

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.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

A Bill

HOUSE BILL 2384

5 By: Representatives Petrus, Thyer
6
7

For An Act To Be Entitled

9 AN ACT REVISING VARIOUS PROVISIONS OF ARKANSAS
10 LAW PERTAINING TO ETHICS AND CAMPAIGN FINANCE;
11 AMENDING PORTIONS OF ARKANSAS CODE WHICH RESULTED
12 FROM INITIATED ACT 1 OF 1988 AND INITIATED ACT 1
13 OF 1996; AND FOR OTHER PURPOSES.
14

Subtitle

15 THE SUNSHINE IN GOVERNMENT ACT.
16
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

21 SECTION 1. NOT TO BE CODIFIED. This act shall be known and may be
22 cited as the "Sunshine in Government Act".
23

24 SECTION 2. Arkansas Code § 7-6-203(g), concerning the use of campaign
25 funds as personal income and created by Initiated Act 1 of 1996, is amended
26 to read as follows:

27 (g)(1) A candidate shall not take any campaign funds as personal
28 income. This subdivision (g)(1) shall not apply to campaign funds that were:

29 (A) Accumulated prior to the passage of Initiated Act 1 of
30 1990; or

31 (B) Disposed of prior to July 28, 1995.

32 (2) A candidate shall not take any campaign funds as income for
33 his or her spouse or dependent children, except that:

34 (A) This subsection shall not prohibit a candidate who has
35 an opponent from employing his or her spouse or dependent children as
36 campaign workers; and except that



1 (B) Any candidate who has an opponent and who, during the
 2 campaign and before the election, takes a leave of absence without pay from
 3 his or her primary place of employment shall be authorized to take campaign
 4 funds during the campaign and before the election as personal income up to
 5 the amount of employment income lost as a result of such leave of absence.

6 (3) A candidate who takes campaign funds during the campaign and
 7 before the election under a leave of absence pursuant to the provisions of
 8 subdivision (g)(2) of this section may elect to treat the campaign funds as a
 9 loan from the campaign fund to the candidate to be paid back to the campaign
 10 fund by the candidate.

11 (4)(A) For purposes of this subsection, a candidate who uses
 12 campaign funds to fulfill any commitment, obligation, or expense that would
 13 exist regardless of the candidate's campaign shall be deemed to have taken
 14 campaign funds as personal income.

15 (B) The use of campaign funds to purchase a cake or other
 16 perishable item of food at a fund-raising event held by a volunteer agency,
 17 as defined in § 16-6-103, shall not be considered a taking of campaign funds
 18 as personal income.

19 (C)(i) The use of campaign funds by a candidate to make a
 20 donation to another candidate's campaign shall not be considered a taking of
 21 campaign funds as personal income.

22 (ii) A donation made pursuant to subdivision
 23 (g)(4)(C)(i) of this section shall not exceed the limits established in this
 24 section.

25
 26 SECTION 3. Arkansas Code Title 7, Chapter 6, Subchapter 2 is amended
 27 to add an additional section to read as follows:

28 7-6-227. Contributions by corporations sharing the same majority
 29 owner.

30 (a) Two (2) or more corporations sharing the same majority owner shall
 31 be considered a single person for the purpose of making a contribution or
 32 contributions to a candidate for each election, whether opposed or unopposed.

33 (b)(1) A candidate shall not knowingly accept a contribution that
 34 violates subsection (a) of this section.

35 (2) If a candidate determines that he or she unknowingly
 36 accepted a contribution that violated subsection (a) of this section, the

1 candidate shall return the contribution to the corporation within five (5)
2 days of the determination.

3
4 SECTION 4. Arkansas Code § 19-11-705 is amended to read as follows:
5 19-11-705. Employee conflict of interest.

6 (a)~~(1)~~ Conflict of Interest.

7 (1)(A) It shall be a breach of ethical standards for any
8 employee or a member of the employee's immediate family to have a financial
9 interest in a contract with the state agency employing the employee or a
10 nonprofit organization created for the specific benefit of the state agency
11 employing the employee, unless the contract:

12 (i) Is approved as provided in § 19-11-717 or § 19-
13 11-718; or

14 (ii) Obtained under competitive sealed bids under §
15 19-11-229 or competitive sealed proposals under § 19-11-230.

16 (B) An employee awarded a contract pursuant to competitive
17 sealed bids or competitive sealed proposals pertaining to contracts entered
18 into during the previous calendar year shall report the contract to the
19 Director of the Arkansas Ethics Commission by January 31 of each year.

20 (2) It shall be a breach of ethical standards for any employee
21 to participate directly or indirectly in any proceeding or application, in
22 any request for ruling or other determination, in any claim or controversy,
23 or in any other particular matter pertaining to any contract or subcontract,
24 and any solicitation or proposal therefor with a state agency, in which to
25 the employee's knowledge:

26 (A) The employee or any member of the employee's immediate
27 family has a financial interest;

28 (B) A business or organization has a financial interest,
29 in which business or organization the employee, or any member of the
30 employee's immediate family, has a financial interest; or

31 (C) Any other person, business, or organization with whom
32 the employee or any member of the employee's immediate family is negotiating
33 or has an arrangement concerning prospective employment is a party.

34 ~~(2)~~(3) "Direct or indirect participation" shall include, but not
35 be limited to, involvement through decision, approval, disapproval,
36 recommendation, preparation of any part of a procurement request, influencing

1 the content of any specification or procurement standard, rendering of
 2 advice, investigation, auditing, or in any other advisory capacity.

3 (b) Financial Interest in a Blind Trust. Where an employee or any
 4 member of the employee's immediate family holds a financial interest in a
 5 blind trust, the employee shall not be deemed to have a conflict of interest
 6 with regard to matters pertaining to that financial interest if disclosure of
 7 the existence of the blind trust has been made to the ~~Director of the~~
 8 ~~Department of Finance and Administration~~ director.

9 (c) Discovery of Conflict of Interest, Disqualification, and Waiver.
 10 Upon discovery of a possible conflict of interest, an employee shall promptly
 11 file a written statement of disqualification with the ~~Director of the~~
 12 ~~Department of Finance and Administration~~ director and shall withdraw from
 13 further participation in the transaction involved. The employee may, at the
 14 same time, apply to the director in accordance with § 19-11-715(b) for an
 15 advisory opinion as to what further application, if any, the employee may
 16 have in the transaction, or for a waiver in accordance with § 19-11-715(c).

17
 18 SECTION 5. Arkansas Code § 19-11-706 is amended to read as follows:
 19 19-11-706. Employee disclosure requirements.

20 (a) Disclosure of Benefit Received from Contract. Any employee who
 21 has or obtains any benefit from any state contract with a business in which
 22 the employee has a financial interest shall report such benefit to the
 23 ~~Director of the Department of Finance and Administration~~ Director of the
 24 Arkansas Ethics Commission by January 31 for transactions occurring in or
 25 contracts entered into during the previous calendar year. However, this
 26 section shall not apply to a contract with a business where the employee's
 27 interest in the business has been placed in a disclosed blind trust.

28 (b) Failure to Disclosure Benefit Received. Any employee who knows or
 29 should have known of such benefit and fails to report the benefit to the
 30 ~~director~~ Arkansas Ethics Commission is in breach of the ethical standards of
 31 this section.

32
 33 SECTION 6. Arkansas Code § 19-11-712(b), pertaining to the civil and
 34 administrative remedies against employees who breach ethical standards, is
 35 amended to read as follows:

36 (b) Supplemental Remedies. In addition to existing remedies for

1 breach of the ethical standards of this subchapter, or ~~regulations~~ rules
 2 promulgated thereunder, the ~~Director of the Department of Finance and~~
 3 ~~Administration~~ Arkansas Ethics Commission may ~~impose~~ recommend any one (1) or
 4 more of the following:

- 5 (1) Oral or written warnings or reprimands;
- 6 (2) Forfeiture of pay without suspension;
- 7 (3) Suspension with or without pay for specified periods of
 8 time; and
- 9 (4) Termination of employment.

10
 11 SECTION 7. Arkansas Code § 19-11-713(b), pertaining to the civil and
 12 administrative remedies against nonemployees who breach ethical standards, is
 13 amended to read as follows:

14 (b) Supplemental Remedies. In addition to the existing remedies for
 15 breach of the ethical standards of this subchapter, or ~~regulations~~ rules
 16 promulgated thereunder, the ~~Director of the Department of Finance and~~
 17 ~~Administration~~ Arkansas Ethics Commission may ~~impose~~ recommend any one (1) or
 18 more of the following:

- 19 (1) Oral or written warnings or reprimands;
- 20 (2) Termination of transactions; and
- 21 (3) Suspension or debarment from being a contractor or
 22 subcontractor under state contracts.

23
 24 SECTION 8. Arkansas Code § 19-11-715 is amended to read as follows:

25 19-11-715. ~~Duties of Director of Department of Finance and~~
 26 ~~Administration~~ Rules and advisory opinion by the Arkansas Ethics Commission.

27 (a) ~~Regulations~~ Rules. The ~~Director of the Department of Finance and~~
 28 ~~Administration~~ Arkansas Ethics Commission shall promulgate ~~regulations~~ rules
 29 to implement this subchapter and shall do so in accordance with this
 30 subchapter and the applicable provisions of the Arkansas Administrative
 31 Procedure Act, § 25-15-201 et seq.

32 (b) Advisory Opinions. On written request of state agencies,
 33 employees, or contractors and in consultation with the Attorney General, the
 34 ~~director~~ Arkansas Ethics Commission may render written advisory opinions
 35 regarding the appropriateness of the course of conduct to be followed in
 36 proposed transactions. Such requests and advisory opinions may be duly

1 published in the manner in which ~~regulations~~ rules of this state are
 2 published. ~~Compliance with the requirements of a duly promulgated advisory~~
 3 ~~opinion of the director shall be deemed to constitute compliance with the~~
 4 ~~ethical standards of this subchapter.~~

5 ~~(e) Waiver. On written request of an employee, the director may grant~~
 6 ~~an employee a written waiver from the application of § 19-11-705, which~~
 7 ~~refers to employee conflict of interest, and grant permission to proceed with~~
 8 ~~the transaction to such extent and upon such terms and conditions as may be~~
 9 ~~specified. Such waiver and permission may be granted when the interests of~~
 10 ~~the state so require or when the ethical conflict is insubstantial or remote.~~

11
 12 SECTION 9. Arkansas Code § 19-11-716 is amended to read as follows:

13 19-11-716. Participation in business incubators - ~~Regulations~~ Rules
 14 and guidelines.

15 (a) The provisions of this subchapter shall not be applicable to
 16 faculty or staff of state-supported institutions of higher education
 17 participating in business incubators within this state if the faculty or
 18 staff have followed the rules promulgated by the governing board of the
 19 institution of higher education.

20 (b)(1) ~~The Director of the Department of Finance and Administration~~
 21 Arkansas Ethics Commission shall promulgate rules ~~and regulations~~ pursuant to
 22 the procedure for adoption as provided under the Arkansas Administrative
 23 Procedure Act, § 25-15-201 et seq., and under § 10-3-309 to implement a
 24 program allowing admittance to business incubators by faculty or staff of
 25 state-supported institutions of higher education or admittance by companies
 26 in which faculty or staff may hold an ownership interest.

27 (2) The program may include guidelines setting forth full
 28 disclosure requirements, any limitations on ownership interests, maximum
 29 income amounts to be received, annual reporting to the General Assembly,
 30 mandatory levels of student participation and such other reasonable
 31 restrictions as are necessary to maintain the public trust while encouraging
 32 the facilitation of commercialization of university-generated technology or
 33 discovery.

34 (c) The institution of higher education shall provide information
 35 regarding the transactions described in subdivision (b)(1) of this section
 36 and ownership interests of employees or board members in business incubators

1 pertaining to the prior fiscal year by August 1 of each year to the Arkansas
 2 Ethics Commission, the Legislative Council, and the Legislative Joint
 3 Auditing Committee.

4 (d) Failure to follow the provisions of this section shall be a
 5 violation of the provisions of this chapter.

6
 7 SECTION 10. Arkansas Code § 19-11-717 is amended to read as follows:

8 19-11-717. Institutions of higher education Transactions with
 9 institutions of higher education involving patents, copyrights, or other
 10 proprietary information.

11 ~~(a) Notwithstanding anything in this subchapter to the contrary, if,~~
 12 ~~in either of the events in subdivisions (a)(1) and (2) of this section, the~~
 13 ~~contract or subcontract, solicitation, or proposal involves patents,~~
 14 ~~copyrights, or other proprietary information in which an institution of~~
 15 ~~higher education and an employee or former employee of the institution have~~
 16 ~~rights or interests, provided that any contract or subcontract shall be~~
 17 ~~approved by the governing board of the institution in a public meeting, it~~
 18 ~~shall not be a violation of § 19-11-709, a conflict of interest, or a breach~~
 19 ~~of ethical standards for:~~

20 ~~(1) The institution to contract with a person or firm in which~~
 21 ~~an employee or former employee of the institution has a financial interest;~~
 22 ~~or~~

23 ~~(2) The employee or former employee of the institution to~~
 24 ~~participate directly or indirectly in any matter pertaining to any contract~~
 25 ~~or subcontract or any solicitation or proposal for any contract or~~
 26 ~~subcontract between the institution and a person or firm in which the~~
 27 ~~employee or former employee has a financial interest. If a contract or~~
 28 subcontract, solicitation, or proposal involves patents, copyrights, or other
 29 proprietary information in which an institution of higher education and an
 30 employee or former employee have rights or interests, an institution may
 31 enter the contract, except that any contract or subcontract shall be approved
 32 by the governing board of the institution in a public meeting.

33 (b)(1) Nothing in the Arkansas Procurement Law, § 19-11-201 et seq.,
 34 or in § 19-11-1001 et seq., shall prevent a state agency from contracting for
 35 goods or services, including professional or consultant services, with an
 36 organization that employs or contracts with a regular, full-time, or part-

1 time employee of a public institution of higher education in situations in
 2 which the employee of the public institution of higher education will provide
 3 some or all of the goods or services under the contract.

4 (2) Any organization or state agency entering into a contract
 5 described under this subsection shall comply with the provisions of the
 6 Arkansas Procurement Law, § 19-11-201 et seq., and § 19-11-1001 et seq., to
 7 the extent that the provisions do not conflict with this section.

8 (3) An employee of a public institution of higher education who
 9 provides goods or services to a state agency through his or her association
 10 with an organization that has a contract with the state agency to provide
 11 goods or services shall obtain the requisite approvals under the policies of
 12 the public institution of higher education by which he or she is employed and
 13 comply with all provisions of this subchapter.

14 (c) The Arkansas Ethics Commission may promulgate rules regarding
 15 contracts as allowed in this section.

16 (d) The institution of higher education shall provide information
 17 regarding these transactions pertaining to the prior fiscal year by August 1
 18 of each year to the Arkansas Ethics Commission, the Legislative Council, and
 19 the Legislative Joint Auditing Committee.

20 (e) Failure to follow the provisions of this section shall be a
 21 violation of the provisions of this chapter.

22
 23 SECTION 11. Arkansas Code Title 19, Chapter 11, Subchapter 7 is
 24 amended to add an additional section to read as follows:

25 19-11-718. Issuance of waivers by the Arkansas Ethics Commission.

26 (a) A state agency or a nonprofit organization created for the
 27 specific benefit of a state agency may file a request with the Director of
 28 the Arkansas Ethics Commission to review a contract between the state agency
 29 or nonprofit organization and an employee of that state agency or nonprofit
 30 organization and to request a waiver for the contract from the provisions of
 31 this subchapter.

32 (b) The request shall fully disclose all pertinent terms and
 33 conditions of the contract and shall state the unusual circumstances
 34 necessitating and justifying the contract.

35 (c)(1) The Director of the Arkansas Ethics Commission shall in writing
 36 approve, disapprove, or request additional information necessary to make a

1 proper determination pertaining to the request within ten (10) working days
2 of receipt of the request.

3 (2)(A) If additional information is requested, the director
4 shall have an additional ten (10) working days from receipt of the
5 information to approve or disapprove the contract.

6 (B) If the director fails to approve or disapprove the
7 contract within the ten (10) working day periods provided in this subdivision
8 (c)(2), the contract shall be deemed denied.

9 (3) No contract subject to review by the director shall be valid
10 or enforceable until an approval letter has been issued by the director or if
11 the director fails to respond within the time periods specified in this
12 section.

13 (d) After examining the submitted information and additional requested
14 testimony or data, the director may approve the waiver of the contract if in
15 the opinion of the director:

16 (1) The circumstances are such that fair competitive access to
17 governmental procurement has been obtained;

18 (2) The contract is in the best interest of the state;

19 (3) The state agency has followed proper procedures in bidding
20 or awarding the contract; and

21 (4) It appears that an employee has not used his or her position
22 to obtain the contract.

23 (e)(1) All decisions of the director may be appealed to the Arkansas
24 Ethics Commission for review. All appeals shall be made in writing to the
25 Arkansas Ethics Commission within thirty (30) days of disapproval by the
26 director.

27 (2) Upon receipt of an appeal, the Arkansas Ethics Commission
28 shall decide the appeal at its next commission meeting unless additional
29 information or witnesses are required or a delay is agreed upon by the person
30 making the appeal.

31 (f) All decisions of the director or the Arkansas Ethics Commission
32 regarding the approval, denial, or denial under subdivision (d)(2)(B) of this
33 section shall be reported to the state agency or nonprofit organization, the
34 Chief Fiscal Officer of the State, the Legislative Council, and the
35 Legislative Joint Auditing Committee on a quarterly basis.

36 (g) No contract subject to review and approval by the director or the

1 Arkansas Ethics Commission shall be valid or enforceable until an approval
2 letter has been issued by the director or the Arkansas Ethics Commission.

3 (h) The Arkansas Ethics Commission shall adopt appropriate rules
4 regarding the administration of the procedures contained in this subsection.

5 (i) Any person knowingly providing or furnishing false information or
6 knowingly not fully disclosing relevant information necessary for a proper
7 determination by the director or the Arkansas Ethics Commission is guilty of
8 violating the provisions of this subchapter.

9
10 SECTION 12. Arkansas Code § 19-11-1004(c), pertaining to restrictions
11 on contracts, is amended to read as follows:

12 (c)(1) Except as provided in this subsection, no state agency shall
13 engage in a professional services or consultant services contract with a
14 part-time or full-time employee who occupies a position authorized to be paid
15 from extra help or regular salaries for a state agency, except as provided in
16 § 21-1-403.

17 (2) However, this subsection does not prohibit an institution of
18 higher education from executing a contract with a state agency under which
19 professional or consulting services will be performed by employees of the
20 institution of higher education.

21 (3) An employee of an institution of higher education performing
22 professional or consulting services to a state agency may receive additional
23 compensation if:

24 (A) The institution of higher education requests and
25 receives written approval from the Office of Personnel Management of the
26 Department of Finance and Administration concerning the amount of additional
27 compensation to be paid to any employee; and

28 (B) The total salary payments received from the employee's
29 regular salaried position and amounts received for services performed under a
30 professional services contract do not exceed one hundred twenty-five percent
31 (125%) of the maximum annual salary authorized by law for the employee's
32 position with the institution of higher education.

33 (4) Any state agency engaging in a professional services or
34 consultant services contract as provided in subdivisions (c)(2) or (c)(3) of
35 this section shall provide a listing of such contracts for the previous year,
36 including, but not limited to, the amounts paid and the person or persons

1 performing the services, to the Legislative Council and the Legislative Joint
 2 Auditing Committee by January 31 of each year.

3
 4 SECTION 13. Arkansas Code Title 19, Chapter 11, Subchapter 7 is
 5 amended to add an additional section to read as follows:

6 19-11-718. Enforcement.

7 The Arkansas Ethics Commission shall have the authority to:

8 (1) Issue advisory opinions and guidelines on the requirements
 9 of § 19-11-701 et seq.;

10 (2) Investigate potential violations of § 19-11-701 et seq.;

11 (3) Impose civil and administrative remedies as provided in §§
 12 19-11-712 and 19-11-713 upon the finding of one (1) or more violations of §
 13 19-11-701 et seq; and

14 (4) Promulgate reasonable rules to implement and administer the
 15 requirements of § 19-11-701 et seq.

16
 17 SECTION 14. Arkansas Code § 21-8-402(5), concerning the definition of
 18 "gift" and resulting from Initiated Act 1 of 1988, is amended to read as
 19 follows:

20 (5)(A) "Gift" means any payment, entertainment, advance,
 21 services, or anything of value, unless consideration of equal or greater
 22 value has been given therefor.

23 (B) The term "gift" does not include:

24 (i)(a) Informational material such as books,
 25 reports, pamphlets, calendars, or periodicals informing a public servant
 26 regarding his or her official duties.

27 (b) Payments for travel or reimbursement for any expenses are not
 28 informational material;

29 (ii) The giving or receiving of food, lodging, or
 30 travel which bears a relationship to the public servant's office and when
 31 appearing in an official capacity;

32 (iii) Gifts which are not used and which, within
 33 thirty (30) days after receipt, are returned to the donor;

34 (iv) Gifts from an individual's spouse, child,
 35 parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-
 36 law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the

1 spouse of any of these persons, unless the person is acting as an agent or
 2 intermediary for any person not covered by this subdivision (5)(B)(iv);

3 (v) Campaign contributions;

4 (vi) Any devise or inheritance;

5 (vii)(a) Anything with a value of one hundred
 6 dollars (\$100) or less.

7 (b) The value of an item shall be considered to be less than one
 8 hundred dollars (\$100) if the public servant reimburses the person from whom
 9 the item was received any amount over one hundred dollars (\$100) and the
 10 reimbursement occurs within ten (10) days from the date the item was
 11 received;

12 (viii) Wedding presents and engagement gifts;

13 (ix) A monetary or other award presented to an
 14 employee of a public school district, the Arkansas School for the Blind, the
 15 Arkansas School for the Deaf, the Arkansas School for Mathematics, Science,
 16 and the Arts, a university, a college, a technical college, a technical
 17 institute, a comprehensive life-long learning center, or a community college
 18 in recognition of the employee's contribution to education;

19 (x) Tickets to charitable fund-raising events held
 20 within this state by a nonprofit organization which is exempt from taxation
 21 under § 501(c)(3) of the Internal Revenue Code;

22 (xi) A personalized award, plaque, or trophy with a
 23 value of one hundred and fifty dollars (\$150) or less;

24 (xii) An item which appointed or elected members of
 25 a specific governmental body or employees of an appointed or elected
 26 governmental official purchase with their own personal funds and present to a
 27 fellow member of that governmental body or official in recognition of public
 28 service;

29 (xiii) Food or beverages provided at a conference-
 30 scheduled event that is part of the program of the conference; and

31 (xiv) Food or beverages provided in return for
 32 participation in a bona fide panel, seminar, or speaking engagement at which
 33 the audience is a civic, social, or cultural organization or group; ~~and.~~

34 ~~(xv)(a) A monetary or other award publicly presented~~
 35 ~~to an employee of state government in recognition of his or her contributions~~
 36 ~~to the community and State of Arkansas when the presentation is made by the~~

~~employee's supervisors or peers, individually or through a nonprofit organization which is exempt from taxation under § 501(c) of the Internal Revenue Code, and the employee's receipt of the award would not result in or create the appearance of the employee using his or her position for private gain, giving preferential treatment to any person, or losing independence or impartiality.~~

~~(b) The exception in subdivision (5)(B)(xv)(a) of this section shall not apply to an award presented to an employee of state government by a person having economic interests which may be affected by the performance or nonperformance of the employee's duties or responsibilities.~~

SECTION 15. Arkansas Code § 21-8-603 is amended to read as follows:

21-8-603. Activity reports - Inspection.

(a)(1) Within fifteen (15) days after the end of each calendar quarter, each registered lobbyist shall file a complete and detailed statement, signed and sworn to, concerning his or her lobbying activities during the previous calendar quarter.

(2)(A) A registered lobbyist who lobbies members of the General Assembly shall file a monthly lobbyist activity report, signed and sworn to, for any month in which the General Assembly is in session. A quarterly report is not required if the registered lobbyist has filed monthly lobbyist activity reports for each month of the calendar quarter.

(B) The monthly lobbyist activity report shall be filed within ten (10) days after the end of each month.

(b) Lobbyist activity reports shall be open to public inspection.

(c) When filing any report required by this section, a lobbyist shall send a copy of the report to any public servant named in the report as receiving:

(1) Anything of pecuniary value given to the public servant or on behalf of the public servant;

(2) Payment for food, lodging, or travel; or

(3) Any other item paid or given to a public servant or on behalf of the public servant, except for campaign contributions, unless consideration of equal or greater value has been given.

SECTION 16. Arkansas Code § 21-8-604 is amended to read as follows:

21-8-604. Activity reports - Required contents.

(a) The lobbyist activity reports shall be signed and sworn to by the registered lobbyist.

(b) The reports shall contain:

(1)(A) The total of all expenditures made or incurred by the registered lobbyist or on behalf of the registered lobbyist by his or her employer or any officer, employee, or agent during the preceding period.

(B) These totals shall be itemized according to financial category and employers and clients, including food and refreshments, entertainment, living accommodations, advertising, printing, postage, travel, telephone, and other expenses or services.

(C) Registered lobbyists shall not be required to report office expenses other than office expenses specifically required to be reported under this section.

(D) Registered lobbyists are not required to report unreimbursed personal living and travel expenses not incurred directly for lobbying;

(2)(A) An itemized listing of ~~each~~:

(i) ~~Gift~~ Anything of pecuniary value given to a public servant or on behalf of the public servant;

(ii) Payment for food, lodging, or travel ~~in excess of forty dollars (\$40.00)~~ on behalf of a public servant; and

(iii) Any other item paid or given to a public servant or on behalf of the public servant, except for campaign contributions, ~~having a value in excess of forty dollars (\$40.00)~~ unless consideration of equal or greater value has been given therefor. If the person receiving or to be benefiting by the item is a public employee, the person's governmental body shall be identified.

(B) Each item shall be identified by date, amount paid or value, and the name of the individual receiving or to be benefited by the item, and a description of the item.

(C) In the case of special events, including parties, dinners, athletic events, entertainment, and other functions, expenses need not be allocated by individuals. The information reported for a special event shall include:

(i) The date of the event;

- 1 (ii) The name of the event;
- 2 (iii) The location of the event;
- 3 (iv) The name of the governmental body or group of
- 4 public servants invited;
- 5 (v) The exact amount paid by the lobbyist toward the
- 6 total expenditure; and
- 7 (vi) The name of the lobbyist's employer or client
- 8 making the expenditure and the names of all other lobbyists sharing in the
- 9 cost of the payment;

10 (3) A detailed statement of any money loaned or promised or line
 11 of credit established to a public servant or to anyone on behalf of the
 12 public servant ~~in excess of twenty five dollars (\$25.00) per individual.~~
 13 Money loaned or a line of credit established that is issued in the ordinary
 14 course of business by a financial institution or a person who regularly and
 15 customarily extends credit shall not be required to be disclosed; and

16 (4) A statement detailing the direct business association or
 17 partnership with any public servant before whom the lobbyist may engage in
 18 lobbying.

19 (c) Whenever the name of a public servant will appear in an activity
 20 report of a lobbyist, the lobbyist shall notify the public servant and
 21 provide him or her the information being reported. The lobbyist shall mail or
 22 deliver the notification to the public servant not later than seven (7)
 23 working days prior to the date for filing the activity report.

24
 25 SECTION 17. Arkansas Code § 21-8-1001 is amended to read as follows:
 26 21-8-1001. Conflicts of interest.

27 (a)(1) No member of a state board or commission or board member of an
 28 entity receiving state funds shall participate in, vote on, influence, or
 29 attempt to influence an official decision if the member has a pecuniary
 30 interest in the matter under consideration by the board, commission, or
 31 entity.

32 (2) A member of a state board or commission or board member of
 33 an entity receiving state funds may participate in, vote on, influence, or
 34 attempt to influence an official decision if the only pecuniary interest that
 35 may accrue to the member is incidental to his or her position or accrues to
 36 him or her as a member of a profession, occupation, or large class to no

1 greater extent than the pecuniary interest could reasonably be foreseen to
2 accrue to all other members of the profession, occupation, or large class.

3 (b) No member of a state board or commission or board member of an
4 entity receiving state funds shall participate in any discussion or vote on a
5 rule or regulation that exclusively benefits the member.

6 (c)(1) Nothing in this chapter shall prohibit a board or commission
7 member from contracting with the board or commission on which he or she
8 serves if the contracts are obtained through competitive sealed bids under §
9 19-11-229 or competitive sealed proposals under § 19-11-230.

10 (2) A board or commission member awarded a contract pursuant to
11 competitive sealed bids or competitive sealed proposals shall report the
12 contact to the Director of the Arkansas Ethics Commission by January 31 of
13 each year pertaining to contracts entered into during the previous calendar
14 year.

15 (d)(1) Except for contracts covered under subdivision (c)(1) of this
16 section, before a contract or transaction with a member having a pecuniary
17 interest as allowed in this section is deemed valid and enforceable, the
18 state entity shall disclose to the director the nature and amount of the
19 contract or transaction.

20 (2)(A) Upon receipt of the disclosure, the director has ten (10)
21 working days to notify the state entity that additional information is
22 needed, or to inform the state entity that the contract or transaction is
23 disapproved.

24 (B) If additional information is requested, the director
25 has ten (10) additional working days from the receipt of the information to
26 inform the state entity that the contract or transactions are disapproved.

27 (C) If the state entity does not receive written
28 disapproval from the director within ten (10) working days provided in this
29 subdivision (d)(2), the contract or transaction is deemed approved by the
30 director.

31 (3) If the director disapproves the contract or transaction, the
32 state entity may appeal the decision to the Arkansas Ethics Commission.

33 (4) The director may disapprove the contract or transaction if
34 it appears that:

35 (A) The circumstances are such that fair competitive
36 access to governmental procurement has not been obtained;

1 (B) There is no rational basis for the award of the
 2 contract to the member;

3 (C) The state entity has not followed proper procedures in
 4 bidding or awarding the contract; or

5 (D) It appears that a board or commission member has used
 6 his or her position to obtain the contract.

7 (5)(A) If the director disapproves the contract or transaction,
 8 the state entity may appeal the decision to the Arkansas Ethics Commission.

9 (B) All appeals shall be made in writing to the Arkansas
 10 Ethics Commission within thirty (30) days of disapproval by the director.

11 (C) Upon receipt of an appeal, the Arkansas Ethics
 12 Commission shall decide the appeal at its next commission meeting unless
 13 additional information or witnesses are required or a delay is agreed upon by
 14 the state agency making the appeal.

15 (e) On a quarterly basis, the director shall notify the Chief Fiscal
 16 Officer of the State, the Legislative Council, and the Legislative Joint
 17 Auditing Committee of all contracts or transactions disclosed to the director
 18 for review pursuant to the terms of this section.

19
 20 SECTION 18. Arkansas Code 21-8-1004 is amended to read as follows:

21 § 21-8-1004. Penalties – Investigation by Arkansas Ethics Commission.

22 (a) In addition to any penalty contained in any other provision of
 23 law, including without limitation § 19-11-702, any member of a state board or
 24 commission or board member of an entity receiving state funds who knowingly
 25 and intentionally violates any of the provisions of this subchapter may be
 26 removed from office by the appointing authority.

27 (b) The Arkansas Ethics Commission may investigate complaints alleging
 28 a violation of this subchapter and may make recommendations to the appointing
 29 authority.

30
 31 SECTION 19. Arkansas Code Title 21, Chapter 8 is amended to add an
 32 additional subchapter to read as follows:

33 21-8-1101. Definitions.

34 As used in this subchapter:

35 (1) “Board member” means a member of any state board, bureau,
 36 commission, or institution of the State of Arkansas;

1 (2) “Directly or indirectly interested” means the receipt of
 2 compensation or other benefits by a:

3 (A) Board member;

4 (B) Family member; or

5 (C) Business or other entity in which the board member or
 6 family member has a financial interest;

7 (3) “Family” or “family member” means:

8 (A) An individual’s spouse;

9 (B) Children of the individual or children of the
 10 individual’s spouse;

11 (C) The spouse of a child of the individual or the spouse
 12 of a child or the individual’s spouse;

13 (D) Parents of the individual or parents of the
 14 individual’s spouse;

15 (E) Brothers and sisters of the individual or brothers and
 16 sisters of the individual’s spouse;

17 (F) Anyone living or residing in the same residence or
 18 household with the individual or in the same residence or household with the
 19 individual’s spouse; or

20 (G) Anyone acting or serving as an agent of the individual
 21 or as an agent of the individual’s spouse;

22 (4) “Financial interest” means:

23 (A) Ownership of more than a five percent (5%) interest in
 24 a business or other entity;

25 (B) Holding a position as an officer, director, trustee,
 26 partner, or other top level management of a business or other entity; or

27 (C) Classification as an employee, agent, independent
 28 contractor, or any position where the individual’s compensation is based, in
 29 whole or in part, on transactions with the public educational entity;

30 (5) “Institution” means any state-supported institution of
 31 higher education of the State of Arkansas or its related foundations or other
 32 related entities;

33 (6) “Other related entity” means:

34 (A) Any foundation or other entity established for the
 35 sole benefit of the public agency or institution;

36 (B) An entity owned by the public agency or institution or

1 one of its foundations; or

2 (C) An entity receiving grants or aid from or through the
 3 public agency or institution;

4 (7) "Public agency" means any state agency, bureau, commission,
 5 institution, board, or constitutional agency of the State of Arkansas; and

6 (8) "Transaction" means a contract, exchange, promise, financial
 7 relationship, or any other agreement.

8
 9 21-8-1102. Filing of disclosure of related party transactions.

10 (a) Between January 1 and January 31 of each year, a board member
 11 shall file a disclosure of related party transactions with the Secretary of
 12 State.

13 (b) A board member shall disclose any transaction with another board
 14 member, the public agency, or an entity served by the public agency if the
 15 board member directly or indirectly receives a benefit in the amount of five
 16 thousand dollars (\$5,000) or more:

17 (1) In any calendar year;

18 (2) In a twelve (12) month period; or

19 (3) At a predetermined point in the future.

20 (c) Upon the initial filing of the disclosure of related party
 21 transactions, a board member shall disclose any transactions with another
 22 board member or the public agency or other related entity where the board
 23 member is directly or indirectly receiving a benefit in the amount of five
 24 thousand dollars (\$5,000) in any of the three (3) previous calendar years.

25 (d) Nothing in this section shall require board members to disclose
 26 the amount of donations to public agencies or their related entities.

27 (e)(1) The Secretary of State shall develop forms to assure compliance
 28 with this subchapter.

29 (2) The content of the forms shall include without limitation
 30 the nature and amount of the transactions and the names of the parties to the
 31 transactions.

32 (f) The filing of disclosure of related party transactions shall also
 33 include transactions by board members with public agencies or other related
 34 entity involving patents, copyrights, or other proprietary information
 35 belonging in whole or in part to:

36 (1) The public agency;

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(2) An entity served by the public agency; or

(3) An entity with which the public agency or an entity served
by the public agency is actively involved in research.