

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

As Engrossed: H3/5/07  
**A Bill**

HOUSE BILL 2384

5 By: Representatives Petrus, Thyer  
6  
7

8 **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

15 **Subtitle**

16 THE SUNSHINE IN GOVERNMENT ACT.  
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(a) and (b), concerning campaign*  
25 *contribution limitations and created by Initiated Act 1 of 1990 and Initiated*  
26 *Act 1 of 1996, is amended to read as follows:*

27 *7-6-203. Contributions - Limitations - Acceptance or solicitation - Use*  
28 *as personal income - Disposition.*

29 *(a)(1)(A) It shall be unlawful for any candidate for any public*  
30 *office, except the office of Governor, Lieutenant Governor, Secretary of*  
31 *State, Treasurer of State, Auditor of State, Attorney General, and*  
32 *Commissioner of State Lands, or for any person acting on the candidate's*  
33 *behalf to accept campaign contributions in excess of ~~two thousand dollars~~*  
34 *~~(\$2,000) one thousand dollars (\$1,000) per election from any person.~~*

35 *(B) A candidate may accept a campaign contribution or*  
36 *contributions up to the maximum amount from any prospective contributor for*



1 each election, whether opposed or unopposed.

2 (2)(A) It shall be unlawful for any candidate for the office of  
3 Governor, Lieutenant Governor, Secretary of State, Treasurer of State,  
4 Auditor of State, Attorney General, and Commissioner of State Lands, or for  
5 any person acting on the candidate's behalf to accept campaign contributions  
6 in excess of ~~two thousand dollars (\$2,000)~~ one thousand dollars (\$1,000) per  
7 election from any person.

8 (B) A candidate may accept a campaign contribution or  
9 contributions up to the maximum amount from any prospective contributor for  
10 each election, whether opposed or unopposed.

11 (b)(1)(A) It shall be unlawful for any person to make a contribution  
12 to a candidate for any public office, except the office of Governor,  
13 Lieutenant Governor, Secretary of State, Treasurer of State, Auditor of  
14 State, Attorney General, and Commissioner of State Lands, or to any person  
15 acting on the candidate's behalf, which in the aggregate exceeds ~~two thousand~~  
16 ~~dollars (\$2,000)~~ one thousand dollars (\$1,000) per election.

17 (B) A person may make a contribution or contributions up  
18 to the maximum amount to a candidate for each election, whether opposed or  
19 unopposed.

20 (2)(A) It shall be unlawful for any person to make a  
21 contribution to a candidate for the office of Governor, Lieutenant Governor,  
22 Secretary of State, Treasurer of State, Auditor of State, Attorney General,  
23 and Commissioner of State Lands, or to any person acting on the candidate's  
24 behalf, which in the aggregate exceeds ~~two thousand dollars (\$2,000)~~ one  
25 thousand dollars (\$1,000) per election.

26 (B) A person may make a contribution or contributions up  
27 to the maximum amount to a candidate for each election, whether opposed or  
28 unopposed.

29

30 SECTION 3. Arkansas Code § 7-6-203(g), concerning the use of campaign  
31 funds as personal income and created by Initiated Act 1 of 1996, is amended  
32 to read as follows:

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

35 (A) Accumulated prior to the passage of Initiated Act 1 of  
36 1990; or

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

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

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

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

12 (3) A candidate who takes campaign funds during the campaign and  
13 before the election under a leave of absence pursuant to the provisions of  
14 subdivision (g)(2) of this section may elect to treat the campaign funds as a  
15 loan from the campaign fund to the candidate to be paid back to the campaign  
16 fund by the candidate.

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

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

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

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

31

32 SECTION 4. Arkansas Code Title 7, Chapter 6, Subchapter 2 is amended  
33 to add an additional section to read as follows:

34 7-6-227. Contributions by corporations sharing the same majority  
35 owner.

36 (a) Two (2) or more corporations sharing the same majority owner shall

1 be considered a single person for the purpose of making a contribution or  
2 contributions to a candidate for each election, whether opposed or unopposed.

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

5 (2) If a candidate determines that he or she unknowingly  
6 accepted a contribution that violated subsection (a) of this section, the  
7 candidate shall return the contribution to the corporation within five (5)  
8 days of the determination.

9  
10 SECTION 5. Arkansas Code § 19-11-705 is amended to read as follows:

11 19-11-705. Employee conflict of interest.

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

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

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

20 (ii) Obtained under competitive sealed bids under §  
21 19-11-229 or competitive sealed proposals under § 19-11-230.

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

26 (2) It shall be a breach of ethical standards for any employee  
27 to participate directly or indirectly in any proceeding or application, in  
28 any request for ruling or other determination, in any claim or controversy,  
29 or in any other particular matter pertaining to any contract or subcontract,  
30 and any solicitation or proposal therefor with a state agency, in which to  
31 the employee's knowledge:

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

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

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

4 ~~(2)~~(3) "Direct or indirect participation" shall include, but not  
5 be limited to, involvement through decision, approval, disapproval,  
6 recommendation, preparation of any part of a procurement request, influencing  
7 the content of any specification or procurement standard, rendering of  
8 advice, investigation, auditing, or in any other advisory capacity.

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

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

23  
24 SECTION 6. Arkansas Code § 19-11-706 is amended to read as follows:  
25 19-11-706. Employee disclosure requirements.

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

34 (b) Failure to Disclosure Benefit Received. Any employee who knows or  
35 should have known of such benefit and fails to report the benefit to the  
36 ~~director~~ Arkansas Ethics Commission is in breach of the ethical standards of

1 this section.

2

3 SECTION 7. Arkansas Code § 19-11-712(b), pertaining to the civil and  
4 administrative remedies against employees who breach ethical standards, is  
5 amended to read as follows:

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

- 11 (1) Oral or written warnings or reprimands;  
12 (2) Forfeiture of pay without suspension;  
13 (3) Suspension with or without pay for specified periods of  
14 time; and  
15 (4) Termination of employment.

16

17 SECTION 8. Arkansas Code § 19-11-713(b), pertaining to the civil and  
18 administrative remedies against nonemployees who breach ethical standards, is  
19 amended to read as follows:

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

- 25 (1) Oral or written warnings or reprimands;  
26 (2) Termination of transactions; and  
27 (3) Suspension or debarment from being a contractor or  
28 subcontractor under state contracts.

29

30 SECTION 9. Arkansas Code § 19-11-715 is amended to read as follows:

31 19-11-715. ~~Duties of Director of Department of Finance and~~  
32 ~~Administration~~ Rules and advisory opinion by the Arkansas Ethics Commission.

33 (a) ~~Regulations~~ Rules. The ~~Director of the Department of Finance and~~  
34 ~~Administration~~ Arkansas Ethics Commission shall promulgate ~~regulations~~ rules  
35 to implement this subchapter and shall do so in accordance with this  
36 subchapter and the applicable provisions of the Arkansas Administrative

1 Procedure Act, § 25-15-201 et seq.

2 (b) Advisory Opinions. On written request of state agencies,  
3 employees, or contractors and in consultation with the Attorney General, the  
4 ~~director~~ Arkansas Ethics Commission may render written advisory opinions  
5 regarding the appropriateness of the course of conduct to be followed in  
6 proposed transactions. Such requests and advisory opinions may be duly  
7 published in the manner in which ~~regulations~~ rules of this state are  
8 published. ~~Compliance with the requirements of a duly promulgated advisory~~  
9 ~~opinion of the director shall be deemed to constitute compliance with the~~  
10 ~~ethical standards of this subchapter.~~

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

17  
18 SECTION 10. Arkansas Code § 19-11-716 is amended to read as follows:

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

21 (a) The provisions of this subchapter shall not be applicable to  
22 faculty or staff of state-supported institutions of higher education  
23 participating in business incubators within this state if the faculty or  
24 staff have followed the rules promulgated by the governing board of the  
25 institution of higher education.

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

33 (2) The program may include guidelines setting forth full  
34 disclosure requirements, any limitations on ownership interests, maximum  
35 income amounts to be received, annual reporting to the General Assembly,  
36 mandatory levels of student participation and such other reasonable

1 restrictions as are necessary to maintain the public trust while encouraging  
2 the facilitation of commercialization of university-generated technology or  
3 discovery.

4 (c) The institution of higher education shall provide information  
5 regarding the transactions described in subdivision (b)(1) of this section  
6 and ownership interests of employees or board members in business incubators  
7 pertaining to the prior fiscal year by August 1 of each year to the Arkansas  
8 Ethics Commission, the Legislative Council, and the Legislative Joint  
9 Auditing Committee.

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

12  
13 SECTION 11. Arkansas Code § 19-11-717 is amended to read as follows:

14 19-11-717. ~~Institutions of higher education~~ Transactions with  
15 institutions of higher education involving patents, copyrights, or other  
16 proprietary information.

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

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

29 ~~(2) The employee or former employee of the institution to~~  
30 ~~participate directly or indirectly in any matter pertaining to any contract~~  
31 ~~or subcontract or any solicitation or proposal for any contract or~~  
32 ~~subcontract between the institution and a person or firm in which the~~  
33 ~~employee or former employee has a financial interest. If a contract or~~  
34 subcontract, solicitation, or proposal involves patents, copyrights, or other  
35 proprietary information in which an institution of higher education and an  
36 employee or former employee have rights or interests, an institution may



1 enter the contract, except that any contract or subcontract shall be approved  
2 by the governing board of the institution in a public meeting.

3 (b)(1) Nothing in the Arkansas Procurement Law, § 19-11-201 et seq.,  
4 or in § 19-11-1001 et seq., shall prevent a state agency from contracting for  
5 goods or services, including professional or consultant services, with an  
6 organization that employs or contracts with a regular, full-time, or part-  
7 time employee of a public institution of higher education in situations in  
8 which the employee of the public institution of higher education will provide  
9 some or all of the goods or services under the contract.

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

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

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

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

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

28  
29 SECTION 12. Arkansas Code Title 19, Chapter 11, Subchapter 7 is  
30 amended to add an additional section to read as follows:

31 19-11-718. Issuance of waivers by the Arkansas Ethics Commission.

32 (a) A state agency or a nonprofit organization created for the  
33 specific benefit of a state agency may file a request with the Director of  
34 the Arkansas Ethics Commission to review a contract between the state agency  
35 or nonprofit organization and an employee of that state agency or nonprofit  
36 organization and to request a waiver for the contract from the provisions of

1 this subchapter.

2 (b) The request shall fully disclose all pertinent terms and  
3 conditions of the contract and shall state the unusual circumstances  
4 necessitating and justifying the contract.

5 (c)(1) The Director of the Arkansas Ethics Commission shall in writing  
6 approve, disapprove, or request additional information necessary to make a  
7 proper determination pertaining to the request within ten (10) working days  
8 of receipt of the request.

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

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

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

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

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

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

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

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

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

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

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

6       (g) No contract subject to review and approval by the director or the  
7 Arkansas Ethics Commission shall be valid or enforceable until an approval  
8 letter has been issued by the director or the Arkansas Ethics Commission.

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

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

15  
16       SECTION 13. Arkansas Code § 19-11-1004(c), pertaining to restrictions  
17 on contracts, is amended to read as follows:

18       (c)(1) Except as provided in this subsection, no state agency shall  
19 engage in a professional services or consultant services contract with a  
20 part-time or full-time employee who occupies a position authorized to be paid  
21 from extra help or regular salaries for a state agency, except as provided in  
22 § 21-1-403.

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

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

30               (A) The institution of higher education requests and  
31 receives written approval from the Office of Personnel Management of the  
32 Department of Finance and Administration concerning the amount of additional  
33 compensation to be paid to any employee; and

34               (B) The total salary payments received from the employee's  
35 regular salaried position and amounts received for services performed under a  
36 professional services contract do not exceed one hundred twenty-five percent

1 (125%) of the maximum annual salary authorized by law for the employee's  
2 position with the institution of higher education.

3 (4) Any state agency engaging in a professional services or  
4 consultant services contract as provided in subdivisions (c)(2) or (c)(3) of  
5 this section shall provide a listing of such contracts for the previous year,  
6 including, but not limited to, the amounts paid and the person or persons  
7 performing the services, to the Legislative Council and the Legislative Joint  
8 Auditing Committee by January 31 of each year.

9  
10 SECTION 14. Arkansas Code Title 19, Chapter 11, Subchapter 7 is  
11 amended to add an additional section to read as follows:

12 19-11-718. Enforcement.

13 The Arkansas Ethics Commission shall have the authority to:

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

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

17 (3) Impose civil and administrative remedies as provided in §§  
18 19-11-712 and 19-11-713 upon the finding of one (1) or more violations of §  
19 19-11-701 et seq; and

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

22  
23 SECTION 15. Arkansas Code § 21-8-402(5), concerning the definition of  
24 "gift" and resulting from Initiated Act 1 of 1988, is amended to read as  
25 follows:

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

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

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

33 (b) Payments for travel or reimbursement for any expenses are not  
34 informational material;

35 (ii) The giving or receiving of food, lodging, or  
36 travel which bears a relationship to the public servant's office and when

1 appearing in an official capacity;

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

4 (iv) Gifts from an individual's spouse, child,  
5 parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-  
6 law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the  
7 spouse of any of these persons, unless the person is acting as an agent or  
8 intermediary for any person not covered by this subdivision (5)(B)(iv);

9 (v) Campaign contributions;

10 (vi) Any devise or inheritance;

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

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

18 (viii) Wedding presents and engagement gifts;

19 (ix) A monetary or other award presented to an  
20 employee of a public school district, the Arkansas School for the Blind, the  
21 Arkansas School for the Deaf, the Arkansas School for Mathematics, Science,  
22 and the Arts, a university, a college, a technical college, a technical  
23 institute, a comprehensive life-long learning center, or a community college  
24 in recognition of the employee's contribution to education;

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

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

30 (xii) An item which appointed or elected members of  
31 a specific governmental body or employees of an appointed or elected  
32 governmental official purchase with their own personal funds and present to a  
33 fellow member of that governmental body or official in recognition of public  
34 service;

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

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

4 ~~(xv)(a) A monetary or other award publicly presented~~  
5 ~~to an employee of state government in recognition of his or her contributions~~  
6 ~~to the community and State of Arkansas when the presentation is made by the~~  
7 ~~employee's supervisors or peers, individually or through a nonprofit~~  
8 ~~organization which is exempt from taxation under § 501(c) of the Internal~~  
9 ~~Revenue Code, and the employee's receipt of the award would not result in or~~  
10 ~~create the appearance of the employee using his or her position for private~~  
11 ~~gain, giving preferential treatment to any person, or losing independence or~~  
12 ~~impartiality.~~

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

17  
18 SECTION 16. Arkansas Code § 21-8-603 is amended to read as follows:  
19 21-8-603. Activity reports - Inspection.

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

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

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

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

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

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

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

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

5  
6           SECTION 17. Arkansas Code § 21-8-604 is amended to read as follows:

7           21-8-604. Activity reports - Required contents.

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

10          (b) The reports shall contain:

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

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

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

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

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

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

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

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

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

1 item, and a description of the item.

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

6 (i) The date of the event;

7 (ii) The name of the event;

8 (iii) The location of the event;

9 (iv) The name of the governmental body or group of  
10 public servants invited;

11 (v) The exact amount paid by the lobbyist toward the  
12 total expenditure; and

13 (vi) The name of the lobbyist's employer or client  
14 making the expenditure and the names of all other lobbyists sharing in the  
15 cost of the payment;

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

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

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

30

31 SECTION 18. Arkansas Code § 21-8-1001 is amended to read as follows:

32 21-8-1001. Conflicts of interest.

33 (a)(1) No member of a state board or commission or board member of an  
34 entity receiving state funds shall participate in, vote on, influence, or  
35 attempt to influence an official decision if the member has a pecuniary  
36 interest in the matter under consideration by the board, commission, or



1 entity.

2 (2) A member of a state board or commission or board member of  
3 an entity receiving state funds may participate in, vote on, influence, or  
4 attempt to influence an official decision if the only pecuniary interest that  
5 may accrue to the member is incidental to his or her position or accrues to  
6 him or her as a member of a profession, occupation, or large class to no  
7 greater extent than the pecuniary interest could reasonably be foreseen to  
8 accrue to all other members of the profession, occupation, or large class.

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

12 (c)(1) Nothing in this chapter shall prohibit a board or commission  
13 member from contracting with the board or commission on which he or she  
14 serves if the contracts are obtained through competitive sealed bids under §  
15 19-11-229 or competitive sealed proposals under § 19-11-230.

16 (2) A board or commission member awarded a contract pursuant to  
17 competitive sealed bids or competitive sealed proposals shall report the  
18 contact to the Director of the Arkansas Ethics Commission by January 31 of  
19 each year pertaining to contracts entered into during the previous calendar  
20 year.

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

26 (2)(A) Upon receipt of the disclosure, the director has ten (10)  
27 working days to notify the state entity that additional information is  
28 needed, or to inform the state entity that the contract or transaction is  
29 disapproved.

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

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

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

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

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

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

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

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

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

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

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

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

25  
26           SECTION 19. Arkansas Code 21-8-1004 is amended to read as follows:

27           § 21-8-1004. Penalties – Investigation by Arkansas Ethics Commission.

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

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

36

1 SECTION 20. Arkansas Code Title 21, Chapter 8 is amended to add an  
2 additional subchapter to read as follows:

3 21-8-1101. Definitions.

4 As used in this subchapter:

5 (1) "Board member" means a member of any state board, bureau,  
6 commission, or institution of the State of Arkansas;

7 (2) "Directly or indirectly interested" means the receipt of  
8 compensation or other benefits by a:

9 (A) Board member;

10 (B) Family member; or

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

13 (3) "Family" or "family member" means:

14 (A) An individual's spouse;

15 (B) Children of the individual or children of the  
16 individual's spouse;

17 (C) The spouse of a child of the individual or the spouse  
18 of a child or the individual's spouse;

19 (D) Parents of the individual or parents of the  
20 individual's spouse;

21 (E) Brothers and sisters of the individual or brothers and  
22 sisters of the individual's spouse;

23 (F) Anyone living or residing in the same residence or  
24 household with the individual or in the same residence or household with the  
25 individual's spouse; or

26 (G) Anyone acting or serving as an agent of the individual  
27 or as an agent of the individual's spouse;

28 (4) "Financial interest" means:

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

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

33 (C) Classification as an employee, agent, independent  
34 contractor, or any position where the individual's compensation is based, in  
35 whole or in part, on transactions with the public educational entity;

36 (5) "Institution" means any state-supported institution of

1 higher education of the State of Arkansas or its related foundations or other  
2 related entities;

3 (6) "Other related entity" means:

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

6 (B) An entity owned by the public agency or institution or  
7 one of its foundations; or

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

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

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

14  
15 21-8-1102. Filing of disclosure of related party transactions.

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

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

23 (1) In any calendar year;

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

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

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

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

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

35 (2) The content of the forms shall include without limitation  
36 the nature and amount of the transactions and the names of the parties to the

1 transactions.

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

6 (1) The public agency;

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

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

10

11 */s/ Petrus, et al*

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