portions of the
15 Base as the U.S. Department of Defense deems unnecessary to its overall
16 military mission, to manage, own and operate those portions so as to yield the
17 maximum benefit to the residents of affected counties and communities in the
18 State of Arkansas; and for other purposes as enabled and set forth in the Fort
19 Chaffee Redevelopment Authority Indenture of Trust. The State further
20 recognizes that such activities as set forth in the Fort Chaffee Redevelopment
21 Authority Indenture of Trust are in the public interest and serve a public
22 purpose and can best be accomplished by the creation of a public trust vested
23 with the powers and duties specified in the Indenture of Trust.

24

25 SECTION 15. In addition to the post exchange and other post operations
26 authorized to be taken over by the Arkansas Military Department pursuant to
27 the provisions of this act, the Adjutant General is given further authority to
28 take over operation of all military service clubs on Fort Chaffee. It is
29 recognized that Fort Chaffee has operated under exclusive federal jurisdiction
30 and such military service clubs have not been required to obtain a license
31 from the State of Arkansas to authorize such operations. However, pursuant to
32 resumption of State jurisdiction over Fort Chaffee, state licenses will be
33 required. Therefore, there is hereby created a Military Service Club mixed
34 drink permit authorizing the sale of alcoholic beverages as defined in
35 Arkansas Code Annotated § 3-9-202 et seq. to be issued to service clubs on
36 military reservations owned or controlled by the State of Arkansas. The

1 Arkansas Alcoholic Beverage Control Division is authorized to issue such
2 permits to each military service club operating on Fort Chaffee. The annual
3 fee for each such permit shall be five hundred dollars (\$500) and such fees
4 shall be due and collected in the same manner as all other permit fees
5 collected by the Alcoholic Beverage Control Division. Food service
6 requirements for restaurants, as set out in Arkansas Code Annotated § 3-9-202,
7 et seq., shall not be applicable. Hours of operation for such service clubs
8 shall be the same as are now in existence for private clubs licensed pursuant
9 to Arkansas Code Annotated § 3-9-221, et seq. The Arkansas Alcoholic Beverage
10 Control Division is authorized to adopt reasonable rules and regulations to
11 provide for the operation of such service clubs consistent with the intent and
12 purposes of this act.

13

14 SECTION 16. All provisions of this act of a general and permanent
15 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
16 Code Revision Commission shall incorporate the same in the Code.

17

18 SECTION 17. If any provision of this act or the application thereof to
19 any person or circumstance is held invalid, such invalidity shall not affect
20 other provisions or applications of the act which can be given effect without
21 the invalid provision or application, and to this end the provisions of this
22 act are declared to be severable.

23

24 SECTION 18. All laws and parts of laws in conflict with this act are
25 hereby repealed.

26

27 /s/Rep. Thicksten et al

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