

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 H3/6/07

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, INITIATED ACT 1 OF
13 1990, AND INITIATED ACT 1 OF 1996; AND FOR OTHER
14 PURPOSES.

Subtitle

16 THE SUNSHINE IN GOVERNMENT ACT.
17
18
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
21

22 SECTION 1. NOT TO BE CODIFIED. This act shall be known and may be
23 cited as the "Sunshine in Government Act".
24

25 SECTION 2. *Arkansas Code § 7-6-203(a) and (b), concerning campaign*
26 *contribution limitations and created by Initiated Act 1 of 1990 and Initiated*
27 *Act 1 of 1996, is amended to read as follows:*

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

30 *(a)(1)(A) It shall be unlawful for any candidate for any public*
31 *office, except the office of Governor, Lieutenant Governor, Secretary of*
32 *State, Treasurer of State, Auditor of State, Attorney General, and*
33 *Commissioner of State Lands, or for any person acting on the candidate's*
34 *behalf to accept campaign contributions in excess of ~~two thousand dollars~~*
35 *~~(\$2,000)~~ one thousand dollars (\$1,000) per election from any person.*

36 *(B) A candidate may accept a campaign contribution or*



1 contributions up to the maximum amount from any prospective contributor for
2 each election, whether opposed or unopposed.

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

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

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

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

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

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

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

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

36 (A) Accumulated prior to the passage of Initiated Act 1 of

1 1990; or

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

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

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

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

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

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

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

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

29 (ii) A donation made under subdivision (g)(4)(C)(i)
30 of this section shall not exceed two hundred fifty dollars (\$250).

31 (iii) A donation under subdivision (g)(4)(C)(i) of
32 this section shall not count toward the campaign contribution limitations
33 established under subsections (a) and (b) of this section.

34

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

1 7-6-227. Contributions by corporations sharing the same majority
2 owner.

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

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

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

12
13 SECTION 5. Arkansas Code § 19-11-705 is amended to read as follows:

14 19-11-705. Employee conflict of interest.

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

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

21 (i) Is approved as provided in § 19-11-717 or § 19-
22 11-718; or

23 (ii) Obtained under competitive sealed bids under §
24 19-11-229 or competitive sealed proposals under § 19-11-230.

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

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

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

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

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

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

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

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

26
27 SECTION 6. Arkansas Code § 19-11-706 is amended to read as follows:

28 19-11-706. Employee disclosure requirements.

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

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

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

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

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

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

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

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

32
33 SECTION 9. Arkansas Code § 19-11-715 is amended to read as follows:

34 19-11-715. ~~Duties of Director of Department of Finance and~~
35 ~~Administration~~ Rules and advisory opinion by the Arkansas Ethics Commission.

36 (a) ~~Regulations~~ Rules. The ~~Director of the Department of Finance and~~

1 ~~Administration~~ Arkansas Ethics Commission shall promulgate ~~regulations~~ rules
2 to implement this subchapter and shall do so in accordance with this
3 subchapter and the applicable provisions of the Arkansas Administrative
4 Procedure Act, § 25-15-201 et seq.

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

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

20
21 SECTION 10. Arkansas Code § 19-11-716 is amended to read as follows:

22 19-11-716. Participation in business incubators – ~~Regulations~~ Rules
23 and guidelines.

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

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

36 (2) The program may include guidelines setting forth full

1 disclosure requirements, any limitations on ownership interests, maximum
2 income amounts to be received, annual reporting to the General Assembly,
3 mandatory levels of student participation and such other reasonable
4 restrictions as are necessary to maintain the public trust while encouraging
5 the facilitation of commercialization of university-generated technology or
6 discovery.

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

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

15

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

17 19-11-717. ~~Institutions of higher education~~ Transactions with
18 institutions of higher education involving patents, copyrights, or other
19 proprietary information.

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

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

32 ~~(2) The employee or former employee of the institution to~~
33 ~~participate directly or indirectly in any matter pertaining to any contract~~
34 ~~or subcontract or any solicitation or proposal for any contract or~~
35 ~~subcontract between the institution and a person or firm in which the~~
36 ~~employee or former employee has a financial interest. If a contract or~~

1 subcontract, solicitation, or proposal involves patents, copyrights, or other
2 proprietary information in which an institution of higher education and an
3 employee or former employee have direct or indirect rights or interests, an
4 institution may enter the contract, except that any contract or subcontract
5 shall be approved by the governing board of the institution in a public
6 meeting.

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

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

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

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

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

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

32
33 SECTION 12. Arkansas Code Title 19, Chapter 11, Subchapter 7 is
34 amended to add an additional section to read as follows:

35 19-11-718. Issuance of waivers by the Arkansas Ethics Commission.

36 (a) A state agency or a nonprofit organization created for the

1 specific benefit of a state agency may file a request with the Director of
2 the Arkansas Ethics Commission to review a contract between the state agency
3 or nonprofit organization and an employee of that state agency or nonprofit
4 organization or a member of the employee's immediate family and to request a
5 waiver for the contract from the provisions of this subchapter.

6 (b) The request shall fully disclose all pertinent terms and
7 conditions of the contract and shall state the unusual circumstances
8 necessitating and justifying the contract.

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

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

16 (B) If the director fails to approve or disapprove the
17 contract within the ten (10) working day periods provided in this subdivision
18 (c)(2), the contract shall be deemed approved.

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (c)(1) Except as provided in this subsection, no state agency shall
23 engage in a professional services or consultant services contract with a
24 part-time or full-time employee who occupies a position authorized to be paid
25 from extra help or regular salaries for a state agency, except as provided in
26 § 21-1-403.

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

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

34 (A) The institution of higher education requests and
35 receives written approval from the Office of Personnel Management of the
36 Department of Finance and Administration concerning the amount of additional

1 compensation to be paid to any employee; and

2 (B) The total salary payments received from the employee's
3 regular salaried position and amounts received for services performed under a
4 professional services contract do not exceed one hundred twenty-five percent
5 (125%) of the maximum annual salary authorized by law for the employee's
6 position with the institution of higher education.

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

13
14 SECTION 14. Arkansas Code Title 19, Chapter 11, Subchapter 7 is
15 amended to add an additional section to read as follows:

16 19-11-718. Enforcement.

17 The Arkansas Ethics Commission shall have the authority to:

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

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

21 (3) Impose civil and administrative remedies as provided in §§
22 19-11-712 and 19-11-713 upon the finding of one (1) or more violations of §
23 19-11-701 et seq; and

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

26
27 SECTION 15. Arkansas Code § 21-8-402(5), concerning the definition of
28 "gift" and resulting from Initiated Act 1 of 1988, is amended to read as
29 follows:

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

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

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

1 (b) Payments for travel or reimbursement for any expenses are not
2 informational material;

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

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

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

13 (v) Campaign contributions;

14 (vi) Any devise or inheritance;

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

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

22 (viii) Wedding presents and engagement gifts;

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

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

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

34 (xii) An item which appointed or elected members of
35 a specific governmental body or employees of an appointed or elected
36 governmental official purchase with their own personal funds and present to a

1 fellow member of that governmental body or official in recognition of public
2 service;

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

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

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

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

21
22 SECTION 16. Arkansas Code § 21-8-603 is amended to read as follows:

23 21-8-603. Activity reports - Inspection.

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

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

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

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

36 (c) When filing any report required by this section, a lobbyist shall

1 send a copy of the report to any public servant named in the report as
2 receiving:

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

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

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

9
10 SECTION 17. Arkansas Code § 21-8-604 is amended to read as follows:

11 21-8-604. Activity reports - Required contents.

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

14 (b) The reports shall contain:

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

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

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

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

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

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

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

33 (iii) Any other item paid or given to a public
34 servant or on behalf of the public servant, except for campaign
35 contributions, ~~having a value in excess of forty dollars (\$40.00)~~ unless
36 consideration of equal or greater value has been given therefor. If the

1 person receiving or to be benefiting by the item is a public employee, the
2 person's governmental body shall be identified.

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

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

10 (i) The date of the event;

11 (ii) The name of the event;

12 (iii) The location of the event;

13 (iv) The name of the governmental body or group of
14 public servants invited;

15 (v) The exact amount paid by the lobbyist toward the
16 total expenditure; and

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

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

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

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

34

35 SECTION 18. Arkansas Code § 21-8-1001 is amended to read as follows:
36 21-8-1001. Conflicts of interest.

1 (a)(1) No member of a state board or commission or board member of an
2 entity receiving state funds or receiving other funds through a state agency
3 shall participate in, vote on, influence, or attempt to influence an official
4 decision if the member has a pecuniary interest in the matter under
5 consideration by the board, commission, or entity.

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

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

17 (c)(1) Nothing in this chapter shall prohibit a board or commission
18 member from contracting with the board or commission on which he or she
19 serves if the contracts are obtained through competitive sealed bids under §
20 19-11-229 or competitive sealed proposals under § 19-11-230.

21 (2) A board or commission member awarded a contract pursuant to
22 competitive sealed bids or competitive sealed proposals shall report the
23 contact to the Director of the Arkansas Ethics Commission by January 31 of
24 each year pertaining to contracts entered into during the previous calendar
25 year.

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

31 (2)(A) Upon receipt of the disclosure, the director has ten (10)
32 working days to notify the state entity that additional information is
33 needed, or to inform the state entity that the contract or transaction is
34 disapproved.

35 (B) If additional information is requested, the director
36 has ten (10) additional working days from the receipt of the information to

1 inform the state entity that the contract or transactions are disapproved.

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

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

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

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

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

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

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

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

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

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

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

30
31 SECTION 19. Arkansas Code 21-8-1004 is amended to read as follows:

32 § 21-8-1004. Penalties – Investigation by Arkansas Ethics Commission.

33 (a) In addition to any penalty contained in any other provision of
34 law, including without limitation § 19-11-702, any member of a state board or
35 commission or board member of an entity receiving state funds who knowingly
36 and intentionally violates any of the provisions of this subchapter may be

1 removed from office by the appointing authority.

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

5
6 SECTION 20. Arkansas Code Title 21, Chapter 8 is amended to add an
7 additional subchapter to read as follows:

8 21-8-1101. Definitions.

9 As used in this subchapter:

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

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

14 (A) Board member;

15 (B) Family member; or

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

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

19 (A) An individual’s spouse;

20 (B) Children of the individual or children of the
21 individual’s spouse;

22 (C) The spouse of a child of the individual or the spouse
23 of a child or the individual’s spouse;

24 (D) Parents of the individual or parents of the
25 individual’s spouse;

26 (E) Brothers and sisters of the individual or brothers and
27 sisters of the individual’s spouse;

28 (F) Anyone living or residing in the same residence or
29 household with the individual or in the same residence or household with the
30 individual’s spouse; or

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

33 (4) “Financial interest” means:

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

36 (B) Holding a position as an officer, director, trustee,

1 partner, or other top level management of a business or other entity; or

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

5 (5) "Institution" means any state-supported institution of
6 higher education of the State of Arkansas or its related foundations or other
7 related entities;

8 (6) "Other related entity" means:

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

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

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

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

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

19
20 21-8-1102. Filing of disclosure of related party transactions.

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

24 (b) A board member shall disclose any transaction with another board
25 member, the public agency, other related entity, or an entity served by the
26 public agency if the board member directly or indirectly receives a benefit
27 in the amount of five thousand dollars (\$5,000) or more:

28 (1) In any calendar year;

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

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

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

36 (d) Nothing in this section shall require board members to disclose

1 the amount of donations to public agencies or their related entities.

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

4 (2) The content of the forms shall include without limitation
5 the nature and amount of the transactions and the names of the parties to the
6 transactions.

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

11 (1) The public agency;

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

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

15
16 */s/ Petrus, et al*
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