

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

State of Arkansas

As Engrossed: H3/16/01

83rd General Assembly

# A Bill

Regular Session, 2001

HOUSE BILL 2199

By: Representative Napper

## For An Act To Be Entitled

THE ARKANSAS CODE REVISION COMMISSION'S TECHNICAL  
CORRECTIONS BILL.

## Subtitle

THE ARKANSAS CODE REVISION COMMISSION'S  
TECHNICAL CORRECTIONS BILL.

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

SECTION 1. Arkansas Code 1-5-108 is amended to read as follows:

1-5-108. White Cane Safety Day.

(a) October 15 of each year is declared to be "White Cane Safety Day".

(b) The Governor shall annually, prior to October 15, issue a  
proclamation proclaiming October 15 as "White Cane Safety Day", and in the  
proclamation shall:

(1) Comment upon the significance of the white cane;

(2) Call upon the citizens of the state to observe the  
provisions of §§ 20-14-301 – 20-14-306 and to take precautions necessary to  
the safety of the visually impaired, hearing impaired, and other persons with  
physical disabilities;

(3) Remind the citizens of the state of the policies of the  
state with respect to the visually ~~handicapped~~ impaired, hearing impaired,  
and other ~~physically handicapped~~ persons with physical disabilities, as  
prescribed in §§ 20-14-301 – 20-14-306, and urge the citizens to cooperate in  
carrying out those policies; and

(4) Emphasize the need for the citizens of this state to:

(A) ~~To be~~ Be aware of the presence of the visually  
~~handicapped~~ impaired, hearing impaired, and other ~~physically handicapped~~

persons with physical disabilities in the community;

(B) ~~To keep~~ Keep safe and functional, for the visually handicapped impaired, hearing impaired, and ~~otherwise handicapped~~ other persons with physical disabilities, the:

- (i) ~~streets,~~ Streets;
- (ii) ~~highways,~~ Highways;
- (iii) ~~sidewalks,~~ Sidewalks;
- (iv) ~~walkways,~~ Walkways;
- (v) ~~public~~ Public buildings;
- (vi) ~~public~~ Public facilities;
- (vii) ~~other~~ Other public places;
- (viii) ~~places~~ Places of public accommodation, amusement, and resort; and
- (ix) ~~other~~ Other places to which the public is invited; and

~~(C)(x)~~ To offer Offer assistance to the visually handicapped impaired, hearing impaired, and other ~~physically handicapped~~ persons with physical disabilities upon appropriate occasions.

SECTION 2. Having been found unconstitutional by the Arkansas Supreme Court, Arkansas Code 2-20-511 is repealed:

~~2-20-511. Referendum for alternative assessment on grown rice.~~

~~(a) The Arkansas Rice Research and Promotion Board may refer to the rice producers of this state the issue of authorizing the board to levy, in lieu of the assessments provided in § 2-20-507, an assessment of one dollar and thirty five cents (\$1.35) per bushel to be paid by the buyer at the first point of sale, whether within or without the state, on rice grown within the state, or at the point the rice enters into the United States Department of Agriculture loan program, and up to one dollar and fifty cents (\$1.50) per bushel as determined by the board to be paid by the producer on all rice grown within this state.~~

~~(b)(1) The funds derived from the assessment of one dollar and thirty five cents (\$1.35) per bushel shall be used for rice promotion and market development and the funds derived from the assessment of one dollar and fifty cents (\$1.50) per bushel shall be used entirely for rice research.~~

~~(2) The assessment shall not be subject to refund~~

1 notwithstanding ~~§ 2-20-509.~~

2 ~~(3) The board shall prescribe the method by which the referendum~~  
3 ~~may be conducted which may be by balloting either in person or by mail or a~~  
4 ~~combination of methods.~~

5 ~~(4) The assessments shall be a continuing levy until either~~  
6 ~~terminated by the board or until another referendum is held at which a~~  
7 ~~majority of rice producers in the state vote against the levy.~~

8 ~~(c) If at least a majority of the rice producers who vote in the~~  
9 ~~referendum vote in favor of the proposal, it shall take effect on the next~~  
10 ~~August 1 following the referendum.~~

11 ~~(d) When petitions containing signatures of at least twenty five~~  
12 ~~percent (25%) of the rice producers in the state, as determined by the latest~~  
13 ~~available agricultural census, are filed with the board requesting that the~~  
14 ~~question of continuing the board's assessment under this section be submitted~~  
15 ~~to a vote of the rice producers, the board shall cause such an election to be~~  
16 ~~held within ninety (90) days after the filing of the petitions.~~

17 ~~(e) If the referendum provided for in this section is defeated, the~~  
18 ~~board may resubmit the referendum at any time.~~

19 ~~(f) The board may utilize the assessments levied under this chapter to~~  
20 ~~pay the cost of conducting the referendum.~~

21  
22 SECTION 3. In order to correct an error, Arkansas Code 3-3-204(b)(2)  
23 is amended to read as follows:

24 (2) Be employed by a licensed liquor ~~and~~ wholesaler or licensed  
25 beer wholesaler ~~and or~~ by a licensed native winery to handle alcoholic  
26 beverages at the place of business of the licensed wholesaler or winery.

27  
28 SECTION 4. In light of the enactment of Arkansas Code 4-71-201 et seq.  
29 by Acts 1997, No. 1109, Arkansas Codes 4-71-101 – 4-71-114 are repealed:

30 ~~4-71-101. Definitions.~~

31 ~~(a) As used in this chapter, unless the context otherwise requires:~~

32 ~~(1) 'Trademark' means any word, name, symbol, or device or any~~  
33 ~~combination thereof adopted and used by a person to identify goods made or~~  
34 ~~sold by him and to distinguish them from goods made or sold by others;~~

35 ~~(2) 'Service mark' means a mark used in the sale or advertising~~  
36 ~~of services to identify the services of one (1) person and distinguish them~~

1 ~~from the services of others;~~

2 ~~(3) 'Mark' includes any trademark or service mark entitled to~~  
3 ~~registration under this chapter whether registered or not;~~

4 ~~(4) 'Trade name' means a word, name, symbol, device, or any~~  
5 ~~combination thereof used by a person to identify his business, vocation, or~~  
6 ~~occupation and distinguish it from the business, vocation, or occupation of~~  
7 ~~others;~~

8 ~~(5) 'Person' means any individual, firm, partnership,~~  
9 ~~corporation, association, union, or other organization;~~

10 ~~(6) 'Applicant' includes the person filing an application for~~  
11 ~~registration of a trademark under this chapter, his legal representatives,~~  
12 ~~successors, or assigns; and~~

13 ~~(7) 'Registrant' includes the person to whom the registration of~~  
14 ~~a trademark under this chapter is issued, his legal representatives,~~  
15 ~~successors, or assigns.~~

16 ~~(b) For the purposes of this chapter, a trademark shall be deemed to~~  
17 ~~be 'used' in this state:~~

18 ~~(1) On goods when it is placed in any manner on the goods or~~  
19 ~~their containers or the displays associated therewith or on the tags or~~  
20 ~~labels affixed thereto, and the goods are sold or otherwise distributed in~~  
21 ~~this state; and~~

22 ~~(2) On services when it is used or displayed in the sale or~~  
23 ~~advertising of services, and the services are rendered in this state.~~

24  
25 ~~4-71-102. Common law rights unaffected by chapter.~~

26 ~~Nothing contained in this chapter shall adversely affect the rights or~~  
27 ~~the enforcement of rights in marks acquired in good faith at any time at~~  
28 ~~common law.~~

29  
30 ~~4-71-103. Classifications of goods and services.~~

31 ~~(a) The general classes of goods and services set forth in subsection~~  
32 ~~(c) are established for convenience of administration of this chapter, but~~  
33 ~~not to limit or extend the applicant's or registrant's rights, and a single~~  
34 ~~application for registration of a mark may include any and all goods or~~  
35 ~~services upon which the mark is actually being used.~~

36 ~~(b) The Secretary of State is authorized to amend the classification~~

~~of goods and services to conform with the classifications established and as  
may be amended by the United States Patent and Trademark Office.~~

~~(c) The classes are as follows:~~

~~CLASSIFICATION OF GOODS~~

~~Class~~

~~1 Raw or partly prepared materials~~

~~2 Receptacles~~

~~3 Baggage, animal equipments, portfolios, and pocketbooks~~

~~4 Abrasives and polishing materials~~

~~5 Adhesives~~

~~6 Chemicals and chemical compositions~~

~~7 Cordage~~

~~8 Smokers' articles, not including tobacco products~~

~~9 Explosives, firearms, equipments, and projectiles~~

~~10 Fertilizers~~

~~11 Inks and inking materials~~

~~12 Construction materials~~

~~13 Hardware and plumbing and steam-fitting supplies~~

~~14 Metals and metal castings and forgings~~

~~15 Oils and greases~~

~~16 Protective and decorative coatings~~

~~17 Tobacco products~~

~~18 Medicines and pharmaceutical preparations~~

~~19 Vehicles~~

~~20 Linoleum and oiled cloth~~

~~21 Electrical apparatus, machines, and supplies~~

~~22 Games, toys, and sporting goods~~

~~23 Cutlery, machinery, and tools and parts thereof~~

~~24 Laundry appliances and machines~~

~~25 Locks and safes~~

~~26 Measuring and scientific appliances~~

~~27 Horological instruments~~

~~28 Jewelry and precious metal ware~~

~~29 Brooms, brushes, and dusters~~

~~30 Crockery, earthenware, and porcelain~~

~~31 Filters and refrigerators~~

~~32—Furniture and upholstery~~  
~~33—Glassware~~  
~~34—Heating, lighting, and ventilating apparatus~~  
~~35—Belting, hose, machinery packing, and nonmetallic tires~~  
~~36—Musical instruments and supplies~~  
~~37—Paper and stationery~~  
~~38—Prints and publications~~  
~~39—Clothing~~  
~~40—Fancy goods, furnishings, and notions~~  
~~41—Canes, parasols, and umbrellas~~  
~~42—Knitted, netted, and textile fabrics and substitutes therefor~~  
~~43—Thread and yarn~~  
~~44—Dental, medical, and surgical appliances~~  
~~45—Soft drinks and carbonated waters~~  
~~46—Foods and ingredients of foods~~  
~~47—Wines~~  
~~48—Malt beverages and liquors~~  
~~49—Distilled alcoholic liquors~~  
~~50—Merchandise not otherwise classified~~  
~~51—Cosmetics and toilet preparations~~  
~~52—Detergents and soaps.~~

#### ~~CLASSIFICATION OF SERVICES~~

~~Class~~  
~~100—Miscellaneous~~  
~~101—Advertising and business~~  
~~102—Insurance and financial~~  
~~103—Construction and repair~~  
~~104—Communication~~  
~~105—Transportation and storage~~  
~~106—Material treatment~~  
~~107—Education and entertainment.~~

~~4-71-104.—Registrability of mark.—~~

~~A mark by which the goods or services of any applicant for registration may be distinguished from the goods or services of others shall not be~~

1 registered if it:

2 ~~(1) Consists of or comprises immoral, deceptive, or scandalous matter;~~

3 or

4 ~~(2) Consists of or comprises matter which may disparage or falsely~~  
5 ~~suggest a connection with persons living or dead, institutions, beliefs, or~~  
6 ~~national symbols, or bring them into contempt or disrepute; or~~

7 ~~(3) Consists of or comprises the flag or coat of arms or other~~  
8 ~~insignia of the United States or of any state or municipality, or of any~~  
9 ~~foreign nation, or any simulation thereof; or~~

10 ~~(4) Consists of or comprises the name, signature, or portrait of any~~  
11 ~~living individual, except with his written consent; or~~

12 ~~(5)(A) Consists of a mark which, when applied to the goods or services~~  
13 ~~of the applicant, is merely descriptive or deceptively misdescriptive of~~  
14 ~~them; or, when applied to the goods or services of the applicant, is~~  
15 ~~primarily geographically descriptive or deceptively misdescriptive of them;~~  
16 ~~or is primarily merely a surname.~~

17 ~~(B) However, nothing in this subsection shall prevent the~~  
18 ~~registration of a mark used in this state by the applicant which has become~~  
19 ~~distinctive of the applicant's goods or services. The Secretary of State may~~  
20 ~~accept as evidence that the mark has become distinctive, as applied to the~~  
21 ~~applicant's goods or services, proof of continuous use thereof as a mark by~~  
22 ~~the applicant in this state or elsewhere for the five (5) years next~~  
23 ~~preceding the date of the filing of the application for registration; or~~

24 ~~(6) Consists of or comprises a mark which so resembles a mark~~  
25 ~~registered in this state or a mark or trade name previously used in this~~  
26 ~~state by another and not abandoned, as to be likely, when applied to the~~  
27 ~~goods or services of the applicant, to cause confusion or mistake or to~~  
28 ~~deceive; or~~

29 ~~(7) Consists of or comprises a mark which so resembles a mark~~  
30 ~~registered in the United States Patent and Trademark Office by another and~~  
31 ~~not abandoned, as to be likely, when applied to the goods of the applicant,~~  
32 ~~to cause confusion or mistake or to deceive. However, should the applicant~~  
33 ~~prove that he is the owner of a concurrent registration in the United States~~  
34 ~~Patent and Trademark Office of his mark covering an area including this~~  
35 ~~state, the applicant may register his mark hereunder.~~

36

~~4-71-105. Application for registration.~~

~~(a) Subject to the limitations set forth in this chapter, any person who adopts and uses a mark in this state may file in the office of the Secretary of State, on a form to be furnished by the Secretary of State, an application for registration of that mark setting forth, but not limited to, the following information:~~

~~(1) The name and business address of the person applying for the registration and, if a corporation, the state of incorporation;~~

~~(2) An appointment of the Secretary of State as agent for service of process in any action relating only to the registration which may be issued if the applicant is, or shall become, a nonresident individual, person, association, or foreign corporation not licensed to do business in this state or cannot be found in this state;~~

~~(3) The goods or services in connection with which the mark is used and the mode or manner in which the mark is used in connection with the goods or services and the class or classes in which the goods or services fall;~~

~~(4) The date when the mark was first used anywhere and the date when it was first used in this state by the applicant or his predecessor in business; and~~

~~(5) A statement that the applicant is the owner of the mark and that no other person has the right to use the mark in this state either in the identical form thereof or in such a near resemblance thereto as might be calculated to deceive or to be mistaken therefor.~~

~~(b) The application shall be signed and verified by the applicant or by a member of the firm or an officer of the corporation or association applying.~~

~~(c) The application shall be accompanied by a specimen or facsimile of the mark in triplicate.~~

~~(d) The application for registration shall be accompanied by a filing fee of fifty dollars (\$50.00) payable to the Secretary of State.~~

~~4-71-106. Certificate of registration — Copy as proof of registration.~~

~~(a) Upon compliance by the applicant with the requirements of this chapter, the Secretary of State shall cause a certificate of registration to be issued and delivered to the applicant.~~



1       ~~(b) The certificate of registration shall be issued under the~~  
2       ~~signature of the Secretary of State and the seal of this state, and it shall~~  
3       ~~show the name and business address and, if a corporation, the state of~~  
4       ~~incorporation of the person claiming ownership of the mark, the date claimed~~  
5       ~~for the first use of the mark anywhere and the date claimed for the first use~~  
6       ~~of the mark in this state, the class or classes of goods or services and a~~  
7       ~~description of the goods or services on which the mark is used, a~~  
8       ~~reproduction of the mark, the registration date, and the term of the~~  
9       ~~registration.~~

10       ~~(c) Any certificate of registration issued by the Secretary of State~~  
11       ~~under the provisions hereof or a copy thereof duly certified by the Secretary~~  
12       ~~of State shall be admissible in evidence as competent and sufficient proof of~~  
13       ~~the registration of the mark in any action or judicial proceedings in any~~  
14       ~~court of this state.~~

15  
16       ~~4-71-107. Fraudulent registration.~~

17       ~~Any person who shall, for himself or on behalf of any other person,~~  
18       ~~procure the filing or registration of any mark in the office of the Secretary~~  
19       ~~of State under the provisions of this chapter, by knowingly making any false~~  
20       ~~or fraudulent representation or declaration, verbally or in writing, or by~~  
21       ~~any other fraudulent means, shall be liable to pay all damages sustained in~~  
22       ~~consequence of the filing or registration, to be recovered by or on behalf of~~  
23       ~~the injured party in any court of competent jurisdiction.~~

24  
25       ~~4-71-108. Registration — Duration and renewal.~~

26       ~~(a) Registration of a mark hereunder shall be effective for a term of~~  
27       ~~five (5) years from the date of registration.~~

28       ~~(b)(1) Upon application filed within three (3) months prior to the~~  
29       ~~expiration of the term, on a form to be furnished by the Secretary of State,~~  
30       ~~the registration may be renewed for a like term.~~

31       ~~(2) A renewal fee of fifty dollars (\$50.00) payable to the~~  
32       ~~Secretary of State shall accompany the application for renewal of the~~  
33       ~~registration.~~

34       ~~(3) A mark registration may be renewed for successive periods of~~  
35       ~~five (5) years in like manner.~~

~~4-71-109. Cancellation of registration.~~

~~The Secretary of State shall cancel from the register:~~

~~(1) Any registration concerning which the Secretary of State shall receive a voluntary request for cancellation from the registrant or the assignee of record;~~

~~(2) All registrations granted under this chapter and not renewed in accordance with the provisions of this chapter;~~

~~(3) Any registration concerning which a court of competent jurisdiction shall find that the:~~

~~(A) Registered mark has been abandoned;~~

~~(B) Registrant is not the owner of the mark;~~

~~(C) Registration was granted improperly;~~

~~(D) Registration was obtained fraudulently;~~

~~(E) Registered mark is so similar, as to be likely to cause confusion or mistake or to deceive, to a mark registered by another person in the United States Patent and Trademark Office prior to the date of the filing of the application for registration by the registrant hereunder, and not abandoned. However, should the registrant prove that he is the owner of a concurrent registration of the mark in the United States Patent and Trademark Office covering an area including this state, the registration hereunder shall not be cancelled;~~

~~(4) When a court of competent jurisdiction shall order cancellation of a registration on any ground.~~

~~4-71-110. Assignment of mark or its registration.~~

~~(a) Any mark and its registration shall be assignable with the goodwill of the business in which the mark is used, or with that part of the goodwill of the business connected with the use of and symbolized by the mark.~~

~~(b) Assignment shall be by instruments in writing duly executed and may be recorded with the Secretary of State upon the payment of a fee of twenty dollars (\$20.00) payable to the Secretary of State who, upon recording of the assignment, shall issue in the name of the assignee a new certificate for the remainder of the term of the registration or of the last renewal thereof.~~

~~(c) An assignment of any registration under this chapter shall be void~~

1 ~~as against any subsequent purchaser for valuable consideration without notice~~  
2 ~~unless it is recorded with the Secretary of State within three (3) months~~  
3 ~~after the date thereof or prior to the subsequent purchase.~~

4  
5 ~~4-71-111. Records of registered marks.~~

6 ~~The Secretary of State shall keep for public examination a record of~~  
7 ~~all marks registered or renewed under this chapter.~~

8  
9 ~~4-71-112. Infringement—Liability.~~

10 ~~(a) Subject to the provisions of § 4-71-114, any person shall be~~  
11 ~~liable to a civil action by the owner of a registered mark for any or all of~~  
12 ~~the remedies provided in § 4-71-114 who shall:~~

13 ~~(1) Use, without the consent of the registrant, any~~  
14 ~~reproduction, counterfeit, copy, or colorable imitation of a mark registered~~  
15 ~~under this chapter in connection with the sale, offering for sale, or~~  
16 ~~advertising of any goods or services on or in connection with which the use~~  
17 ~~is likely to cause confusion or mistake or to deceive as to the source of~~  
18 ~~origin of the goods or services; or~~

19 ~~(2) Reproduce, counterfeit, copy, or colorably imitate any mark~~  
20 ~~and apply the reproduction, counterfeit, copy, or colorable imitation to~~  
21 ~~labels, signs, prints, packages, wrappers, receptacles, or advertisements~~  
22 ~~intended to be used upon or in conjunction with the sale or other~~  
23 ~~distribution in this state of the goods or services.~~

24 ~~(b) However, the registrant shall not be entitled to recover profits~~  
25 ~~or damages under subdivision (a)(2) of this section unless the acts have been~~  
26 ~~committed with knowledge that the mark is intended to be used to cause~~  
27 ~~confusion or mistake or to deceive.~~

28  
29 ~~4-71-113. Injunction against injury to business reputation or dilution~~  
30 ~~of mark.~~

31 ~~Likelihood of injury to business reputation or of dilution of the~~  
32 ~~distinctive quality of a mark registered under this chapter, or a mark valid~~  
33 ~~at common law, or a trade name valid at common law, shall be grounds for~~  
34 ~~injunctive relief notwithstanding the absence of competition between the~~  
35 ~~parties or the absence of confusion as to the source of goods or services.~~

~~4-71-114. Remedies of registered owner.~~

~~(a) Any owner of a mark registered under this chapter may proceed by suit to enjoin the manufacture, use, display, or sale of any counterfeits or imitations thereof; and any court of competent jurisdiction may grant injunctions to restrain the manufacture, use, display, or sale as may be deemed by the court to be just and reasonable and may require the defendants to pay to the owner all profits derived from, or all damages suffered by reason of, the wrongful manufacture, use, display, or sale. The court may also order that any counterfeits or imitations in the possession or under the control of any defendant in the case be delivered to an officer of the court, or to the complainant, to be destroyed.~~

~~(b) The enumeration of any right or remedy herein shall not affect a registrant's right to prosecute under any penal law of this state.~~

SECTION 5. Arkansas Code 5-4-203 is amended to read as follows:

5-4-203. Consequences of nonpayment.

(a)(1) When a defendant sentenced to pay a fine or costs defaults in the payment thereof or of any installment, the court, upon its own motion or that of the prosecuting attorney, may require him to show cause why he should not be imprisoned for nonpayment.

(2) The court may issue a warrant of arrest or a summons for his appearance.

(3)(A) Unless the defendant shows that his default was not attributable to a purposeful refusal to obey the sentence of the court, or to a failure on his part to make a good faith effort to obtain the funds required for payment, the court may order the defendant imprisoned in the county jail or other authorized institution designated by the court until the fine or costs or specified part thereof is paid.

(B) The period of imprisonment shall not exceed one (1) day for each ten dollars (\$10.00) of the fine or costs, thirty (30) days if the fine or costs were imposed upon conviction of a misdemeanor, or one (1) year if the fine or costs were imposed upon conviction of a felony, whichever is the shorter period.

(4) If the court determines that the default in payment of fine or costs is not attributable to the causes specified in subdivision (a)(3)(A) of this section, the court may enter an order allowing the defendant

1 additional time for payment, reducing the amount of each installment, or  
2 revoking the fine or costs or the unpaid portion thereof in whole or in part.

3 (b)(1) When a defendant sentenced to pay a fine or costs defaults in  
4 the payment thereof, or of any installment, the clerk of the court where  
5 payment is due shall submit ~~notify the Department of Finance and~~  
6 ~~Administration, along with~~ the last known address provided to the court by  
7 the defendant to the Department of Finance and Administration and shall  
8 notify the department, to suspend any driver's license held by the defendant.

9 (2) Upon receipt of such notification, the ~~Department of Finance~~  
10 ~~and Administration~~ department shall notify the defendant that his driver's  
11 license will be suspended thirty (30) days from the date of the notice.

12 (3) Notice from the department shall be sufficient if mailed to  
13 the defendant at either the last known address provided to the court by the  
14 defendant or to the address used by the defendant on any driver's license.

15 (4) Except as notified otherwise by the clerk of the court, the  
16 department shall suspend any driver's license held by the defendant as  
17 provided in this subsection.

18 (5) The defendant shall be entitled to retain or regain any driver's  
19 license when:

20 (A)(i) The default is cured; and

21 (ii) The clerk of the court notifies the ~~Department~~  
22 ~~of Finance and Administration~~ department to cancel or release the suspension;  
23 or

24 (B) The court orders reinstatement.

25 (c)(1)(A) When a corporation is sentenced to pay a fine or costs, it  
26 is the duty of the person authorized to make disbursements from the assets of  
27 the corporation to pay the fine or costs.

28 (B) If such disbursements require approval of the board of  
29 directors, it is the duty of the board to authorize disbursements to pay the  
30 fine or costs.

31 (2) Failure to comply with the duties imposed by this subsection  
32 shall render the person or directors subject to imprisonment under  
33 subdivisions (a)(1)-(3) of this section.

34  
35 SECTION 6. Arkansas Code 5-4-501 is amended to read as follows:

36 5-4-501. Habitual offenders – Sentencing for felony.

1        (a)(1) A defendant meeting the criteria set forth in subdivisions  
2 (a)(1)(A)-(C) of this section may be sentenced to an extended term of  
3 imprisonment as set forth in subdivision (a)(2) of this section:

4                ~~(a)(1)(A)~~ A defendant who is convicted of a felony other  
5 than those enumerated in subsections (c) and (d) of this section committed  
6 after June 30, 1993, and who has previously been convicted of more than one  
7 (1) but less than four (4) felonies, or who has been found guilty of more  
8 than one (1) but less than four (4) felonies; ~~or~~

9                ~~(2)(B)~~ A defendant who is convicted of any felony  
10 enumerated in subsection (c) of this section committed after August 31, 1997,  
11 and who has previously been convicted of more than one (1) but less than four  
12 (4) felonies not enumerated in subsection (c) of this section, or who has  
13 been found guilty of more than one (1) but less than four (4) felonies not  
14 enumerated in subsection (c) of this section; or

15                ~~(3)(C)~~ A defendant who is convicted of any felony  
16 enumerated in subsection (d) of this section committed after August 31, 1997,  
17 and who has previously been convicted of more than one (1) but less than four  
18 (4) felonies not enumerated in subsection (d) of this section, or who has  
19 been found guilty of more than one (1) but less than four (4) felonies not  
20 enumerated in subsection (d) of this section, ~~may be sentenced to an extended~~  
21 ~~term of imprisonment as follows:~~

22                (2) The extended terms of imprisonment for the defendants  
23 described in subdivision (a)(1) of this section are as follows:

24                (A) For a conviction of a Class Y felony, a term of not  
25 less than ten (10) years nor more than sixty (60) years, or life;

26                (B) For a conviction of a Class A felony, a term of not  
27 less than six (6) years nor more than fifty (50) years;

28                (C) For a conviction of a Class B felony, a term of not  
29 less than five (5) years nor more than thirty (30) years;

30                (D) For a conviction of a Class C felony, a term of not  
31 less than three (3) years nor more than twenty (20) years;

32                (E) For a conviction of a Class D felony, a term of not  
33 more than twelve (12) years;

34                (F) For a conviction of an unclassified felony punishable  
35 by less than life imprisonment, not more than five (5) years more than the  
36 maximum sentence for the unclassified offense; and

1 (G) For a conviction of an unclassified felony punishable  
2 by life imprisonment, not less than ten (10) years nor more than fifty (50)  
3 years, or life.

4 (b)(1) A defendant meeting the criteria set forth in subdivisions  
5 (b)(1)(A)-(C) of this section may be sentenced to an extended term of  
6 imprisonment as set forth in subdivision (b)(2) of this section:

7 ~~(b)(1)(A)~~ A defendant who is convicted of a felony other  
8 than those enumerated in subsections (c) and (d) of this section committed  
9 after June 30, 1993, and who has previously been convicted of four (4) or  
10 more felonies or who has been found guilty of four (4) or more felonies; ~~or~~

11 ~~(2)(B)~~ A defendant who is convicted of any felony  
12 enumerated in subsection (c) of this section committed after June 30, 1997,  
13 and who has previously been convicted of four (4) or more felonies not  
14 enumerated in subsection (c) of this section, or who has been found guilty of  
15 four (4) or more felonies not enumerated in subsection (c) of this section;  
16 or

17 ~~(3)(C)~~ A defendant who is convicted of any felony  
18 enumerated in subsection (d) of this section committed after June 30, 1997,  
19 and who has previously been convicted of four (4) or more felonies not  
20 enumerated in subsection (d) of this section, or who has been found guilty of  
21 four (4) or more felonies not enumerated in subsection (d) of this section;  
22 ~~may be sentenced to an extended term of imprisonment as follows:~~

23 (2) The extended terms of imprisonment for the defendants  
24 described in subdivision (b)(1) of this section are as follows:

25 (A) For a conviction of a Class Y felony, a term of not  
26 less than ten (10) years nor more than life;

27 (B) For a conviction of a Class A felony, a term of not  
28 less than six (6) years nor more than sixty (60) years;

29 (C) For a conviction of a Class B felony, a term of not  
30 less than five (5) years nor more than forty (40) years;

31 (D) For a conviction of a Class C felony, a term of not  
32 less than three (3) years nor more than thirty (30) years;

33 (E) For a conviction of a Class D felony, a term of not  
34 more than fifteen (15) years;

35 (F) For a conviction of an unclassified felony punishable  
36 by less than life imprisonment, not more than twice the maximum sentence for

the unclassified offense; and

(G) For a conviction of an unclassified felony punishable by life imprisonment, not less than ten (10) years nor more than fifty (50) years, or life.

(c)(1) A defendant who is convicted of a serious felony involving violence enumerated in subdivision (c)(2) of this section and who has previously been convicted of one (1) or more of the serious felonies involving violence enumerated in subdivision (c)(2) of this section shall be sentenced to imprisonment, without eligibility except under § 16-93-1302 ~~of~~ for parole or community punishment transfer, for a term of not less than forty (40) years nor more than eighty (80) years, or life.

(2) For the purposes of this subsection, a serious felony involving violence shall mean:

(A) Any of the following felonies enumerated as follows:

(i) Murder in the first degree, § 5-10-102;

(ii) Murder in the second degree, § 5-10-103;

(iii) Kidnapping, involving activities making it a Class Y felony, § 5-11-102;

(iv) Aggravated robbery, § 5-12-103;

(v) Rape, § 5-14-103;

(vi) Terroristic act, involving activities making it a Class Y felony, § 5-13-310;

(vii) Causing a catastrophe, § 5-38-202(a); or

(B) A conviction of a comparable serious felony involving violence from another jurisdiction.

(3)(A) The following procedure shall govern trials at which a sentence to an extended term of imprisonment is sought pursuant to ~~§ 5-4-~~ ~~501(c)~~ this subsection:

~~(1)(i)~~ (i) The jury shall first hear all evidence relevant to the serious felony involving violence with which the defendant is currently charged and shall retire to reach a verdict of guilt or innocence on this charge;

~~(2)(ii)(a)~~ (a) If the defendant is found guilty of the serious felony involving violence, the trial court, out of the hearing of the jury, shall hear evidence of whether the defendant has pleaded guilty, or nolo contendere to, or been found guilty of, a prior serious felony involving



1 violence and shall determine the number of such prior felony convictions, if  
2 any.

3 ~~(b) The Defendant~~ defendant shall have the  
4 right to hear and controvert this evidence and to offer evidence in his  
5 support-;

6 ~~(3)(iii)(a)~~ (a) The trial court shall then instruct the  
7 jury as to the number of previous convictions for serious felonies involving  
8 violence and the statutory sentencing range.

9 (b) The jury may be advised as to the nature  
10 of the previous convictions and the date and place thereof-;

11 ~~(4)(iv)~~ (b) The jury shall retire again and then  
12 determine a sentence within the statutory range.

13 (B) The determination of whether a felony conviction from  
14 another jurisdiction is comparable to one of the enumerated serious felonies  
15 involving violence under Arkansas criminal law shall lie within the  
16 discretion of the trial judge at the time of sentencing.

17 (d)(1) A defendant who is convicted of a felony involving violence  
18 enumerated in subdivision (d)(2) of this section and who has previously been  
19 convicted of two (2) or more of the felonies involving violence enumerated in  
20 subdivision (d)(2) of this section shall be sentenced to an extended term of  
21 imprisonment, without eligibility except under § 16-93-1302 for parole or  
22 community punishment transfer, as follows:

23 (A) For a conviction of a Class Y felony, a term of not  
24 less than life in prison;

25 (B) For a conviction of a Class A felony, a term of not  
26 less than forty (40) years nor more than life in prison;

27 (C) For a conviction of a Class B felony or for a  
28 conviction of an unclassified felony punishable by life imprisonment, a term  
29 of not less than thirty (30) years nor more than sixty (60) years;

30 (D) For a conviction of a Class C felony, a term of not  
31 less than twenty-five (25) years nor more than forty (40) years;

32 (E) For a conviction of a Class D felony, a term of not  
33 less than twenty (20) years nor more than forty (40) years; and

34 (F) For a conviction of an unclassified felony punishable  
35 by less than life imprisonment, not more than three (3) times the maximum  
36 sentence for the unclassified offense.

(2) For the purposes of this subsection, a felony involving violence shall mean:

(A) Any of the following felonies ~~enumerated as follows~~:

(i) Murder in the first degree, § 5-10-102;

(ii) Murder in the second degree, § 5-10-103;

(iii) Kidnapping, § 5-11-102;

(iv) Aggravated robbery, § 5-12-103;

(v) Rape, § 5-14-103;

(vi) Battery in the first degree, § 5-13-201;

(vii) Terroristic act, § 5-13-310;

(viii) Sexual abuse in the first degree, § 5-14-108;

(ix) Violation of a minor in the first degree, § 5-14-120;

(x) Domestic battering in the first degree, § 5-26-303;

(xi) Unlawful discharge of a firearm from a vehicle, § 5-74-107;

(xii) Criminal use of prohibited weapons, involving activities making it a Class B felony, § 5-73-104; or

(xiii) A felony attempt, solicitation, or conspiracy to commit:

(a) Capital murder, § 5-10-101;

(b) Murder in the first degree, § 5-10-102;

(c) Murder in the second degree, § 5-10-103;

(d) Kidnapping, § 5-11-102;

(e) Aggravated robbery, § 5-12-103;

(f) Rape, § 5-14-103;

(g) Battery in the first degree, § 5-13-201;

or

(h) Domestic battering in the first degree, § 5-26-303; or

(B) A conviction of a comparable felony involving violence from another jurisdiction.

(3)(A) The following procedure shall govern trials at which a sentence to an extended term of imprisonment is sought pursuant to ~~§ 5-4-501(d)~~ this subsection:

1                   ~~(1)~~(i) The jury shall first hear all evidence  
2 relevant to the felony involving violence with which the defendant is  
3 currently charged and shall retire to reach a verdict of guilt or innocence  
4 on this charge;

5                   ~~(2)~~(ii)(a) If the defendant is found guilty of the  
6 felony involving violence, the trial court, out of the hearing of the jury,  
7 shall hear evidence of whether the defendant has pleaded guilty, or nolo  
8 contendere to, or been found guilty of, two (2) or more prior felonies  
9 involving violence and shall determine the number of such prior felony  
10 convictions, if any.

11                   (b) ~~The Defendant~~ defendant shall have the  
12 right to hear and controvert this evidence and to offer evidence in his  
13 support.

14                   ~~(3)~~(iii)(a) The trial court shall then instruct the  
15 jury as to the number of previous convictions involving violence and the  
16 statutory sentencing range.

17                   (b) The jury may be advised as to the nature  
18 of the previous convictions and the date and place thereof.

19                   ~~(4)~~(iv) The jury shall retire again and then  
20 determine a sentence within the statutory range.

21                   (B) The determination of whether a felony conviction from  
22 another jurisdiction is comparable to one of the enumerated felonies  
23 involving violence under Arkansas criminal law shall lie within the  
24 discretion of the trial judge at the time of sentencing.

25                   (e)(1) For the purpose of determining whether a defendant has  
26 previously been convicted or found guilty of two (2) or more felonies, a  
27 conviction or finding of guilt of burglary, § 5-39-201, and of the felony  
28 that was the object of the burglary shall be considered a single felony  
29 conviction or finding of guilt.

30                   (2) A conviction or finding of guilt of an offense that was a  
31 felony under the law in effect prior to January 1, 1976, shall be considered  
32 a previous felony conviction or finding of guilt.

33                   (f) For the purposes of determining whether a defendant has previously  
34 been convicted of a serious felony involving violence or a felony involving  
35 violence under subsections (c) and (d) of this section, the entry of a plea  
36 of guilty or nolo contendere or a finding of guilt by a court to a felony

enumerated in subsections (c) and (d) of this section, respectively, as a result of which a court places the defendant on a suspended imposition of sentence, a suspended sentence, or probation, or sentences the defendant to the Department of Correction, shall be considered a previous felony conviction.

(g) Any defendant deemed eligible to be sentenced under provisions of both subsections (c) and (d) of this section shall be sentenced only under subsection (d) of this section.

(h) In the event the provisions of subsections (c) or (d) of this section, or both, are held invalid by a court, the defendant's case shall be remanded to the trial court for resentencing of the defendant under the provisions of subsections (a) and (b) of this section.

SECTION 7. Arkansas Code 5-14-112 is amended to read as follows:

5-14-112. Indecent exposure.

(a)(1) A person commits indecent exposure if, with the purpose to arouse or gratify the sexual desire of himself or of any other person, he exposes his sex organs:

(A) In a public place or in public view; or

(B) Under circumstances in which he knows his conduct is likely to cause affront or alarm.

(2) Indecent exposure is a Class A misdemeanor.

(b)(1) A person commits indecent exposure to a person under the age of twelve (12) years if, with the purpose to arouse or gratify the sexual desire of himself or of any other person, ~~he purposefully~~ purposely exposes his sex organs to a person under the age of twelve (12) years.

(2) Indecent exposure to a person under the age of twelve (12) years ~~and under~~ is a Class D felony.

SECTION 8. Arkansas Code 5-26-303(b)(2) is amended to read as follows:

(2) However, domestic battering in the first degree is a Class A felony upon a conviction pursuant to subdivisions (a)(1)-(3) of this section, if within the past five (5) years the person has, ~~within the past five (5) years,~~

(A) ~~committed~~ Committed a prior offense of:

(i) ~~domestic~~ Domestic battering in the first

1 degree;;

2 (ii) ~~domestic~~ Domestic battering in the second  
3 degree, § 5-26-304; or

4 (iii) ~~domestic~~ Domestic battering in the third  
5 degree, § 5-26-305; or

6 (B) ~~has violated~~ Violated an equivalent penal law of this  
7 state or of another state or foreign jurisdiction,~~domestic battering in the~~  
8 ~~first degree is a Class A felony.~~

9  
10 SECTION 9. Arkansas Code 5-26-304(b)(2) is amended to read as follows:

11 (2) However, domestic battering in the second degree is a Class  
12 B felony if within the past five (5) years the person has,~~within the past~~  
13 ~~five (5) years;~~

14 (A) ~~committed~~ Committed a prior offense of:

15 (i) ~~domestic~~ Domestic battering in the first degree,  
16 § 5-26-303;

17 (ii) ~~domestic~~ Domestic battering in the second  
18 degree;; or

19 (iii) ~~domestic~~ Domestic battering in the third  
20 degree, § 5-26-305; or

21 (B) ~~has violated~~ Violated an equivalent penal law of this  
22 state or of another state or foreign jurisdiction,~~domestic battering in the~~  
23 ~~second degree is a Class B felony.~~

24  
25 SECTION 10. Arkansas Code 5-26-305(b)(2) is amended to read as  
26 follows:

27 (2) However, domestic battering in the third degree is a Class D  
28 felony if within the past five (5) years the person has,~~within the past five~~  
29 ~~(5) years;~~

30 (A) ~~committed~~ Committed a prior offense of:

31 (i) ~~domestic~~ Domestic battering in the first degree,  
32 § 5-26-303;

33 (ii) ~~domestic~~ Domestic battering in the second  
34 degree, § 5-26-304; or

35 (iii) ~~domestic~~ Domestic battering in the third  
36 degree;; or

~~(B) has violated~~ Violated an equivalent penal law of this state or of another state or foreign jurisdiction, ~~domestic battering in the third degree is a Class D felony.~~

SECTION 11. Arkansas Code 5-26-502 is amended to read as follows:

5-26-502. Interference with custody.

(a)(1)(A) A person commits the offense of interference with court-ordered custody if, knowing that he or she has no lawful right to do so, he or she takes, entices, or keeps any minor from any person entitled by a court decree or order to the right of custody of the minor.

~~(2)(A)(B)(i)~~ Interference with court-ordered custody is a Class D felony if the minor is taken, enticed, or kept without the State of Arkansas.

~~(B)(ii)~~ Otherwise, it is a Class A misdemeanor.

~~(b)(1)(2)(A)~~ A person commits the offense of interference with custody if, without lawful authority, he or she knowingly or recklessly takes or entices, or aids, abets, hires, or otherwise procures another to take or entice, any minor or any incompetent person from the custody of:

~~(A)(i)~~ ~~His~~ The parent of the minor or incompetent person;

~~(B)(ii)~~ ~~His~~ The guardian of the minor or incompetent person;

~~(C)(iii)~~ A public agency having lawful charge of the ~~child~~ minor or incompetent person; or

~~(D)(iv)~~ Any other lawful custodian.

~~(2)(B)~~ Interference with custody is a Class C felony.

~~(c)(1)(b)(1)~~ In every case, prior to serving a warrant for arrest on a person charged with the offense of interference with court-ordered custody, the police officer or other law enforcement officer shall inform the Department of Human Services of the circumstances of any minor named in the information or indictment as having been taken, enticed, or kept from the custodian in a manner constituting interference with court-ordered custody.

(2) A representative of the ~~Department of Human Services~~ department shall be present with the arresting officer to take the minor into temporary custody of the ~~Department of Human Services~~ department pending further proceedings by a court of competent jurisdiction.

~~(d)(1)~~(c)(1) A court of competent jurisdiction shall determine the immediate custodial placement of all these minors pursuant to a petition brought by the Department of Human Services or an agency thereof to determine if there is probable cause to believe the minor:

- (A) May be removed from the jurisdiction of the court;
- (B) May be abandoned; or
- (C) May be without the immediate care or support of one lawfully entitled to custody.

(2) The court shall immediately give custody to the lawful custodian if it finds that the lawful custodian is present before the court.

~~(e)(1)~~(d)(1) The petitioner shall comply with the requirements of ~~§ 9-27-334 [repealed]~~ § 9-27-312 with regard to the giving of a notice and setting of hearings.

(2) The petitioner shall be immune from liability with respect to any conduct undertaken pursuant to this section unless it is determined the petitioner acted with actual malice.

SECTION 12. Arkansas Code 5-64-411 is amended to read as follows:

5-64-411. Distribution near certain facilities -- Enhanced penalties.

(a) Any person who commits an offense under § 5-64-401(a) by selling, delivering, possessing with intent to deliver, dispensing, transporting, administering, or distributing a controlled substance may be subject to an enhanced sentence of an additional term of imprisonment of ten (10) years if the offense is committed on or within one thousand feet (1,000') of the real property of:

- (1) A city or state park;
- (2) A public or private elementary or secondary school, public vocational school, or private or public college or university;
- (3) A skating rink, Boys Club, Girls Club, YMCA, ~~or~~ YWCA, or a community or recreation center;
- (4) A publicly funded and administered multifamily housing development;
- (5) A drug or alcohol treatment facility;
- (6) A day care center; or
- (7) A church.

(b) The enhanced portion of the sentence shall be consecutive to any

1 other sentence imposed.

2 (c) Any person convicted under this section shall not be eligible for  
3 early release on parole for the enhanced portion of the sentence.

4 (d)(1) Property covered by this section shall have a notice posted at  
5 the entrances to the property stating:

6 "THE SALE OF DRUGS UPON OR WITHIN ONE THOUSAND FEET (1000') OF THIS PROPERTY  
7 MAY SUBJECT THE SELLER OF THE DRUGS TO AN ADDITIONAL TEN (10) YEARS  
8 IMPRISONMENT IN ADDITION TO THE TERM OF IMPRISONMENT OTHERWISE PROVIDED FOR  
9 THE UNLAWFUL SALE OF DRUGS."

10 (2) However, the posting of the notice shall not be a necessary  
11 element for the enhancement of a sentence under this section.

12 ~~(e) For the purpose of this section "minor" means any person under~~  
13 ~~eighteen (18) years of age.~~

14 ~~(f)~~(e) For the purpose of this section, the term "recreation center"  
15 shall mean a public place of entertainment consisting of various types of  
16 entertainment, including, but not limited to, billiards or pool, ping pong or  
17 table tennis, bowling, video games, pinball machines, or any other similar  
18 type of entertainment.

19  
20 SECTION 13. Arkansas Code 5-64-1201 is amended to read as follows:  
21 5-64-1201. Possession.

22 ~~Any person who possesses nitrous oxide, any compound, liquid, or~~  
23 ~~chemical which contains nitrous oxide, commonly known as "laughing gas", or~~  
24 ~~any amyl nitrite, commonly known as "poppers" or "snappers", with the intent~~  
25 ~~to breathe, inhale, ingest, or use it for the purpose of causing a condition~~  
26 ~~of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of~~  
27 ~~the senses or for the purpose of, in any manner, changing, distorting, or~~  
28 ~~disturbing the audio, visual, or mental processes or who knowingly and with~~  
29 ~~the intent to do so is under the influence of nitrous oxide, any compound,~~  
30 ~~liquid, or chemical which contains nitrous oxide, or any amyl nitrite shall~~  
31 ~~be guilty of Class A misdemeanor~~ Any person shall be guilty of a Class A  
32 misdemeanor who possesses any substance in subdivisions (1)-(3) of this  
33 section with the intent to breathe, inhale, ingest, or use the substance for  
34 the purpose of causing a condition of intoxication, elation, euphoria,  
35 dizziness, stupefaction, or dulling of the senses or for the purpose of in  
36 any manner changing, distorting, or disturbing his audio, visual, or mental



1 processes or who knowingly and with the intent to do so is under the  
2 influence of:

3 (1) Nitrous oxide, commonly known as "laughing gas";

4 (2) Any compound, liquid, or chemical which contains nitrous oxide; or

5 (3) Any amyl nitrite, commonly known as "poppers" or "snappers".

6  
7 SECTION 14. Arkansas Code 5-64-1202 is amended to read as follows:  
8 5-64-1202. Distribution.

9 ~~Any person, firm, corporation, limited liability company, or~~  
10 ~~association that intentionally sells, offers for sale, distributes, or gives~~  
11 ~~away, nitrous oxide, any compound, liquid, or chemical which contains nitrous~~  
12 ~~oxide, or any amyl nitrite for the purpose of inducing or aiding any other~~  
13 ~~person to breathe, inhale, ingest, or use, or to be under the influence of~~  
14 ~~those substances for the purposes prohibited in § 5-64-1101 shall be guilty~~  
15 ~~of a Class A misdemeanor~~ Any person, firm, corporation, limited liability  
16 company, or association shall be guilty of a Class A misdemeanor if that  
17 person, firm, corporation, limited liability company, or association  
18 intentionally sells, offers for sale, distributes, or gives away the  
19 following substances for the purpose of inducing or aiding another person to  
20 breathe, inhale, ingest, use, or be under the influence of the substances for  
21 the purposes prohibited in § 5-64-1201:

22 (1) Nitrous oxide;

23 (2) Any compound, liquid or chemical, which contains nitrous oxide; or

24 (3) Any amyl nitrate.

25  
26 SECTION 15. Arkansas Code 6-18-217(a) is amended to read as follows:

27 (a) It shall be the duty of each teacher in the public schools of  
28 Arkansas to keep an accurate record of attendance and nonattendance of all  
29 children enrolled in his or her ~~school~~ class or classes.

30  
31 SECTION 16. Arkansas Code 6-82-1006(b)(3) is amended to read as  
32 follows:

33 (3) In addition to those continuing eligibility criteria  
34 established through rules and regulations, the following criteria apply to  
35 recipients who graduated from high school before December 31, 1998:

36 (A) Recipients entering the sophomore year who graduated

1 from high school before December 31, 1998, and who earned a cumulative grade  
2 point average of 3.0 or above on a 4.0 scale in the freshman year shall  
3 receive a scholarship award five hundred dollars (\$500) above the amount of  
4 the annual scholarship received in their first year of eligibility;

5 (B) Recipients entering the junior year who graduated from  
6 high school before December 31, 1998, and who earned a cumulative grade point  
7 average of 3.0 or above on a 4.0 scale shall receive a scholarship award five  
8 hundred dollars (\$500) above the amount received in the sophomore year; and

9 (C) Recipients entering the senior year who graduated from  
10 high school before December 31, 1998, and who earned a cumulative grade point  
11 average of 3.0 or above on a 4.0 scale shall receive a scholarship award five  
12 hundred dollars (\$500) above the amount received in the junior year.

13  
14 SECTION 17. Arkansas Code 7-1-104(a)(2) is amended to read as follows:

15 (2) No public official or other person shall in any manner  
16 willfully or corruptly permit any person not entitled to register for the  
17 purpose of voting to ~~do so~~ register, nor shall a public official or other  
18 person ~~or~~ forge or attempt to forge a registration ~~or attempt to do so~~;

19  
20 SECTION 18. Arkansas Code 7-3-108(a)(1) is amended to read as follows:

21 (1) Which is directly or indirectly affiliated by any means  
22 whatsoever with the Communist Party of the United States, the Third Communist  
23 International, or any other foreign agency, political party, organization, or  
24 government; or

25  
26 SECTION 19. Arkansas Code 7-7-103(b) is amended to read as follows:

27 (b)(1)(A) He shall furnish by May 1 of the year in which the election  
28 is to be held petitions signed by not less than three percent (3%) of the  
29 qualified electors in the county, township, or district in which the person  
30 is seeking office, but in no event shall more than two thousand (2,000)  
31 signatures be required for a district office.

32 ~~(2)(B)~~ If the person is a candidate for state office or  
33 for United States Senator in which a statewide race is required, the person  
34 shall file petitions signed by not less than three percent (3%) of the  
35 qualified electors of the state or which contain ten thousand (10,000)  
36 signatures of qualified electors, whichever is the lesser.

1           (2) Each elector signing the petition shall be a registered  
2 voter, and the petition shall be directed to the official with whom the  
3 person is required by law to file nomination certificates to qualify as a  
4 candidate and shall request that the name of the person be placed on the  
5 ballot for election to the office mentioned in the petition.

6           (3) Petitions shall be circulated not earlier than sixty (60)  
7 calendar days prior to the deadline for filing petitions to qualify as an  
8 independent candidate.

9           (4) In determining the number of qualified electors in any  
10 county, township, or district or in the state, the total number of votes cast  
11 therein for all candidates in the preceding general election for the office  
12 of Governor shall be conclusive of the number of qualified electors therein  
13 for the purposes of this section.

14  
15       SECTION 20. In order to correct internal references in the Arkansas  
16 Code of 1987 Annotated to reflect the turn of the century, the Arkansas Code  
17 Revision Commission shall have the authority to correct all such references  
18 throughout the Arkansas Code.

19  
20       SECTION 21. Arkansas Code 9-33-205 is amended to read as follows:

21       9-33-205. Department of Health-Powers and duties.

22       (a) The ~~Arkansas~~ Department of Health shall be the agency designated  
23 to serve as the administrative and fiscal agent for the Common Ground  
24 Program.

25       (b) Funds appropriated for the Common Ground Program may only be used  
26 for activities in support of the program which comply with the stated  
27 legislative purpose as contained in this chapter.

28       (c) The ~~Arkansas~~ Department of Health shall have the following  
29 authority and responsibilities in acting as fiscal agent for the Common  
30 Ground Program:

31           (1) To disburse Common Ground Program grant funds to qualifying  
32 entities as directed by the Common Ground Program Committee;

33           (2) To submit applications on behalf of the Common Ground  
34 Program Committee for funds which may become available from public and  
35 private funding sources which would be used to implement the activities of  
36 the Common Ground Program; and

1 (3) To contract for ~~fund-raising~~ fund-raising and fiscal  
2 ~~investment/management~~ investment and management services.

3 (d) The Department of Health shall carry out or contract for the  
4 following administrative functions for the Common Ground Program:

5 (1) ~~Establish,~~ The establishment of a Clearinghouse for Youth  
6 Crime Prevention Program in the Bureau of Alcohol and Drug Abuse Prevention  
7 of the Department of Health which shall, in collaboration with the ~~Office of~~  
8 Division of Chronic Disease and Disability Prevention in ~~of the Department of~~  
9 ~~Health, a Clearinghouse for Youth Crime Prevention Program, which shall:~~

10 (A) Maintain a ~~data base~~ database that tracks successful  
11 youth crime and violence prevention programs in Arkansas and other states;

12 (B) Develop and implement procedures for the collection of  
13 information about youth crime and violence prevention programs in conjunction  
14 with the Common Ground Program Committee; and

15 (C) Develop and implement procedures for the dissemination  
16 of information about youth crime and violence prevention programs in  
17 conjunction with the Common Ground Program Committee;

18 (2) ~~Develop and administer~~ The development and administration of  
19 ~~an outreach and grant program component,~~ which shall:

20 (A) Conduct public education activities about the Common  
21 Ground Program, the Common Ground Program Committee, and the programs  
22 developed and implemented thereunder;

23 (B) Assist groups in developing grant applications by  
24 providing grantees, the Common Ground Program Committee and staff, and others  
25 with the information and skills necessary to successfully plan, develop,  
26 implement, and finance youth crime and violence prevention programs; and

27 (C)(i) ~~Conduct regional summits, public hearings and/or~~  
28 ~~surveys to solicit the opinions and recommendations from citizens, youths,~~  
29 ~~and public officials regarding strategies and programs to prevent youths from~~  
30 ~~becoming influenced by and involved in youth crime and violence, and based on~~  
31 ~~those opinions and recommendations, submit a biennial report suggesting~~  
32 ~~funding priorities to the Common Ground Program Committee for presentation to~~  
33 ~~the Governor and the legislature.~~ In order to solicit the opinions and  
34 recommendations from citizens, youths, and public officials regarding  
35 strategies and programs to prevent youths from becoming influenced by and  
36 involved in youth crime and violence, conduct:

1       (a) Regional summits or public hearings, at the discretion of the  
2       Common Ground Program; and

3       (b) Surveys.

4                       (ii) Based on those opinions and recommendations,  
5       the outreach and grant program component shall submit a biennial report  
6       suggesting funding priorities to the Common Ground Program Committee for  
7       presentation to the Governor and the General Assembly;

8               (3) ~~Develop and administer~~ The development and administration of  
9       evaluation, assessment, and reporting components, which will evaluate grant  
10      recipients and collect information about other information about youth crime  
11      and violence prevention programs to enhance the success of the Common Ground  
12      Program;

13              (4) ~~Provide~~ The provision of administrative support to the  
14      Common Ground Program Committee in performing its statutory duties; and

15              (5) ~~Provide for~~ The provision of peer review of the Common  
16      Ground Program grant applications.

17  
18              SECTION 22. Arkansas Code 13-3-201 is amended to read as follows:  
19              13-3-201. Purpose.

20              ~~To advise the Arkansas History Commission with respect to gathering,~~  
21      ~~developing, and keeping the history of a segment of Arkansas society whose~~  
22      ~~history has been overlooked and forgotten and has been simply neglected~~  
23      ~~because of a lack of concern; collecting materials bearing on the history of~~  
24      ~~black Arkansans from the earliest times; encouraging historical work and~~  
25      ~~research in the background of black Arkansans to help the young citizens of~~  
26      ~~the state to appreciate their heritage; and performing work in relation to~~  
27      ~~the history of black Arkansans, the Arkansas Black History Advisory Committee~~  
28      ~~is hereby created and established at the seat of government of this state.~~

29              The Arkansas Black History Advisory Committee is hereby created and  
30      established at the seat of government of this state for the purpose of:

31              (1) Advising the Arkansas History Commission with respect to  
32      gathering, developing, and keeping the history of a segment of Arkansas  
33      society whose history has been overlooked and forgotten and has been simply  
34      neglected because of a lack of concern;

35              (2) Collecting materials bearing on the history of black Arkansans  
36      from the earliest times;

(3) Encouraging historical work and research in the background of black Arkansans to help the young citizens of the state to appreciate their heritage; and

(4) Performing work in relation to the history of black Arkansans.

SECTION 23. Arkansas Code 14-114-103 and 14-114-104 are merged and Arkansas Code 14-114-104 is repealed.

14-114-103. Watershed or basin studies and funding for costs.

(a)(1) Irrigation, drainage, watershed, regional water distribution, levee, and conservation districts may participate in watershed or basin studies within their basin to assess:

~~(1)(A)~~ The water quantity or quality issues within the basin; or

~~(2)(B)~~ The impacts, feasibility, planning, and design of any proposed project within the watershed or basin which could impact the districts' facilities and operation.

~~(b)(2)~~ The study may be conducted by one (1) or more districts, with or without the assistance of the state or federal government.

(b) A district may use any operation and maintenance funds or other funds not otherwise pledged to assist with study costs.

~~14-114-104. Funds for study costs.~~

~~A district may use any operation and maintenance funds or other funds not otherwise pledged to assist with study costs.~~

SECTION 24. Arkansas Code 17-26-201(b) is amended to read as follows:

(b)(1)(A) The board shall consist of ten (10) members, appointed by the Governor to five-year terms.

(B) The members of the board shall:

(i) be of good moral character;

(ii) be at least twenty-five (25) years of age;

and

(iii) not be directly or indirectly connected with the wholesale business of the manufacture, rental, sale, or distribution of cosmetological appliances or supplies, appointed by the Governor for a term of five (5) years.

~~(1)~~(2) Nine (9) members of the board shall be appointed as follows:

(A) Eight (8) members of the board shall:

(i) Be registered as cosmeticians or cosmetologists under this chapter;

(ii) Be actually engaged in conducting a cosmetologist establishment or a school of cosmetology or actually engaged in practicing the art of cosmetology at the time of appointment; and

(iii) Have had at least five (5) years' experience in practicing the art of cosmetology in a cosmetological establishment or in a school of cosmetology;

(B)(i) Two (2) members of the board appointed under this subdivision (b)(2) shall be licensed instructors who own a school of cosmetology.

(ii) At least two (2) members of the board shall be licensed electrologists;

(C)(i) One (1) member of the board, ~~a consumer representative,~~ shall represent consumers.

~~(i)~~(ii) The consumer representative shall:

(a) Be of good moral character;

~~(ii)~~(b) Be twenty-five (25) years of age or older;

and

~~(iii)~~(c) Not be directly or indirectly connected in the wholesale business of the manufacture, rental, sale, or distribution of cosmetological appliances or supplies; and

(D) Not more than three (3) members of the board may be appointed from any one (1) congressional district.

~~(2)(3)(A)~~ One (1) member of the board, ~~the representative of~~ shall represent the elderly, ~~shall be~~.

(B) The representative of the elderly shall:

(i) Be sixty (60) years of age or older;

(ii) ~~shall not~~ Not be actively engaged in or retired from the profession of cosmetology;

(iii) ~~shall be~~ Be appointed from the state at large, subject to confirmation by the Senate;

(iv) ~~shall be~~ Be a full voting member but shall not

1 participate in the grading of examinations.

2 ~~(3)~~(4) The consumer representative position and the ~~elderly~~  
3 representative of the elderly positions position may not be filled by the  
4 same person.

5  
6 SECTION 25. Arkansas Code Arkansas Code 17-81-317 is amended to read  
7 as follows:

8 17-81-317. Reactivation of lapsed license.

9 (a) Any licensee who allows his or her license to lapse by failing to  
10 renew the license as provided under § 17-81-311 may apply to the Arkansas  
11 State Board of Chiropractic Examiners for a reinstatement of his or her  
12 license and must submit to the board a reinstatement fee of twenty-five  
13 dollars (\$25.00) together with all back fees, plus proof of compliance with  
14 the continuing education hours requirements of § 17-81-312.

15 (b) The delinquent licensee must obtain verification from all states  
16 in which he or she has practiced indicating whether or not disciplinary  
17 action has been taken against the licensee during that period.

18 (c) If the licensee's license has been inactive for a period of five  
19 (5) years, as a condition of reactivation, the board may require the licensee  
20 to enroll in and pass a refresher course approved by the board at an  
21 accredited chiropractic college or to pass a competency exam given by the  
22 board.

23  
24 SECTION 26. Arkansas Code 17-89-201 is amended to read as follows:  
25 17-89-201. Creation – Members.

26 (a) There is created the Arkansas Board of Dispensing Opticians which  
27 shall be responsible for administering the specific duties as set out in this  
28 chapter.

29 (b)(1) The board shall be composed of nine (9) members appointed by  
30 the Governor ~~for terms of three (3) years~~ to three-year terms.

31 ~~(1)(2)(A)~~ Three (3) members of the board shall be practicing  
32 licensed or registered dispensing opticians appointed by the Governor from a  
33 list of six (6) names submitted to him by the Arkansas Association of  
34 Dispensing Opticians.

35 (B) One (1) of the three (3) members shall be an employee  
36 of either an Arkansas-licensed ophthalmologist or optometrist.



~~(2)~~(3) One (1) member of the board shall be a member of the Arkansas State Board of Optometry.

~~(3)~~(4) One (1) member of the board shall be a licensed optometrist appointed by the Governor from a list of three (3) names submitted by the Arkansas Optometric Association.

~~(4)~~(5) Two (2) members of the board shall be licensed ophthalmologists appointed by the Governor from a list of six (6) names submitted by the Ophthalmology Section of the Arkansas Medical Society.

~~(5)~~(6) One (1) member of the board shall be a consumer.

~~(6)~~(7)(A) One (1) member of the board ~~who~~ shall represent the elderly.

(B) The representative of the elderly shall:

(i) be ~~Be~~ sixty (60) years of age or older, ~~shall~~.

(ii) not ~~Not~~ be actively engaged in or retired from the profession of ophthalmic dispensing, ~~shall~~.

(iii) be ~~Be~~ appointed from the state at large, subject to confirmation by the Senate, ~~and~~

(iv) shall be ~~Be~~ a full voting member but shall not participate in grading examinations.

(c) The consumer board member position and the ~~elderly~~ representative of the elderly position may not be filled by the same person.

~~(d) [Repealed.]~~

~~(e)~~(1)(d) Terms shall begin on the first day of the fiscal year and end on the last day of the fiscal year when the term expires.

~~(2) [Repealed.]~~

~~(f)~~(1)(e)(1) In the event of a vacancy during a board member's term, the Governor shall appoint a person to fill that vacancy.

(2) If the vacating member was an optician, the Governor shall make his selection from a list of three (3) names submitted by the opticians association.

(3) If the vacating member was an optometrist, the Governor shall make his selection from a list of three (3) names submitted by the president of the Arkansas State Board of Optometry.

(4) If the vacating member was an ophthalmologist, the Governor shall make his selection from a list of three (3) names submitted by the Ophthalmology Section of the Arkansas Medical Society.

~~(g)~~(f) Board members may receive expense reimbursement and stipends in accordance with § 25-16-901 et seq.

SECTION 27. Arkansas Code 17-100-201(b) is amended to read as follows:

(b)(1)(A) The board shall be composed of eight (8) members, ~~who shall be residents of this state for at least two (2) years immediately preceding their appointments and shall be appointed by the Governor for to terms of three (3) years~~ three-year terms.

(B) The members of the board shall be residents of this state for at least two (2) years immediately preceding their appointments.

~~(1)(2)(A)(i)~~ Seven (7) members of the board shall be appointed from names submitted by the Arkansas Speech-Language-Hearing Association, Incorporated, or other professional groups or individuals.

(ii) Not less than thirty (30) days before the end of each fiscal year, the association shall recommend not more than three (3) persons for each vacancy.

~~(A)(B) Professional~~ The board shall have the following professional members:

(i) ~~shall be two~~ Two (2) speech-language pathologists; ~~and two~~

(ii) Two (2) ~~shall be~~ audiologists; ~~and~~

(iii) ~~with a~~ A fifth member ~~being who shall be~~ either a speech-language pathologist or an audiologist.

~~(B)(C)~~ There shall be one (1) consumer member and one (1) public representative member, neither of whom ~~who are not shall be~~ engaged in a health-related profession.

~~(2)(3)(A)~~ One (1) member of the board shall ~~be a representative of~~ represent the elderly.

(B) and The representative of the elderly shall:

(i) ~~be~~ Be sixty (60) years of age or older; ~~and~~

(ii) ~~shall not~~ Not be actively engaged in or retired from the practice of speech-language pathology or audiology;

(iii) ~~shall be~~ Be appointed from the state at large, subject to confirmation by the Senate; ~~and~~

(iv) ~~shall be~~ Be a full voting member but shall not participate in the grading of examinations.

1           ~~(3)~~(4) The consumer representative position and the ~~elderly~~  
2 representative of the elderly positions position may not be filled by the  
3 same person.

4  
5           SECTION 28. Arkansas Code 19-5-1092, 19-5-1093, and 19-5-1094 are  
6 transferred to a new section in the Arkansas Code, and Arkansas Code 19-5-  
7 1093 and 19-5-1094 are repealed:

8           2-16-108. State Plant Board Operations and Facilities Construction  
9 Fund.

10           (a) For purposes of this section:

11                   (1) "Board" means the State Plant Board; and

12                   (2) "Fund" means the State plant Board Operations and Facilities  
13 Construction Fund.

14           (b)(1) There is hereby created in accordance with §§ 19-4-801 -- 19-4-  
15 806 and the Revenue Classification Law, § 19-6-101 et seq., a cash fund  
16 entitled the State Plant Board Operations and Facilities Construction Fund,  
17 which shall be maintained in such depository bank or banks as may designated  
18 from time to time by the board.

19           (2)(A) The first two hundred thousand dollars (\$200,000) in each  
20 fiscal year of all fees, interest, penalties, and costs collected by the  
21 board which constitute the special revenues specified in § 19-6-301(51) and  
22 all income, interest, and earnings thereof are declared to be cash funds to  
23 be used solely for paying the cost of operations and maintenance of the board  
24 and the financing of the acquisition, construction, and maintenance of  
25 facilities for the board's operations, including any additions, extensions,  
26 and improvements thereto, the renovation thereof, and the equipping of such  
27 facilities.

28           (B) Such cash funds shall not be deemed to be a part of  
29 the State Treasury for any purpose, including, without limitation, the  
30 provisions of Arkansas Constitution, Article 5, § 29, Article 16, § 12, or  
31 Arkansas Constitution, Amendment 20, or any other constitutional or statutory  
32 provision.

33           (3) The fund shall be held and the amounts therein invested by  
34 the board in accordance with the laws of the state pertaining to cash funds.  
35 The board may also pledge and use moneys in the fund to provide for the  
36 repayment of obligations issued by the Arkansas Development Finance Authority

1 pursuant to the State Agencies Facilities Acquisition Act of 1991, § 22-3-  
2 1401 et seq., to accomplish the purposes specified in subdivision (b)(2)(A)  
3 of this section and to pay the costs and expenses related to the issuance of  
4 such obligations.

5 (c) The provisions of §§ 22-3-1402(c) and 22-3-1406 shall not be  
6 applicable in any respect to the acquisition, construction, extension, or  
7 renovation of or the equipping of facilities for the board, and shall not,  
8 under any circumstances, constitute a limitation on or prohibition to the  
9 financing of the capital improvements by the Arkansas Development Finance  
10 Authority.

11 (d) On July 30, 1999, all moneys then held in the Plant Board Fund  
12 created by § 19-6-408 which were derived from the special revenues described  
13 in subdivision (b)(2)(A) of this section shall be transferred to the fund,  
14 except that the amount transferred shall not exceed the maximum amount  
15 provided in subdivision (b)(2)(A) of this section.

16 ~~19-5-1093. State Plant Board Operations and Facilities Construction~~  
17 ~~Fund—Creation and accounting.~~

18 ~~(a) There is hereby created in accordance with §§ 19-4-801—19-4-806~~  
19 ~~and the Revenue Classification Law, § 19-6-101 et seq., a cash fund entitled~~  
20 ~~the State Plant Board Operations and Facilities Construction Fund which shall~~  
21 ~~be maintained in such depository bank or banks as may, from time to time, be~~  
22 ~~designated by the State Plant Board.~~

23 ~~(b)(1) The first two hundred thousand dollars (\$200,000) in each~~  
24 ~~fiscal year of all fees, interest, penalties, and costs collected by the~~  
25 ~~board which constitute the special revenues specified in § 19-6-301(51) and~~  
26 ~~all income, interest, and earnings thereof are declared to be cash funds to~~  
27 ~~be used solely for paying the cost of operations and maintenance of the board~~  
28 ~~and the financing of the acquisition, construction, and maintenance of~~  
29 ~~facilities for the board's operations, including any additions, extensions,~~  
30 ~~and improvements thereto, the renovation thereof, and the equipping of such~~  
31 ~~facilities.~~

32 ~~(2) Such cash funds shall not be deemed to be a part of the~~  
33 ~~State Treasury for any purpose, including, without limitation, the provisions~~  
34 ~~of Article 5 § 29, Article 16, § 12, or Amendment 20 to the Arkansas~~  
35 ~~Constitution, or any other constitutional or statutory provision.~~

36 ~~(c) The fund shall be held and the amounts therein invested by the~~

1 board in accordance with the laws of the state pertaining to cash funds. The  
2 board may also pledge and use moneys in the fund to provide for the repayment  
3 of obligations issued by the Arkansas Development Finance Authority pursuant  
4 to the State Agencies Facilities Acquisition Act of 1991, § 22-3-1401 et  
5 seq., to accomplish the purposes specified in subdivision (b)(1) of this  
6 section and to pay the costs and expenses related to the issuance of such  
7 obligations.

8 (d) ~~The provisions of §§ 22-3-1402(c) and 22-3-1406 shall not be~~  
9 ~~applicable in any respect to the acquisition, construction, extension, or~~  
10 ~~renovation of or the equipping of facilities for the board, and shall not,~~  
11 ~~under any circumstances, constitute a limitation on or prohibition to the~~  
12 ~~financing of the capital improvements by the Arkansas Development Finance~~  
13 ~~Authority.~~

14  
15 ~~19-5-1094. State Plant Board Operations and Facilities Construction~~  
16 ~~Fund Transfer of funds.~~

17 On July 30, 1999, all moneys then held in the Plant Board Fund created  
18 by § 19-6-408 which were derived from the special revenues described in § 19-  
19 5-1093(b) shall be transferred to the fund, except that the amount  
20 transferred shall not exceed the maximum amount provided in § 19-5-  
21 1093(b)(1).

22  
23 SECTION 29. Arkansas Code 19-5-1096 is amended to read as follows:

24 19-5-1096. Arkansas Real Property Reappraisal Fund.

25 (a)(1) There is hereby created the "Arkansas Real Property Reappraisal  
26 Fund".

27 (2) The proceeds of the fund shall be used to pay counties and  
28 professional reappraisal companies for the reappraisal of real property  
29 required by this subchapter and shall be in lieu of real property reappraisal  
30 funding by the local taxing units in each county of this state.

31 (b) For cause and after an opportunity for hearing, the Director of  
32 the Assessment Coordination Department may suspend or terminate the contract  
33 of any appraisal firm or county.

34 (c)(1) The fund proceeds shall be distributed monthly, except when  
35 there is a determination by the Assessment Coordination Department that  
36 proper reappraisal procedures established by the department are not being

1 followed.

2 ~~(b)(2)(A)(i)~~ Upon a finding by the ~~Assessment Coordination~~  
3 ~~Department~~ department that proper reappraisal procedures are not being  
4 followed, the county assessor or contractor shall be notified that the  
5 reappraisal is out of compliance with accepted guidelines as established in §  
6 26-26-1901 et seq. and rules enacted pursuant thereto.

7 (ii) The department shall notify the county assessor  
8 or contractor in writing that the assessor or contractor has thirty (30) days  
9 in which to bring the reappraisal into compliance.

10 (B) If there is a further finding that proper reappraisal  
11 procedures are not being followed, the contract shall be promptly terminated  
12 and the department shall negotiate another contract and management plan for  
13 the completion of the reappraisal project.

14 (d) Based on its expertise and the criteria and requirements set forth  
15 in this subchapter, the department shall establish by rule the findings that  
16 indicate proper reappraisal procedures are not being followed.

17 (e) At the end of each countywide reappraisal, the department shall  
18 issue a report of the status of the county.

19  
20 SECTION 30. Arkansas Code 19-7-404(a)(2) is amended to read as  
21 follows:

22 (2) The remaining one-fourth (1/4) shall be apportioned to the  
23 public roads of the respective counties from which the money was derived.  
24

25 SECTION 31. Arkansas Code Title 20, Chapter 11 is repealed:

26 ~~20-11-101. Disposition of funds.~~

27 ~~(a)(1) Any money received from donations and gifts, for the~~  
28 ~~maintenance of a patient, and from all other sources, except the~~  
29 ~~appropriation made by the state, shall be paid to the treasurer of the Board~~  
30 ~~of Developmental Disabilities Services and paid out on orders from the board.~~

31 ~~(2) Any persons violating the provisions of this subsection or §~~  
32 ~~20-11-301(a) and (b) shall be fined in any sum not less than two hundred~~  
33 ~~dollars (\$200) nor more than five hundred dollars (\$500).~~

34 ~~(b) All moneys collected by the treasurer of the institution from~~  
35 ~~patients or from any other source shall be turned over to the Treasurer of~~  
36 ~~State at the end of each month. He shall give his receipt therefor and place~~

1 ~~the money to the credit of the Sanatorium Fund, subject to use by the board,~~  
2 ~~in addition to any appropriation made for the benefit of this sanatorium.~~

3  
4 ~~20-11-201. Creation.~~

5 ~~A state sanatorium for the treatment and care of persons suffering from~~  
6 ~~tuberculosis is established, to be known as the "Arkansas Tuberculosis~~  
7 ~~Sanatorium".~~

8  
9 ~~20-11-202. Powers and duties of the Board of Developmental~~  
10 ~~Disabilities Services.~~

11 ~~The Board of Developmental Disabilities Services shall have the power~~  
12 ~~to establish such bylaws as it may deem necessary and expedient, from time to~~  
13 ~~time, for defining the duties of officers, assistants, or employees; for~~  
14 ~~fixing the conditions of admission to the institution, support, and discharge~~  
15 ~~of patients; for conducting in a proper manner the professional and business~~  
16 ~~affairs of the Arkansas Tuberculosis Sanatorium; and also to order and~~  
17 ~~enforce a suitable system of rules and regulations for the internal~~  
18 ~~government, discipline, and management of the sanatorium.~~

19  
20 ~~20-11-203. Superintendent.~~

21 ~~(a)(1) The Board of Developmental Disabilities Services shall appoint~~  
22 ~~a Superintendent of the Arkansas Tuberculosis Sanatorium, not a member of the~~  
23 ~~board, who:~~

24 ~~(A) Shall be a legally qualified physician of at least~~  
25 ~~five (5) years' practice and who shall present satisfactory evidence of~~  
26 ~~graduation from a bona fide reputable medical college; or~~

27 ~~(B) Shall have had not less than five (5) years' practical~~  
28 ~~experience in the operation and management of a large hospital.~~

29 ~~(2) The superintendent shall, in all matters pertaining to the~~  
30 ~~sanatorium, be under the general supervision of the board. The board may~~  
31 ~~remove him at any time and appoint his successor.~~

32 ~~(b)(1) The superintendent shall be chief executive officer of the~~  
33 ~~sanatorium and shall have charge of all buildings, fixtures, and other assets~~  
34 ~~and control of all assistants, nurses, servants, and employees but shall at~~  
35 ~~all times be subject to the orders of the board.~~

36 ~~(2) All assistants, nurses, servants, and employees shall be~~

1 ~~appointed and discharged by the superintendent with the consent of the board.~~

2  
3 ~~20-11-204. Disability compensation.~~

4 ~~(a) Employees of the Arkansas Tuberculosis Sanatorium who have been in~~  
5 ~~the employ of the institution at least three (3) months and who contract~~  
6 ~~tuberculosis shall be entitled to payment out of the maintenance~~  
7 ~~appropriation of the sanatorium of one half (1/2) of the salary each month of~~  
8 ~~the employee at the time of his disability, so long as he shall remain~~  
9 ~~disabled; provided, however, such disability does not extend over a period~~  
10 ~~greater than three (3) years.~~

11 ~~(b) Employees shall be entitled to this compensation only upon proper~~  
12 ~~certification to the Board of Developmental Disabilities Services showing the~~  
13 ~~disability from tuberculosis and signed by the medical director of the~~  
14 ~~institution. No person may ever bring suit or file claim, either with the~~  
15 ~~Arkansas State Claims Commission or any other group except the board for any~~  
16 ~~claims which may arise out of the provisions of this section and § 20-11-401.~~  
17 ~~The action of the board shall be final, and from this action there shall be~~  
18 ~~no appeal to any court or any other agency.~~

19  
20 ~~20-11-301. Admission of patients generally.~~

21 ~~(a) There shall be received in the Arkansas Tuberculosis Sanatorium~~  
22 ~~such persons as shall be proved, by proper bacteriological or clinical~~  
23 ~~examination, to be suffering from tuberculosis, provided the persons are bona~~  
24 ~~fide residents of the State of Arkansas.~~

25 ~~(b)(1) Any person unable to pay for maintenance may be admitted to the~~  
26 ~~sanatorium by the superintendent on written application of the county judge~~  
27 ~~of the county in which the individual is a resident. The application shall~~  
28 ~~state his inability to pay for his maintenance and state that evidence of the~~  
29 ~~disease has been certified to him, as provided in subsection (a) of this~~  
30 ~~section. A certified copy of the evidence must accompany the application.~~

31 ~~(2) However, all patients shall be subject to examination before~~  
32 ~~or after admission to the sanatorium, and the board may refuse to admit or~~  
33 ~~may discharge any patient found not to be suffering from tuberculosis.~~

34 ~~(c)(1) Persons suffering from tuberculosis who are able to pay for~~  
35 ~~their care and maintenance may be admitted to the sanatorium, and the charges~~  
36 ~~for the support and care of the patients shall be paid to the treasurer of~~



1 the institution at a rate to be determined by the Board of Developmental  
2 Disabilities Services.

3 ~~(2) Before the persons shall be admitted, they shall be examined~~  
4 ~~under the direction of the board or medical superintendent to ascertain~~  
5 ~~whether or not the persons are suffering from tuberculosis. All moneys~~  
6 ~~collected by the treasurer of the institution from patients or from any other~~  
7 ~~source shall at the end of each month be turned over to the Treasurer of~~  
8 ~~State. He shall give his receipt therefor and place those moneys to the~~  
9 ~~credit of the Sanatorium Fund, subject to use by the board, in addition to~~  
10 ~~any appropriation made for the benefit of this sanatorium.~~

11  
12 ~~20-11-302. Admission of nontubercular patients.~~

13 ~~The Arkansas Tuberculosis Sanatorium is authorized to admit and treat~~  
14 ~~citizens of Arkansas who suffer with treatable chronic chest diseases, who~~  
15 ~~are medically indigent, and who are referred to the sanatorium by their~~  
16 ~~physicians when there are beds available and not in use for the treatment of~~  
17 ~~tuberculosis.~~

18  
19 ~~20-11-303. Transfer to and from Arkansas State Hospital.~~

20 ~~(a)(1) Any person committed to the Arkansas Tuberculosis Sanatorium~~  
21 ~~under §§ 20-15-701—20-15-710 may, in the discretion of the superintendent~~  
22 ~~of the sanatorium, be transferred to the Arkansas State Hospital at Little~~  
23 ~~Rock for treatment at the tuberculosis unit of the Arkansas State Hospital at~~  
24 ~~Little Rock whenever in the opinion of the superintendent the person is a~~  
25 ~~custody or behavior problem.~~

26 ~~(2) Any person so transferred to the Arkansas State Hospital at~~  
27 ~~Little Rock under subdivision (a)(1) of this section shall be retained and~~  
28 ~~kept by the Arkansas State Hospital at Little Rock and treated for~~  
29 ~~tuberculosis so long as he is a custody or behavior problem. The person shall~~  
30 ~~be discharged by the Arkansas State Hospital at Little Rock only when the~~  
31 ~~tuberculosis improves to the point where it is not dangerous to himself or~~  
32 ~~the health and lives of others.~~

33 ~~(b)(1) Any person who is committed to the Arkansas State Hospital for~~  
34 ~~treatment of a mental disease and who has, or develops, tuberculosis may, in~~  
35 ~~the discretion of the superintendent of the Arkansas State Hospital, be~~  
36 ~~transferred to the custody of the superintendent of the sanatorium for~~

1 ~~treatment of his tuberculosis when the person does not present a custody or~~  
2 ~~behavior problem and when no additional treatment for his psychosis is needed~~  
3 ~~or helpful.~~

4 ~~(2) The person so transferred shall be returned to the Arkansas~~  
5 ~~State Hospital at such time as his tuberculosis has improved to the point~~  
6 ~~where it is not dangerous to himself or others.~~

7  
8 ~~20-11-304. Home pneumothorax treatment.~~

9 ~~(a)(1) Where a patient has been certified by the Superintendent of the~~  
10 ~~Arkansas Tuberculosis Sanatorium as requiring treatment known as~~  
11 ~~pneumothorax, and when it is safe for the patient to remain at home, the sum~~  
12 ~~of thirty five thousand dollars (\$35,000) from the funds credited to the~~  
13 ~~Social Services Fund Account shall be set aside for the purpose of paying the~~  
14 ~~fees of physicians for administering pneumothorax treatments to patients who~~  
15 ~~have been certified to the physicians by the superintendent of the~~  
16 ~~sanatorium. However, before the patient can receive the pneumothorax~~  
17 ~~treatments as provided in this section, the county judge of the county in~~  
18 ~~which the patient resides shall certify that the patient is not financially~~  
19 ~~able to pay for the treatments.~~

20 ~~(2) The pneumothorax treatments shall be paid for from the funds~~  
21 ~~set aside pursuant to subdivision (a)(1) of this section.~~

22 ~~(3) The fees for any physician shall not exceed the sum of three~~  
23 ~~dollars (\$3.00) for each pneumothorax treatment administered to any patient.~~

24 ~~(b) It shall be the duty of the superintendent of the sanatorium to~~  
25 ~~certify one (1) or more competent physicians residing in sections of the~~  
26 ~~state deemed necessary by him, where the pneumothorax equipment is located,~~  
27 ~~for the purpose of administering such treatment. The physicians shall be~~  
28 ~~properly trained to provide the treatment.~~

29 ~~(c) The fees of the physicians shall be audited by the superintendent~~  
30 ~~of the sanatorium and shall be paid as are other obligations of the state.~~

31  
32 ~~20-11-305. Mobile X-ray Unit.~~

33 ~~In any year that twenty five (25) or more patients from any one (1)~~  
34 ~~county of the state are receiving treatment in the Arkansas Tuberculosis~~  
35 ~~Sanatorium, the Arkansas Board of Developmental Disabilities Services shall~~  
36 ~~annually provide for the visiting of each and every city and incorporated~~

town within that county by the Mobile X-ray Unit to conduct x-ray examinations for diagnostic purposes.

~~20-11-401. Fellowships to physicians.~~

~~(a) The Board of Developmental Disabilities Services is authorized, empowered, and directed to award each year two (2) fellowships, each in the sum of one thousand two hundred dollars (\$1,200) per year and maintenance, to young physicians who are interested in postgraduate study of tuberculosis and who:~~

~~(1) Have completed their work in an accredited Class A medical school;~~

~~(2) Are bona fide residents of the State of Arkansas; and~~

~~(3) Have served at least one (1) year's internship in an accredited hospital.~~

~~(b) The fellowships shall be paid out of any available cash funds of the institution.~~

~~(c) The awards shall be made by the board upon recommendation of the medical director and his staff after examination by them of all applicants.~~

~~20-11-402. Nursing school.~~

~~(a) The Board of Developmental Disabilities Services is authorized to establish and maintain a training school for nurses and to prescribe a course of study and practice for graduation. This course shall give special attention to the prevention, treatment, and cure of tuberculosis, and the board is authorized to confer diplomas upon those fulfilling the required course of study and practice.~~

~~(b) Nothing in this section shall be construed as repealing any part of §§ 20-11-101 and 20-11-301 but shall be construed as supplemental thereto and continuing the provisions thereof so far as applicable.~~

~~20-11-403. Booneville Sanatorium School District.~~

~~(a) All the following described land:~~

~~The Southeast Quarter of the Southeast Quarter, and all the Southwest Quarter of the Southeast Quarter, except eight and one half (8 1/2) acres in the Northwest part described as beginning in the Northwest corner thereof, run East one hundred thirty (130) yards; thence South three hundred fifteen~~

~~(315) yards; thence West one hundred thirty (130) yards; thence North to the place of beginning, all in Section Seven (7); the Southwest Quarter of the Southwest Quarter of Section Eight (8); the Northwest Quarter, the North Half of the Southwest Quarter and the Southwest Quarter of the Southwest Quarter of Section Seventeen (17); the Northeast Quarter, the Southeast Quarter of the Southeast Quarter of the Northwest Quarter, and the East Half of the Southwest Quarter, and the Southeast Quarter of Section Eighteen (18), all in Township Five (5) North, Range Twenty Seven (27) West of the Fifth Principal Meridian, in Logan County, Arkansas, owned by the State of Arkansas and occupied by the Arkansas Tuberculosis Sanatorium; is created into a school district to be known as the Booneville Sanatorium School District, for the purpose of providing school facilities to the children parents and children of the officers and employees at the sanatorium.~~

~~(b) The management of the school will be in the charge of the superintendent of the sanatorium. He shall have the power to employ and discharge teachers and fix their compensation, all subject to the review of the Board of Developmental Disabilities Services.~~

~~(c) If the board considers that the school facilities created in the district are sufficient to accommodate pupils residing near the sanatorium and the admission of some of them to the school is otherwise advisable, it shall have the right to permit them to be taught at the school for such tuition as the board shall fix.~~

~~(d) The school district shall be entitled to receive and shall receive its quota of any state or county school funds apportioned to school districts in the state or in the county where the district is situated on the same basis as other school funds are apportioned to common schools of the state or county, respectively.~~

~~(e) The board shall have the right to contribute from their maintenance funds such funds for the support of the school in the district as they may see fit.~~

~~(f) This section shall not be construed as a local or special act but is an act to afford common school facilities at one (1) of the state institutions.~~

SECTION 32. In order to insert subdivision (a)(2)(D), which was

1 neither set out in nor specifically deleted from Acts 1997, No. 295, Section  
2 7 when the section was amended and in order to correct errors in grammar and  
3 punctuation, Arkansas Code 20-17-1012(a)(2) is amended to read as follows:

4 (a)(2) The application must be accompanied by:

5 (A) A fee of one hundred dollars (\$100);

6 (B) A statement of changes, if any, in the survey and map  
7 of the cemetery;

8 (C) A set of rules and regulations for the use, care,  
9 management, and protection of the cemetery;

10 (D) The proposed method of continuing the permanent  
11 maintenance fund presently in existence;

12 (E) A statement of the proposed transfer;

13 (F) A copy of a current title opinion by an Arkansas-  
14 licensed attorney or title insurance policy which reflects that the current  
15 permit holder has good and merchantable title to the land covered by the  
16 permit;

17 (G) A notarized statement from the seller and purchaser  
18 disclosing any current or future lien or mortgage on the land covered by the  
19 permit;

20 (H) A notarized statement from any current or future  
21 lienholder or mortgage holder on the land covered by the permit that all  
22 paid-in-full burial spaces will be released from the lien or mortgage at  
23 least semiannually;

24 (I) A current detailed accounting of all paid-in-full  
25 merchandise contracts or accounts of the permit holder and seller for which  
26 the merchandise has not been delivered to the purchaser or placed in  
27 inventory for the benefit of the purchaser. This accounting shall be on an  
28 individual contract or account basis and contain the name of the purchaser,  
29 the contract or account number, the date of the contract, the gross amount of  
30 the contract, a description of the merchandise purchased, the date the  
31 contract or account was paid in full, and the specific location where the  
32 merchandise is stored;

33 (J) A current notarized statement from the permit holder  
34 and seller that the application contains a complete and accurate accounting  
35 of all his outstanding accounts receivable, discounted notes, and paid-in-  
36 full merchandise accounts or contracts for which the merchandise has not been

1 delivered to the purchaser or placed in inventory for the benefit of the  
2 purchaser;

3 (K) A current notarized statement from the purchaser or  
4 organization gaining control that it will assume the responsibility and  
5 liability for all the accounts, notes, and contracts of the seller which are  
6 contained in the accountings and schedules which are filed as a part of the  
7 application;

8 (L) The financial statements of the applicant and  
9 purchaser required by the rules which reflect that the applicant and  
10 purchaser has a minimum net worth of twenty thousand dollars (\$20,000); and

11 (M) Any additional information required by the board or  
12 the secretary of the board.

13  
14 SECTION 33. Arkansas Code 21-4-203(1)(C) is amended to read as  
15 follows:

16 (1)(C) Members of the Arkansas Supreme Court, members of the Arkansas  
17 Court of Appeals, the Administrative Office of the Courts, circuit and  
18 chancery courts, and prosecuting attorneys, but not including deputy  
19 prosecuting attorneys;

20  
21 SECTION 34. Arkansas Code 21-15-102(a)(1) is amended to read as  
22 follows:

23 (a)(1) When a person applies for employment with a state agency in a  
24 designated position and if the state agency intends to make an offer of  
25 employment to the applicant, the applicant shall complete a criminal history  
26 check form obtained from the state agency and shall submit the form to the  
27 state agency as part of the application process. If the state agency intends  
28 to make an offer of employment to the applicant, the state agency shall,  
29 within five (5) days of such decision, forward the criminal history check  
30 form to the Identification Bureau of the Department of Arkansas State Police  
31 and request the bureau to review the bureau's database of criminal history  
32 checks on state agency employees in designated positions. The state agency  
33 shall pay any fee associated with the criminal history check on behalf of the  
34 applicant. Within three (3) days of the receipt of a request to review the  
35 database, the bureau shall notify the state agency if the database contains  
36 any criminal history records on the applicant.

SECTION 35. Arkansas Code 23-37-401(5) is amended to read as follows:

(5) Make any loan or investment that a federal association doing business in this state is authorized to make; ~~provided in the absence of a general rule or regulation adopted by the board, the supervisor may authorize an association to make any loan or investment that a federal association doing business in this state is authorized to make.~~

SECTION 36. Arkansas Code 23-37-404 is amended to read as follows:  
23-37-404. Branch offices.

(a) The Supervisor of Savings and Loan Associations, in either a protested or an unprotested application, ~~or the board in a protested application,~~ shall not approve the application for an association to open a branch unless the association satisfactorily establishes that the volume of business in the proposed service area for the branch office is such as to indicate a successful operation.

(b) An association shall furnish satisfactory evidence to the supervisor that it has opened a branch office for business within one (1) year from:

(1) ~~the~~ The date the granting of authority for the opening of the branch office is approved by the Arkansas Supreme Court if the matter is appealed to the Arkansas Supreme Court; or

(2) ~~from the~~ The date on which the time period for perfecting an appeal from a decision of the ~~board~~ supervisor or a lower court approving the granting of authority for opening of the branch office expires.

(c)(1) If any association fails to open the branch office for business within ~~this~~ the one-year period as required by subsection (b) of this section and the supervisor so finds after notice and hearing, ~~he~~ the supervisor shall enter an order cancelling the authority for opening of the branch office for business unless good cause is shown for the failure, in which event the supervisor shall grant a reasonable extension of time for opening the branch office for business, not to exceed one (1) year, to give the association an opportunity to overcome the cause for the delay.

(2)(A) Parties other than the affected association shall not be heard regarding any extension of authority for opening a branch office; ~~however~~

1                   (B) However, any party which appeared before the ~~board~~  
2 supervisor protesting the granting of authority for opening the branch office  
3 for business shall, ~~upon written request,~~ be notified, upon written request,  
4 of the determination of the supervisor on the extension request.

5           (d)(1) If any association closes a branch office and the branch office  
6 remains closed for one (1) year, the supervisor, after notice and hearing,  
7 shall, ~~after notice and hearing,~~ enter an order cancelling the authority for  
8 continued operation of that branch unless good cause is shown for the failure  
9 to continue operation. In this event the supervisor shall grant a reasonable  
10 extension of time for reopening the branch for business, not to exceed one  
11 (1) year.

12           (2) Parties other than the affected association shall not be  
13 heard regarding any extension of time to reopen the closed branch.

14           (e) Any association legally chartered by the proper state authority  
15 may establish one (1) or more full service branches, provided that its  
16 supervisory authority approves, in the following locations:

17           (1) ~~An association may establish branch offices anywhere~~  
18 Anywhere within the county in which the establishing savings and loan  
19 association's principal office is located;

20           (2) In addition to the provision of subsection (d) of this  
21 section, after December 31, 1993, ~~an association may locate branches~~ anywhere  
22 within any counties contiguous to the county in which its principal office is  
23 located;

24           (3) After December 31, 1998, ~~an association may locate branches~~  
25 anywhere within this state.

26           (f)(1) Without regard to the exceptions for location of a branch of an  
27 association as provided in this section, an association may purchase the  
28 business and assets and assume the liabilities of, or merge or consolidate  
29 with, another association located in any incorporated city or town within  
30 this state and operate the acquired association as a branch, provided that a  
31 branch shall not be established pursuant to purchase, merger, or  
32 consolidation with another association should either association have a de  
33 novo charter.

34           (2)(A) For purposes of this section, the term "de novo charter"  
35 means a charter for an association which has been in existence for less than  
36 ten (10) years.



1                   (B) However, a de novo charter does not include a charter  
2 which is issued in connection with the acquisition of assets and liabilities  
3 from a predecessor financial institution which is acquired through federal or  
4 state regulatory action.

5           (g) Nothing contained in this section shall be construed to prevent  
6 any association from retaining branch locations, wherever located, in  
7 operation prior to June 30, 1988.

8  
9           SECTION 37. Arkansas Code 23-52-102(5) is amended to read as follows:

10           (5) ~~"Department"~~ "Board" means the State Board of Collection Agencies;  
11

12           SECTION 38. Arkansas Code 23-52-102(6) is amended to read as follows:

13           (6) "Permit" means a permit to engage in the check-cashing business  
14 issued by the ~~department~~ board in accordance with this chapter.

15  
16           SECTION 39. Arkansas Code 23-52-107 is amended to read as follows:

17           23-52-107. Qualification for check-casher permit.

18           A check-casher permit applicant shall satisfy the following  
19 requirements to qualify for a permit under this chapter:

20           (1) The applicant shall have a minimum of cash or other liquid assets  
21 of at least twenty thousand dollars (\$20,000) for the operation of each  
22 location at which the applicant will engage in the check-cashing business and  
23 shall be required to post with the Department of Finance and Administration a  
24 fifty-thousand-dollar-bond payable to the State of Arkansas;

25           (2) The financial responsibility, financial condition, and business  
26 experience of the applicant shall reasonably warrant the belief that the  
27 applicant's check-cashing business will be conducted in accordance with this  
28 chapter. In determining whether this qualification has been met and for the  
29 purpose of investigating compliance with this chapter, the ~~department~~ State  
30 Board of Collection Agencies may review and approve the following:

31           (A) The relevant business records and the capital adequacy of  
32 the applicant; and

33           (B) The competence, experience, and financial ability of any  
34 person who is a member, partner, director, officer, or five percent (5%) or  
35 more shareholder of the applicant or who otherwise controls the applicant;

36           (3) The requirements set forth in subdivisions (1) and (2) of this

1 section shall be continuing in nature; and

2 (4) The ~~department~~ board shall deny an application for a permit to  
3 conduct a check-cashing business or for renewal of a permit, if the applicant  
4 or any person referred to in subdivision (2)(B) of this section has a felony  
5 conviction involving dishonesty, fraud, or deceit, provided the crime is  
6 substantially related to the qualifications, functions, or duties of a person  
7 engaged in the check-cashing business.

8  
9 SECTION 40. Arkansas Code 23-52-108(a) is amended to read as follows:

10 (a) Each application for a check-cashing permit shall be in writing in  
11 a form prescribed by the State Board of Collection Agencies and shall include  
12 at least the following:

13 (1) The legal name, residence, business address, and telephone  
14 number of the applicant. If the applicant is a partnership, association,  
15 limited liability company, or corporation, the name and address of every  
16 member, officer, and director; and

17 (2) Such other data and information as the ~~department~~ board may  
18 require with respect to the applicant and its directors, officers, partners  
19 or members.

20  
21 SECTION 41. Arkansas Code 23-52-109 is amended to read as follows:

22 23-52-109. ~~Department~~ Board action and issuance of permits.

23 (a) Upon the filing of an application in the form prescribed by the  
24 State Board of Collection Agencies accompanied by the fees and documents  
25 required in this chapter, the ~~department~~ board shall investigate to ascertain  
26 whether the qualifications prescribed by § 23-52-107 have been satisfied. If  
27 the ~~department~~ board finds that the qualifications have been satisfied and  
28 approves the documents, the ~~department~~ board shall issue to the applicant a  
29 permit to engage in the check-cashing business in Arkansas at the locations  
30 specified in the application as approved by the ~~department~~ board.

31 (b) No person engaged in the check-cashing business shall conduct any  
32 other business within the same location without having obtained prior written  
33 approval from the ~~department~~ board.

34 (c) The check-casher permit shall be kept conspicuously posted in the  
35 check-casher's place of business and shall not be assignable or transferable  
36 nor moved to another location without permission of the ~~department~~ board.

1           (d) ~~The annual permit fee after~~ In addition to the initial permit fee  
2 required by § 23-52-108(b)(1), there shall be an annual permit fee of four  
3 hundred dollars (\$400) for each office, branch, or place of business of the  
4 check-casher, which shall be due on August 1 of each year. The annual permit  
5 fee shall be for a one-year period ending July 31, and shall be delinquent on  
6 September 1 of each year. There shall be a penalty of ten percent (10%) for  
7 each month or part thereof that the check-casher is delinquent in the payment  
8 of ~~such the annual~~ permit fee. All permit fees collected by the ~~department~~  
9 board shall be used by the ~~department~~ board in the supervision and  
10 examination of check-cashers and the issuance of permits under this chapter.

11           (e) A person operating a check-cashing business on April 7, 1999,  
12 shall have until the beginning of the next permit year after April 7, 1999,  
13 to apply for a permit under this chapter and to pay the required permit fee,  
14 and upon qualification and payment of ~~such the~~ required fee, shall be granted  
15 a permit under this chapter. Provided, that ~~such the~~ check-casher shall  
16 comply with the other provisions of this chapter pending ~~such the~~ the  
17 application.

18           (f) A check-casher may voluntarily surrender its permit to the  
19 ~~department~~ board. However, the check-casher shall not be entitled to receive  
20 a refund of any permit fees previously paid. Upon surrender, the check-casher  
21 shall immediately make available to the ~~department~~ board all books, records,  
22 and papers required to be created and maintained under this chapter or  
23 regulations promulgated by the ~~department~~ board under this chapter.

24  
25           SECTION 42. Arkansas Code 23-52-110 is amended to read as follows:

26           23-52-110. Change of control of check-casher.

27           The prior written approval of the State Board of Collection Agencies  
28 shall be required for the continued operation of a check-cashing business  
29 whenever a change in control of a permitted check-casher is proposed. Control  
30 in the case of a corporation shall mean direct or indirect ownership, or the  
31 right to control twenty-five percent (25%) or more of the voting shares of  
32 the corporation, or the ability of a person to elect a majority of the  
33 directors. Control in the case of any other entity shall mean the ability to  
34 change the principles of the organization, whether active or passive. The  
35 ~~department~~ board may require information deemed necessary to determine  
36 whether a new application is required.

SECTION 43. Arkansas Code 23-52-111 is amended to read as follows:

23-52-111. Regulations.

The State Board of Collection Agencies is authorized and empowered to promulgate reasonable regulations for the execution and enforcement of this chapter. However, before any rules and regulations promulgated by the ~~department~~ board shall be effective, they must be approved by the Director of the Department of Finance and Administration and issued in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

SECTION 44. Arkansas Code 23-52-112(b) is amended to read as follows:

(b) For the purpose of determining compliance with this chapter, the ~~department~~ board, at any reasonable time, may cause an examination to be made at a check-casher's place of business of the records and transactions of such check-casher. Each check-casher shall preserve all relevant records for a period of at least two (2) years after making the last entry on any transaction, and the ~~department~~ board shall have free access to such records at the check-casher's place of business at all reasonable times during the check-casher's normal business hours. If the ~~department~~ board has probable cause to believe that a person has engaged in an activity which violates the provisions of this chapter, the ~~department~~ board may compel the production of such books and records of the person as the ~~department~~ board has probable cause to believe are relevant to the alleged violation.

SECTION 45. Arkansas Code 23-52-113 is amended to read as follows:

23-52-113. Appeal of permit denial.

(a) If the State Board of Collection Agencies determines that an applicant is not qualified to receive a permit, the ~~department~~ board shall notify the applicant in writing that the application has been denied, stating the basis for denial.

(b) If the ~~department~~ board denies an application or if the ~~department~~ board fails to act on an application within ninety (90) days after the filing of a properly completed application, the applicant may make a written demand to the ~~department~~ board for a hearing before the ~~department~~ board on the question of whether the permit should be granted.

(c) At the hearing, the burden of proving that the applicant is

entitled to a permit under this chapter shall be on the applicant. A decision of the ~~department~~ board following any hearing on the denial of a permit may be subject to review in accordance with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

SECTION 46. Arkansas Code 23-52-114 is amended to read as follows:

23-52-114. Revocation or suspension of permit.

(a) After notice and hearing, the State Board of Collection Agencies may suspend or revoke any permit if the ~~director~~ Chairman of the State Board of Collection Agencies finds that the check-casher ~~has~~ either knowingly or through lack of due care has committed one (1) of the following:

(1) Failed to pay the annual permit fee imposed by this chapter or an examination fee imposed by the ~~department~~ board under the authority of this chapter;

(2) Violated a provision of this chapter or an administrative regulation issued pursuant to this chapter; and

(3) Made a false statement in the application for the permit or failed to give a true reply to a question in the application.

(b) If the reason for revocation or suspension of a permit of the check-casher at any one (1) location is of general application to all locations operated by a check-casher, the ~~department~~ board may revoke or suspend all permits issued to the check-casher.

(c) Any hearing under this section shall be held on written notice given at least twenty (20) days prior to the date of the hearing.

SECTION 47. Arkansas Code 23-52-115 is amended to read as follows:

23-52-115. ~~Department~~ Board remedies for violation of this chapter.

If after a hearing the State Board of Collection Agencies finds that a person has violated this chapter or any administrative regulation issued pursuant to this chapter, the ~~department~~ board may do any or all of the following:

(1) Order the person to cease and desist violating this chapter or any administrative rules issued pursuant thereto;

(2) Require the refund of any fees collected by such person in violation of this chapter; and

(3) Order the person to pay to the ~~department~~ board a civil penalty of

1 not more than one thousand dollars (\$1,000) for each transaction in violation  
2 of this chapter or for each day that a violation has occurred and continues.

3  
4 SECTION 48. Arkansas Code 23-52-116 is amended to read as follows:

5 23-52-116. Consent orders.

6 (a) The State Board of Collection Agencies may enter into consent  
7 orders at any time with any person to resolve any matter arising under this  
8 chapter. A consent order shall be signed by the person to whom it is issued  
9 or an authorized representative and shall indicate agreement to the terms  
10 contained therein. A consent order need not constitute an admission by any  
11 person that any provision of this chapter or any rule, regulation, or order  
12 promulgated or issued pursuant to this chapter has been violated, nor need it  
13 constitute a finding by the ~~department~~ board that ~~such~~ the person has  
14 violated any provision of this chapter or any rule, regulation, or order  
15 promulgated or issued hereunder.

16 (b) Notwithstanding the issuance of a consent order, the ~~department~~  
17 board may seek civil or criminal penalties or compromise civil penalties  
18 concerning matters encompassed by the consent order.

19  
20 SECTION 49. Arkansas Code 23-52-117 is amended to read as follows:

21 23-52-117. Complaints.

22 (a) Without limiting any other right, power, or remedy of the State  
23 Board of Collection Agencies under this chapter or the Attorney General  
24 pursuant to authority granted under § 4-88-101 et seq. pertaining to  
25 deceptive trade practices, any person aggrieved by the conduct of a check-  
26 cashier under this chapter in connection with the regulated activities of the  
27 check-casher may file a written complaint with the ~~department~~ board which may  
28 investigate the complaint.

29 (b) In the course of the investigation of the complaint, the  
30 ~~department~~ board may do any or all of the following:

- 31 (1) Subpoena witnesses;  
32 (2) Administer oaths;  
33 (3) Examine any individual under oath; and  
34 (4) Compel the production of records, books, papers, contracts,  
35 or other documents relevant to the investigation.

36 (c) If a person fails to comply with a subpoena of the ~~department~~

1 board under this chapter or to testify concerning any matter about which the  
 2 person may be interrogated under this chapter, the ~~department~~ board may  
 3 petition any court of competent jurisdiction for enforcement.

4 (d) The permit of any check-casher under this chapter who fails to  
 5 comply with a subpoena of the ~~director~~ Chairman of the State Board of  
 6 Collection Agencies may be suspended pending compliance with the subpoena.

7 (e) A person who willfully makes charges in excess of those permitted  
 8 by § 23-52-104 or a person who willfully engages in the check-cashing  
 9 business in violation of this chapter, is guilty of a Class A misdemeanor.

10 (f) Any action for a civil remedy under this chapter by the ~~department~~  
 11 board or any other person against a check-casher must be commenced within  
 12 five (5) years after the action or inaction giving rise to the right to seek  
 13 such a civil remedy.

14  
 15 SECTION 50. Arkansas Code 23-78-105 is amended to read as follows:  
 16 23-78-105. Burial Association Board – Creation – Members.

17 (a) There is created a Burial Association Board consisting of the  
 18 following members who shall be appointed by the Governor subject to  
 19 confirmation by the Senate:

- 20 (1) One (1) member from each congressional district;
- 21 (2) Three (3) at-large members;
- 22 (3) One (1) consumer representative appointed from the state at-
- 23 large;
- 24 (4) One (1) representative of the elderly appointed from the
- 25 state at-large; and
- 26 (5) Any other members who, from time to time, may be added by
- 27 statute.

28 (b)(1)(A) The members of the board shall be:

- 29 (i) ~~residents~~ Residents of the State of Arkansas;
- 30 (ii) ~~at~~ At least twenty-one (21) years of age; and
- 31 (iii) ~~of~~ Of good moral character.

32 (B) The ~~elderly~~ representative of the elderly shall be  
 33 sixty (60) years of age or older.

34 (2)(A) Members other than the consumer representative and  
 35 ~~elderly representatives~~ the representative of the elderly shall be engaged in  
 36 or connected with the operation of a burial association for at least five (5)

1 years.

2 (B) The consumer representative and ~~elderly the~~  
3 representative of the elderly shall not be actively engaged in or retired  
4 from the business of operating a burial association.

5 (3) The consumer representative position and the ~~elderly~~  
6 representative of the elderly position cannot be filled by the same person.

7 (c)(1) Members other than the consumer representative and the  
8 representative of the elderly ~~representatives~~ shall be appointed as follows:

9 (A) During December of each year, The the Arkansas Club of  
10 Burial Associations or its successor shall, ~~during December each year,~~ submit  
11 to the Governor a list containing the names of not fewer than two (2)  
12 qualified persons from each congressional district from which the current  
13 members' terms expire. However, at-large members may be from any  
14 congressional district, and no more than one (1) at-large member may be  
15 appointed from any one congressional district;

16 (B) The Arkansas Club of Burial Associations shall also  
17 establish a system of rotating the at-large members to ensure equitable  
18 representation of congressional districts by the at-large members;

19 (C) After receipt of the list by the Governor, he shall  
20 appoint to the board one (1) member from each congressional district from  
21 which the current member's term expires, plus members from the state at  
22 large, provided the at-large member's term also expires.

23 (2) The requirement of appointment from a list submitted by the  
24 Arkansas Club of Burial Associations shall not be applicable to the consumer  
25 representative and the representative of the elderly ~~representatives~~.

26 (d)(1) The term of office shall be for three (3) years, and no member  
27 shall be appointed to more than two (2) consecutive terms upon the board.

28 (2) Each member shall hold his office until his successor is  
29 appointed and qualified.

30 (e)(1) Vacancies on the board shall be filled for the unexpired term  
31 thereof by appointment by the Governor.

32 (2) Vacancies in positions other than those of the consumer  
33 representative and the representative of the elderly ~~representatives~~ shall be  
34 filled from new lists submitted for the filling of the vacancies in the same  
35 manner provided for the appointment of those members to the board.

36 (f) The Governor shall have the right to remove any member of the



1 board for gross neglect or malfeasance after notice and hearing.

2 (g) Before entering upon the duties of the office, ~~The~~ the members of  
3 the board shall, ~~before entering upon the duties of the office,~~ take the oath  
4 prescribed by the Constitution of the State of Arkansas for state officers  
5 and shall file it in the office of the Secretary of State, ~~who~~ The  
6 Secretary of State shall thereupon issue to the person so appointed a  
7 certificate of the appointment.

8 (h) The members of the board may receive expense reimbursement and  
9 stipends in accordance with § 25-16-901 et seq.

10  
11 SECTION 51. Arkansas Code 23-82-109(a) is amended to read as follows:

12 (a) If the industrial life insurance policy is a participating policy,  
13 there shall be a provision that the insurer shall annually ascertain and  
14 apportion any divisible surplus accruing on the policy. However, at the  
15 option of the insurer, the participation may be deferred to the end of the  
16 fifth policy year.

17  
18 SECTION 52. Arkansas Code 23-89-211 is amended to read as follows:

19 23-89-211. Amount of claim attributable to value and amount  
20 attributable to sales tax.

21 (a) If an insurer settles a claim for damages to an automobile as a  
22 total loss, the insurer shall include with the payment an itemized list  
23 stating the amount attributable to the value of the automobile and the amount  
24 attributable to the sales tax on an automobile of that value.

25 (b) For the purposes of this section, the term "automobile" means a  
26 private passenger motor vehicle only.

27  
28 SECTION 53. Arkansas Code 23-93-103(2) is amended to read as follows:

29 (2)(A) "Continuing care" means the furnishing of independent living  
30 units to individuals and either:

31 ~~(A)(i)~~ Furnishing nursing care or personal care services  
32 pursuant to an agreement, whether the nursing care or personal care services  
33 are provided in the facility or in another setting designated by the  
34 agreement for providing continuing care to individuals; or

35 ~~(B)(ii)~~ Requiring the payment of an entrance fee by an  
36 individual not related by consanguinity or affinity to the provider

1 furnishing the living unit. Payments may be made by an entrance fee alone, an  
2 entrance fee and periodic payments, or by payment of fees for services.

3 (B) Agreements to provide continuing care shall include  
4 agreements to provide care for any duration including agreements that are  
5 terminable by either party;

6  
7 SECTION 54. Arkansas Code 23-110-305(a)(1)(C) is amended to read as  
8 follows:

9 ~~(C) Should any holder of a temporary franchise acquire a~~  
10 ~~site and commence construction within the ninety day period but fail to~~  
11 ~~complete construction and be open for business within one (1) year next~~  
12 ~~following the end of the ninety day period; should the construction not be in~~  
13 ~~substantial compliance with the plans and specifications theretofore filed~~  
14 ~~with, and approved by, the commission; or should the aggregate total of costs~~  
15 ~~of acquisition of a site, construction of buildings and facilities, and~~  
16 ~~purchase of equipment be less than three million dollars (\$3,000,000), then~~  
17 ~~the commission shall cancel the temporary franchise, and the cancellation~~  
18 ~~shall constitute a forfeit thereof by the corporation. The commission shall~~  
19 cancel the temporary franchise of any holder of such a franchise and the  
20 cancellation shall constitute a forfeit thereof by the corporation if:

21 (i) The holder of a temporary franchise acquires a  
22 site and commences construction within the ninety-day period but fails to  
23 complete construction and be open for business within one (1) year next  
24 following the end of the ninety-day period;

25 (ii) The construction by the holder of a temporary  
26 franchise is not in substantial compliance with the plans and specifications  
27 theretofore filed with, and approved by, the commission; or

28 (iii) The aggregate total of costs of acquisition of  
29 a site, construction of buildings and facilities, and purchase of equipment  
30 by the holder of a temporary franchise is less than three million dollars  
31 (\$3,000,000).

32  
33 SECTION 55. Arkansas Code 23-110-403(b)(1) is amended to read as  
34 follows:

35 (b)(1) Each application shall be filed with the ~~commissioner~~  
36 commission at least ninety (90) days prior to the date upon which it is

desired to begin the racing meet.

SECTION 56. Arkansas Code 25-10-102(a) is amended to read as follows:

(a) The Department of Human Services shall consist of, and be operated under, an integrated service system consisting of the following ~~ten (10)~~ eleven (11) divisions with responsibility and programs assigned to them as determined by the Director of the Department of Human Services:

(1) A Division of Aging and Adult Services;

(2) A Division of Medical Services;

(3) A Division of Mental Health Services, which shall include both community mental health centers and state hospitals;

(4) A Division of Developmental Disabilities Services, which shall include both community programs and human development centers;

(5) A Division of County Operations;

(6) A Division of Administrative Services;

(7) A Division of Youth Services, which shall include serious offender and community-based programs and the youth service centers;

(8) A Division of Volunteerism;

(9) A Division of State Services for the Blind; ~~and~~

(10) A Division of Children and Family Services; ~~and~~

(11) A Division of Child Care and Early Childhood Education.

SECTION 57. Arkansas Code 26-26-1907 is amended to read as follows:

26-26-1907. Arkansas Real Property Reappraisal Fund.

(a)(1) There is hereby created the "Arkansas Real Property Reappraisal Fund".

~~(a)(2)~~ The proceeds of the ~~Arkansas Real Property Reappraisal Fund~~ fund shall be used to pay counties and professional reappraisal companies for the reappraisal of real property required by this subchapter and shall be in lieu of real property reappraisal funding by the local taxing units in each county of this state.

(b) For cause and after an opportunity for hearing, the Director of the Assessment Coordination Department may suspend or terminate the contract of any appraisal firm or county.

(c) (1) The fund proceeds shall be distributed monthly, except when there is a determination by the Assessment Coordination ~~department~~ Department

that proper reappraisal procedures established by the department are not being followed.

(2)(A)(i) Upon a finding by the department that proper reappraisal procedures are not being followed, the county assessor or contractor shall be notified that the reappraisal is out of compliance with accepted guidelines as established in § 26-26-1901 et seq. and rules enacted pursuant thereto.

(ii) The department shall notify the county assessor or contractor in writing that the assessor or contractor has thirty (30) days in which to bring the reappraisal into compliance.

(B) If there is a further finding that proper reappraisal procedures are not being followed, the contract shall be promptly terminated and the department shall negotiate another contract and management plan for the completion of the reappraisal project.

(d) Based on its expertise and the criteria and requirements set forth in this subchapter, the department shall establish by rule the findings that indicate proper reappraisal procedures are not being followed.

(e) At the end of each countywide reappraisal, the department shall issue a report of the status of the county.

SECTION 58. Arkansas Code 27-50-909 (a)(2) is amended to read as follows:

~~(2) A fee of not less than two dollars (\$2.00) nor more than six dollars (\$6.00) in the amount prescribed in § 27-23-117(c) may be charged for any record search made and reported to the driver on whom the record is compiled or any other individual or organization requesting the record.~~

*SECTION 59. Arkansas Code 19-5-1092 is repealed:*

~~19-5-1092. State Plant Board Operations and Facilities Construction Fund—Definitions.~~

~~For purposes of §§ 19-5-1092—19-5-1094:~~

~~(1) "Board" means the State Plant Board; and~~

~~(2) "Fund" means the State Plant Board Operations and Facilities Construction Fund.~~

*SECTION 60. The enactment and adoption of this act shall not repeal,*

expressly or impliedly, the acts passed at the regular session of the 83rd  
General Assembly. All such acts shall have full effect and, so far as those  
acts intentionally vary from or conflict with any provision contained in this  
Act, those acts shall have the effect of subsequent acts and as amending or  
repealing the appropriate parts of the Arkansas Code of 1987.

/s/ Napper